

**IN THE MATTER OF AN INDEPENDENT REGULATORY COMMISSION
OF THE FOOTBALL ASSOCIATION**

Before:

His Honour Phillip Sycamore CBE (Chair)
Christopher Stoner KC
Stuart Ripley

BETWEEN:

THE FOOTBALL ASSOCIATION

"The FA"

and

**LUCAS TOLENTINO COELHO DE LIMA
(KNOWN PROFESSIONALLY AS LUCAS PAQUETÁ)**

"The Player"

**DECISION AND WRITTEN REASONS
OF THE INDEPENDENT REGULATORY COMMISSION**

Appearances:

Jonathan Laidlaw KC, Amina Graham (instructed by FA Regulatory Legal) for The FA.

Nick De Marco KC, Kendrah Potts (instructed by Level Law) for the Player.

INTRODUCTION

1. This Independent Regulatory Commission (“the **Commission**”) has been appointed to determine charges against Lucas Paquetá (“the **Player**”) in respect of four alleged breaches of FA Rule E5 and two alleged breaches of FA Rule F3 arising from allegations of spot-fixing by deliberately seeking to be yellow carded in four relevant matches (respectively, “**RM1**”, “**RM2**”, “**RM3**” and “**RM4**”; collectively the “**RM’s**”) and alerting others in Brazil of his intention to do so.
2. The Player, now 27 years old, was born in Rio de Janeiro, Brazil, and grew up on Paquetá Island, Brazil. He left the island for Rio when he was 12 years old to pursue a career in football. When he was 21 years old, he left Brazil for Europe and played for AC Milan and Olympique Lyonnais before joining West Ham United Football Club (“**WHUFC**”) in August 2022. He has represented Brazil on 55 occasions (at senior level and on 8 occasions in the Under 20s). On joining WHUFC in August 2022 the Player, as a Participant, became subject to The FA’s Rules and Regulations, by which he must abide.
3. The Player lives in London with his wife and two children. He has regular, almost daily, contact with his mother in Brazil but very limited contact with other members of his family because of rifts which have developed since he left Brazil.
4. Both the Player and his wife are religious people. It was not disputed that he himself has no interest in betting and indeed, when approached by a representative of a betting company which was seeking to sponsor him as a football player, he quickly declined.
5. The Player has been generous in financial terms both to charities and to members of his family.
6. In March 2023 The FA was contacted by the International Betting Integrity Association (“**IBIA**”) which notified The FA of an alert on its Monitoring and Alert Platform (“the **Platform**”) relating to unusual betting activity in Brazil in WHUFC

v Aston Villa (namely RM2) which had taken place on 12 March 2023. The alert cited “*abnormal betting behaviour*” on the Player to receive a yellow card in RM2. As it was the first time that the Player had been the subject of any IBIA alert and the assessment by the IBIA at the time was that the Player did not fit the profile of a suspicious player, the IBIA did not deem the betting activity suspicious at that time. The IBIA Director of Integrity, Matthew Fowler put it in these terms: “...whilst IBIA found the activity [RM2] to be clearly unusual and irregular the profile of [the Player] as a Premier League player who is reportedly in receipt of a large salary didn’t fit the profile of a suspicious player. Also, it was the first time that [the Player] had been the subject of an IBIA alert...”¹ Instead, the IBIA informed its members to be highly vigilant of any similar activity in the future. The IBIA is an organisation created by the regulated sports betting industry to combat the threat of match-fixing and to keep the associated sports betting markets free from corruption. A large part of the work of the IBIA involves the Platform and the receiving and assessment of reports from members of unusual and suspicious betting patterns and the sharing of information with others, including sports governing bodies.

7. The FA was contacted again by the IBIA on 24 May 2023, this time with a formal report concerning suspicious betting activity on the Player to be carded. This was WHUFC’s fixture against Leeds United FC, namely RM3 which had taken place on 21 May 2023. Three separate betting operators had each raised an alert on the IBIA platform and had also reported that a number of the bettors in RM3 had also placed bets on RM2.
8. The FA received another report from the IBIA on 12 August 2023, the day of WHUFC’s fixture against AFC Bournemouth, namely RM4, to the effect that an alert had been raised on the IBIA platform about irregular betting in Brazil on the Player to be carded in RM4. This notification was raised six minutes after the match had begun. Six betting operators reported suspicious betting activity, including newly opened accounts, customer accounts returning from dormancy, betting by established customers outside of their normal betting behaviour and

¹ At paragraph 37 of his statement.

abnormally high levels of confidence being displayed in the Player receiving a card.

9. The FA received further information from betting operators and from UEFA and identified a further suspicious match, that being the fixture between WHUFC and Leicester City FC on 12 November 2022, namely RM1, which had not previously been reported.
10. The FA allege that at least 253 separate bettors (of whom The FA say at least 26 can be linked to the Player) placed bets upon him being yellow carded over the four matches with a total stake wagered by the 253 bettors of almost £47,000.00 with a profit of approximately £167,000.00 from the four games.
11. Two days after RM4, on 14 August 2023, The FA contacted the Player via WHUFC and notified him that it was conducting an investigation and requested him to attend for an interview in accordance with Rule F of the Rules of the Association. The FA requested the Player's mobile phone devices for download. In the event there was protracted correspondence about this before the Player agreed.
12. Two interviews took place, the first on 11 September 2023 and the second on 10 November 2023. In the first interview the Player answered no comment to all of the questions asked of him and in the second interview he answered no comment to many of the questions put to him by The FA.
13. After the first interview The FA provided information to the Player's legal representatives in relation to the betting data and the suspected connected bettors that had been referred to in that 1st interview. After that disclosure and further disclosure provided after the second interview, the Player provided a written statement dated 15 December 2023. In that statement he identified his relationship, if any, with bettors who were said to be 'linked' to him. He also 'categorically' denied the allegations.
14. The case as presented by The FA is one of very serious allegations of breaches of the betting integrity rules. The FA invite the Commission to conclude from the evidence on which The FA relies that the Player deliberately and successfully sought to be carded in four separate Premier League Fixtures involving WHUFC,

namely the 4 RM's, and that he alerted at least one individual of his intention in the knowledge that at least one person would place a bet or bets on that outcome. In addition, The FA have also brought charges against the Player for failing to comply with the requirements of Rule F2 as a result of his failure to answer questions and provide information during The FA interviews on 11 September 2023 and 10 November 2023. The Player denies all of the charges.

THE RELEVANT FA RULES

15. Rule E5.1 provides as follows:

“A Participant shall not, directly or indirectly, seek to influence for an improper purpose the result, progress, conduct or any other aspect of, or occurrence in or in connection with, a football match or competition.”

16. Rule F1 provides as follows:

“The Association shall have the power to monitor the compliance by each Participant with the Rule, the Laws of the Game, the statutes and regulations of FIFA and UEFA and the rules and regulations of each Affiliated Association and Competition to which a Participant is subject and/or inquire into any incident, facts or matters which may constitute misconduct under these Rules. It is for The Association to determine in its absolute discretion the manner in which it conducts an inquiry.”

17. Rule F2 provides as follows:

“In carrying out its functions under Rule F1, the Association shall have the power to require of any Participant upon reasonable notice:

F2.1 his or her attendance to answer questions and provide information at a time and place determined by the Association...”

18. Rule F3 provides as follows:

“Any failure by a Participant to comply with any requirement under Rule F2 may constitute Misconduct under the Rules and the Association may bring a charge or such charges as it sees fit.”

THE CHARGES

19. The Player was charged by The FA on 23 May 2024 with four breaches of Rule E5.1 (“the **E5 charges**”) and with two breaches of Rule F3 (“the **F3 charges**”):

Charge 1

“You are hereby charged with a breach of FA Rule E5.1 for your conduct in a fixture between West Ham United FC and Leicester City FC on 12 November 2022 [RM1], in which you directly sought to influence for an improper purpose the result, progress, conduct or any other aspect of, or occurrence in or in connection with a football match or competition.

It is alleged that you directly sought to influence the progress, conduct, or any other aspect of, or occurrence in [RM1] by intentionally seeking to receive a card from the referee for the improper purpose of affecting the betting market in order for one or more persons to profit from betting.”

Charge 2

“You are hereby charged with a breach of FA Rule E5.1 for your conduct in a fixture between West Ham United FC and Aston Villa FC on 12 March 2023 [RM2], in which you directly sought to influence for an improper purpose the result, progress, conduct or any other aspect of, or occurrence in or in connection with a football match or competition.

It is alleged that you directly sought to influence the progress, conduct, or any other aspect of, or occurrence in [RM2] by intentionally seeking to receive a card from the referee for the improper purpose of affecting the betting market in order for one or more persons to profit from betting.”

Charge 3

“You are hereby charged with a breach of FA Rule E5.1 for your conduct in a fixture between West Ham United FC and Leeds United FC on 21 May 2023 [RM3], in which you directly sought to influence

for an improper purpose the result, progress, conduct or any other aspect of, or occurrence in or in connection with a football match or competition.

It is alleged that you directly sought to influence the progress, conduct, or any other aspect of, or occurrence in [RM3] by intentionally seeking to receive a card from the referee for the improper purpose of affecting the betting market in order for one or more persons to profit from betting.”

Charge 4

“You are hereby charged with a breach of FA Rule E5.1 for your conduct in a fixture between AFC Bournemouth and West Ham United FC on 12 August 2023 [RM4], in which you directly sought to influence for an improper purpose the result, progress, conduct or any other aspect of, or occurrence in or in connection with a football match or competition.

It is alleged that you directly sought to influence the progress, conduct, or any other aspect of, or occurrence in [RM4] by intentionally seeking to receive a card from the referee for the improper purpose of affecting the betting market in order for one or more persons to profit from betting.”

Charge 5

“You are hereby charged with a breach of FA Rule F3.

It is alleged that on 11 September 2023 having attended an FA interview, you failed to comply with a requirement under FA Rule F2.1, namely, to answer questions and provide information in relation to The FA’s investigation into breaches of the Rules. This failure to comply amounts to Misconduct pursuant to Rule F3.”

Charge 6

“You are hereby charged with a breach of FA Rule F3.

It is alleged that having attended an FA interview on 10 November 2023, you failed to comply with a requirement under FA Rule F2.1,

namely, to answer questions and provide information in relation to The FA's investigation into breaches of the Rules. This failure to comply amounts to Misconduct pursuant to Rule F3."

BURDEN AND STANDARD OF PROOF

20. The burden of proving the case rests with The FA. The standard of proof is the civil standard, namely the balance of probabilities, that is to say whether it is more likely than not that a fact in issue occurred. Although dishonesty is not an ingredient of the E5 charges, the allegations are effectively of dishonest conduct. We are entitled to have regard to inherent improbabilities on the particular facts of the case in assessing the evidence. We have considered in this context what was said by The FA Appeal Board in The FA v Imran Louza 18 November 2022 and the citation provided to us from *Grant on Civil Fraud* (1st ed, 2022) at 34-004, reminding ourselves that it is a fact specific exercise.
21. Although each of the charges falls to be considered separately, evidence against the Player in respect of one charge may be used as evidence against him in respect of another. Cross admissibility permits the evidence in the F3 charges to be relevant to the E5 charges. Conversely, evidence for the Player in respect of one charge may be used as evidence for him in respect of another.
22. The FA accepts that its case relies entirely on circumstantial evidence. We have, as did the Regulatory Commission in FA v Kynan Isaac (11 October 2022), had regard to the guidance given in:

JSC BM Bank v Kekhman [2018] EWHC (Comm): "*The nature of circumstantial evidence is that its effect is cumulative, and the essence of a successful case on circumstantial evidence is that the whole is stronger than the individual parts.*"; and

JSC BTA Bank v Ablyazov [2012] EWCA Civ 1411: "*It is however the essence of a successful case that the whole is stronger than individual parts. It becomes a net from which there is no escape.*"

23. Whilst we have those principles firmly in mind, we also consider the need for a careful forensic analysis, given that The FA invite us to draw multiple inferences, in the absence of any direct evidence to support its case that spot-fixing is more likely than any of the potential innocent explanations, including those advanced by the Player. The Player's case on the invitation to draw inferences is that there are number of co-existing circumstances which weaken or destroy the inferences.
24. A noticeable feature of this case is, unlike other previous similar football integrity cases for example The FA v Trippier (4 January 2021), The FA v Sturridge (15 July 2019, The FA v Isaac (paragraph 22 above) and Oriekhov v UEFA (CAS2010/A/2172), the complete absence of any direct evidence that the Player was in contact about fixing or betting with any of the bettors. Such evidence in the cases referred to was obtained from a party's phone records.

PROCEDURAL BACKGROUND

25. As we indicated at paragraph 19 (above) the Player was charged on 23 May 2024. A number of case management directions have been issued during the course of these proceedings.
26. The substantive hearing was originally fixed for two weeks to commence on 17 March 2025 at the International Dispute Resolution Centre in London. At a case management conference on 13 January 2025, at the request of the parties, the time allocated was increased to three weeks and a number of further directions were given, including provision for a date to be fixed for the Commission to reconvene to hear closing oral submissions.
27. During the course of the substantive hearing there were evidential developments which necessitated an adjournment on the 14th day (3 April 2025) and the allocation of a further 4 days for evidence. Due in large part to the limited availability of counsel for the parties, the Commission agreed to reconvene on 6, 8, 9 and 12 of May 2025 to continue with the evidence and on 2 and 4 June 2025 to hear oral closing submissions after service of written submissions.

28. We heard the case at the International Dispute Resolution Centre in London between 17 March 2025 and 3 April 2025 and on 6, 8, 9 and 12 May 2025. We reconvened to hear oral closing submissions on 2 and 4 June 2025. We express our appreciation to counsel and those instructing them for their assistance and input throughout both the substantive hearing and the preparatory stages of this case.
29. A number of witnesses gave evidence in person and others by video link. In addition, we considered the unchallenged written evidence of a number of witnesses. We set out in Appendix 1 a list of all the witnesses whose evidence we considered, and we will return to the relevant detail of their evidence in our discussion and analysis.

THE EVIDENCE

30. We begin with an overview of how The FA put its case in its written opening of 11 March 2025 compared with its position in its written closing of 19 May 2025 and what was said in oral closing submissions on 2 June 2025. Also in this section we deal briefly with the essential undisputed factual background, the detail of which will be explored further in the sections below, and an overview of the direct evidence called on behalf of the Player, which will also be considered in more detail in the sections below.

A. THE FA's CASE

31. It has always been The FA's position that the suspicious nature of the betting as drawn to its attention was such that an explanation was called for. On behalf of the Player, it was agreed that it was entirely appropriate for The FA to investigate².
32. The FA have always accepted that its case is based on circumstantial evidence and in its written opening it indicated that it relied on nine factors, to be viewed

² Transcript Day 20, page 19, lines 20-21.

cumulatively, to prove the E5 charges. An additional factor was added in the written closing. It identified the factors as follows:

- (1) The Player's direct and / or indirect connection with 26 (increased to 27 *by the written closing submissions*) of the bettors (quantified *at 253 in The FA closing submissions*)³ on the RM's;
- (2) The highly unusual and suspicious betting activity of the bettors;
- (3) The highly unusual and suspicious nature of the bets;
- (4) The fact that the Player was booked in each of the RM's;
- (5) The fact that there is no suspicious betting activity associated with any other match that the Player was carded in outside of the RM's;
- (6) An examination of the Player's performance or conduct leading to his bookings in each of the RM's (*the words "performance or" were added in paragraph 56(6) of The FA written closing submissions*);
- (7) The improbability of the bettors being able to place successful bets only on each of the RM's, without the Player having indicated before each game that he would deliberately seek a caution;
- (8) The mobile phone analysis of the Player's devices;
- (9) The Player's responses (or lack of it) in his FA interviews and the adverse inference which falls to be drawn from his silence and lack of co-operation (following the receipt of erroneous advice); and
- (10) The evidence from the Brazilian Commission CPI Report (*added in the written closing*)⁴.

33. In its written closing The FA sets out at paragraph 54 what it says it has to prove for each of the E5 charges, namely:

³ Paragraph 56(1) FA Closing Submissions.

⁴ Paragraph 56(10) FA Closing Submissions.

- (1) That the Player, before each of the RM's had told one or more of his family members or friends that it was his intention to seek a yellow card;
 - (2) He did so in the knowledge that one or more bettors would place a bet/s on this occurrence; and
 - (3) The Player did just that to ensure that those bet/s were successful.
34. In its oral closing submissions, The FA suggested that in respect of the E5 charges *"it is the Player who in effect bears an evidential burden. If the charges are to be dismissed, he must show that his position, hot tips or inside information, for the E5 charges is as likely or more likely an explanation than a spot-fix."*⁵
35. This, as was pointed out on behalf of the Player, was not a position previously advanced by The FA and no authority has been provided to support the proposition that there is a shifting of the evidential burden. We have already dealt with burden and standard, and the position is that The FA must prove that spot-fixing is more likely than any of the potential innocent explanations, including those advanced by the Player (see paragraph 23 above).
36. We have referred already to The FA's reliance on the mobile phone analysis evidence (paragraph 32(8) above). In its Case Summary, it is fair to say that The FA placed heavy reliance on inferences to be drawn from the expert analysis of the phone data in support of The FA's circumstantial case. The FA accept that this evidence, specifically that which related to deletions evident from the Player's phones, no longer has the evidential value or weight that The FA originally considered it to have. This is as a consequence of the change of position on the part of The FA's experts, Nathan Barker of CCL Solutions Group and Steven Llewelyn of Sytech, who later accepted that they agreed with the contrary opinion expressed by the Player's expert, Patrick Madden. We will return to the mobile phone evidence later in our reasons.
37. In dealing with the betting activity of the bettors (see paragraph 32(1)-(3), (5) & (7)) The FA in its written opening relied on the evidence of its Betting Integrity Investigator Tom Astley, who gave oral evidence to us. On this specific topic we

⁵ Transcript Day 19, page 105, lines 5-13.

were referred in the written opening to paragraph 46 of his witness statement of 23 May 2024, which was also relied upon in The FA's Case Summary of 23 May 2024 (paragraph 61), in which he said this:

"The betting on [the Player] across all four [Relevant Matches] appears hugely orchestrated heightened by suspicious features of the betting, including 26 bettors linked either directly or indirectly to [the Player]..."
[Our underlining for emphasis].

38. In his oral evidence to us he maintained that position, which supported his conclusion that it looked like spot-fixing. This contrasted with the evidence of the Player's expert, Benjamin Paterson who took the opposite view, concluding that, taking all of the features together, including the lack of orchestration, this was inconsistent with spot-fixing. Although The FA sought to argue to the contrary in the oral closing submissions, Mr Astley had maintained in his oral evidence to us that his position remained that this was orchestrated. It was a part of The FA's case, notwithstanding its assertion in the written closing (paragraph 176(6)) that it had never put the case on that basis.
39. In answer to a question from the Commission as to what The FA now made of that point in the statement of Mr Astley, Mr Laidlaw, leading counsel for The FA, said "*We disagree with Mr Astley*"⁶, thus abandoning, without further explanation, its case on orchestration. We will return to the evidence of Mr Astley and Mr Paterson later in these reasons in some detail.

B. THE UNDISPUTED FACTUAL BACKGROUND

40. As already explained (see paragraph 2 supra) the Player left Paquetá Island, Brazil, where he had grown up, when he was 12 years old for Rio in order to pursue his career in Football. His football career history is summarised in paragraph 2 and his family circumstances at paragraphs 3 to 5 above.
41. It was not disputed that the Player's financial circumstances are considerable. He has a weekly salary of _____ with a £ _____ bonus for _____
The Player's evidence that the sums bet and won by the bettors, whether

⁶ Transcript Day 19, page 109, line 1.

viewed individually or collectively, would not be significant to him was not challenged by The FA.

42. The Player was yellow carded in the four RM's. It was accepted that he has received yellow cards over the course of his career at a rate of approximately one in every four matches. He was the most substituted WHUFC player in the 2022/23 season and was, on average, substituted in the 79th minute. A number of bettors based in Brazil bet on him to be carded across the RM's. According to The FA the Player had a 'link' (direct or indirect) with 26 of those bettors, which increased to 27 with new evidence during the course of the hearing. The Player maintains that he had a real relationship with only five of them. The detail of the betting activity and of the bettors will be considered in detail later in these reasons.
43. At the time of RM4 (12 August 2023) discussions between WHUFC and Manchester City FC ("**MCFC**") for the proposed transfer of the Player to MCFC were well advanced. The Player had made a request to his manager, David Moyes, to be excused from playing in RM4 because he wanted to avoid anything that might jeopardise the move to MCFC. Although the request was declined, Mr Moyes had told him that he would try and substitute him as early as possible, depending on how the game was going for WHUFC.
44. The betting activity was drawn to the attention of The FA by the IBIA as set out at paragraphs 6 to 10 above. It was agreed that the available betting data was limited in scope. On The FA's case it was obtained from 32% of the Brazilian market and on the Player's case 13.7%.
45. As indicated at paragraphs 12 to 13 above the Player was interviewed on two occasions, 11 September 2023 and 10 November 2023. Those interviews were conducted by Mr Astley, The FA Betting Integrity Investigator, and David Matthews, The FA Senior Integrity Investigations Manager. The Player's legal representatives were present at both interviews as was an interpreter in the Portuguese language. The detail of the interviews will be considered later in these reasons.

46. As mentioned at paragraph 13 above, the Player produced a statement dated 15 December 2023, after the second interview. In both the second interview and in that statement the Player told The FA of his lack of interest in betting, which extended to his having no knowledge that it was possible to bet on yellow cards. That evidence was not challenged by The FA.
47. The Player was charged with the offences on 23 May 2024 and on the same occasion The FA served its Case Summary. The Player's Defence to the charges was served on 18 December 2024.

C. DIRECT EVIDENCE ADDUCED BY THE PLAYER

48. Whilst The FA have always made it clear that it relies on circumstantial evidence and offers no direct evidence, conversely, the Player does rely on direct evidence in the following respects:
- (i) The background as to how bets were most likely to have been placed;
 - (ii) His performance in the RM's; and
 - (iii) His own personal circumstances and the inherent improbability of his being involved.
49. We heard evidence from the Player in person on 8 May 2025 and by video link from the witnesses called on his behalf on 9 May 2025 (Christiane Tolentino) and 12 May 2025. All three responded to questions via consecutive translation. The Player also called Mr David Moyes, who gave evidence in person, and Mr Lucas De Assis Parreira ("**Mr De Assis**"), who gave evidence remotely. We shall deal with their evidence later in these Written Reasons.

The Player

50. The Player told us in evidence, confirming what he had said in his witness statements, that he did not set out to deliberately obtain yellow cards in the RM's, that his only focus was to help the team. He only received yellow cards for actions that were a natural part of his game. We consider his evidence in relation to match performance in the Section on Performance Analysis below.

51. He confirmed that the conversation with Mr Moyes, referred to at paragraph 43 above, took place and that it was not until the 94th minute of RM4 that he was carded.
52. He explained how hard he has worked to become a success, saying this: *"I would never jeopardise my career, which I've worked so hard at since my childhood and which is a source of significant income for me and my family, by cheating and fixing an outcome so those connected to me could gamble to gain sums which are, in this context, relatively insignificant."*⁷
53. He explained that he has only very limited knowledge of betting markets and, for example, in his oral evidence said that he did not know that if someone bet on him to be carded but he did not play in the match, their stake would be refunded.⁸ He confirmed what is said in paragraph 4 above about him declining a sponsorship approach by a betting company. He agreed that he knew it would be against The FA Rules to deliberately seek a booking in order to enable another to gain an advantage in the betting markets.
54. He described the strained relationship with his family, including those said to be close to him who placed bets. In describing his close relationship with his mother, he explained how he has almost daily contact and how he speaks to her about his feelings and how the team is playing and how rifts have developed
- He maintained that he did not speak to his mother about The FA's letter of 14 August 2023 until four days later and only then after the investigation had been reported on the television. In answer to a question in cross-examination, he said that he did not ask her for help in identifying the bettors, saying: *"I know who I am, my mum knows who I am, so there was no need to worry about it."*⁹
55. He confirmed that of the bettors he only had a real relationship with five of them, but that he does not speak with them regularly and rarely about football.

⁷ At paragraph 11 of his second witness statement.

⁸ Transcript Day 16, page 121, lines 11-15.

⁹ Transcript Day 16, page 24, lines 19-20.

56. As to the mobile phones the Player explained that he does delete messages in order to maintain good family relationships and that, having been a member of many WhatsApp groups, the messages are deleted when he leaves.
57. He made it clear that he had no knowledge of the gambling activities of family or friends or that he had any knowledge that _____, was a heavy gambler.
58. When asked why he did not speak to individuals in Brazil about the case or ask them to give evidence, he explained that he was simply following the advice of his lawyers not to discuss the case.
59. As to engagement with The FA in the investigation the Player explained that his actions in relation to the mobile phones were because he was following the advice of his lawyers. Similarly, when pressed in cross-examination about his failure to respond to questions in interview, he again indicated that he was following the advice of his lawyers, notwithstanding that he was told that he could face separate charges under Rule F or the drawing of an adverse inference. It was put to him in cross-examination that he could have chosen to ignore the advice of his lawyers and he responded, in relation to Mr De Marco, that he had *"many years of experience, who understands more about trials than myself."*¹⁰
60. The Player was asked in cross-examination if he had ever said anything to his mother which might have been useful to a bettor trying to gain an advantage against the betting operators and replied that he had never mentioned anything that could be interpreted in that way and that: *"...the conversation I have with my mother about football is about my feeling, whether I am going to play, but never about ideas of someone betting on my name."* When asked *"when you say about your feelings, what do you mean by that? What sort of things would you have said to your mother?"* the Player replied: *"I said...how I feel before the matches, the way that probably the team is playing, if I am upset or irritated about it or not, my ambition to the match and I do, or have been doing this with my mother since I was 18 years old."*¹¹ He said in answer to another question that he had said

¹⁰ Transcript Day 16, page 93, lines 15-18.

¹¹ Transcript Day 16, page 27, lines 7-19.

nothing which would have made it any more or less likely in his conversation with his mother that he would be booked in RM1.

61. He explained that his only knowledge of _____ was through playing for the Brazil national team. _____ was only called up in _____ The Player said that he knew nothing of any payments to _____ In respect of the payments made by his _____ and his _____ to _____ in January and February 2024 he said: *“what I can say is that what _____ and _____ does[sic], this is not what I do.”*¹²
62. The Player agreed in cross-examination that his _____ who was to be called to give evidence but in the event was not called, appeared to be connected with a very large number of the bettors. He was unable to offer any explanation as to why _____ was not being called and explained that it was a decision made by the lawyers that he would no longer give evidence.

Christiane Tolentino

63. Christiane Tolentino confirmed that she is the mother of the Player, with whom she has a very close relationship involving almost daily contact. She explained that they talk about everything, especially in relation to his football. She gave the example of a conversation prior to RM1 when WHUFC were in the relegation zone when she spoke to the Player about his emotional state and the need for him to be *“calm, concentrated... and balanced.”*¹³
64. Christiane Tolentino described in evidence how she talked about her son with family, including _____ and _____ and others in the salon. Those conversations included references to his emotional state and other matters relating to his matches. The Player had never said anything which might have been useful to a bettor seeking to place a bet on him to be yellow carded. *“Never. We never have spoken in any type of issue like that, or theme like that. That doesn’t make part of my son’s character.”*¹⁴

¹² Transcript Day 16, page 23, lines 22-23.

¹³ Transcript Day 17, page 7, lines 12-13.

¹⁴ Transcript Day 17, page 13, lines 15-17.

65. In her witness statement Christiane Tolentino had said *"I don't know if anyone I have spoken to might have interpreted my normal conversations about Lucas as indicating that he was more likely to get a yellow card in a given match."*¹⁵ When asked in cross-examination what sort of things she might have said to indicate that he was more likely to get a yellow card she replied

"I can't say succinctly. I never spoke anything that wasn't absolutely normal for me to do. I would comment with _____ and also with the clients, they used to ask, "How is Lucas doing? He's playing a lot, but the team, it's falling." So _____ would say, "Oh, how is Lucas? He really needs a victory; he needs to do well." And the clients, they used to say, "How is Paqueta?", "Oh he is going to play well today, he's going to score a goal", "Today he is going to make a goal", "No, he's going to score twice. So I had those sort of conversations. It was super normal. We used to share those sort of normal conversations.

Q: *But how would that have helped anybody know whether it was more or less likely that he would be booked -- he would be yellow carded, sorry.*

A: *But I didn't say it and at any time. You asked me what type of conversation I had with them. I'm not saying that, that it was. So it was just really what I knew about him, "Today he is strong, he is going to go forward, he is going to beat everyone, do it right." It was situations about games and this was common practice.*

Q: *So I think we agree, don't we, that there was nothing that you said which would make it more or less likely that he would receive a yellow card?*

A: *He might have taken advantage of the emotional state of my son, but I would never collaborate with something like that. I only -- so I could, I spoke with him before the games and knew his emotional state, but at no time did I think talking like that in the salon. "How is Lucas?" "Oh yes, today he's focused, he's going to go up. He needs to win." There was no malice at all in what I was saying. This for me*

¹⁵ At paragraph 21 of her witness statement.

was common between family. I used to come and he would say, "How is he doing?"

Q: So I think short answer is you do agree with me, isn't it? You didn't say anything which would make it more or less likely that Lucas would get a yellow card? And I hope you might be able to say just yes or no to that?

*A: I can't say yes because they could have read that as an incentive. I would never talk about something that would put the career of my son at risk. But that could have in some way incentivised them. It could have."*¹⁶

66. Christiane Tolentino confirmed that she did not know about the extent of gambling habit prior to finding out in these proceedings nor was she aware that _____ and _____ were betting. She made it clear when she discovered this, she was disappointed and indignant. She had confronted _____ as she felt that by betting, he had put the Player's career at risk: *"...the bad thing is that he bet on my son, taking advantage of me, of our conversations ... he would ask me questions and probably took advantage of those questions..."*¹⁷

67.

18

68. In answer to a question from the Commission she explained that she would regularly have conversations in the salon in which information as to whether the Player was angry or frustrated, which might be useful for bettors, would be passed on. She said *"And those conversations I had in my shop, because these*

¹⁶ Transcript day 17, page 39, lines 16-25, page 40, lines 1- 25 & page 41, lines 1-11.

¹⁷ Transcript day 17, page 48, lines 10-11, page 49, lines 5-6.

¹⁸ Transcript day 17, page 22, lines 4-6.

were the people of my total trust. I always shared everything, everything about Lucas.”¹⁹

72. He was taken to the betting accounts in his name; evidence we shall consider more detail when we consider the betting data.

THE E5 CHARGES

THE BETTING DATA AND PATTERNS

73. In this section of the Written Reasons, we will consider the extensive betting data and patterns presented by The FA, who did not shy away from the fact the betting data is the cornerstone of their case on the E5 charges.
74. In The FA's written Opening Note it stated at paragraph 124, in a section headed "Summary of the Evidence":

"This case, as will be obvious to the Commission, is primarily concerned with very serious alleged breaches of the betting integrity rules and, by some distance, it is the betting data which will be the most important head of the circumstantial evidence in this hearing. It is this evidence, which demonstrates, argue The FA, that [the Player] deliberately and successfully sought to be carded in the four RM's, having alerted at least one individual (probably a member of his family or a close friend, although there is no direct evidence of his/her identity) of his intention... Whilst the other evidence: the witnesses who touch upon the Player's performance; the prevarication (albeit on legal advice) before and at the interviews and in respect of the provision of his mobile telephones for examination; the deletion from the phones etc. are capable of supporting The FA's case, it is the betting data that The FA must persuade the Commission, on the balance of probabilities, is consistent with spot-fixing, if the E5 charges are to be proved. The focus must be on this area of the case."

75. In The FA's written closing submissions, it submitted:
- a. Firstly, at paragraph 1 in the section headed "A summary of The FA's closing submissions": "After what has been the longest hearing before any Regulatory Commission of The Football Association... and despite the very best efforts of those who have represented Lucas Tolentino Coelho De

Lima (known professionally as “Lucas Paquetá”...), the central feature of The FA’s case against him – the betting patterns of those linked directly by familial ties or indirectly to him – remain firmly intact and indisputable. Twenty-seven of those connected bettors – all of whom are based in the country of [the Player’s] birth – placed bets on [the Player] to be carded in one or more of the relevant matches with such an enhanced level of confidence that the only sensible inference to be drawn – the single irresistible inference – is that they had been told (directly or indirectly) that the Player had indicated he would deliberately seek a caution in those games and that information must have originated from the Player.”

- b. Secondly, at paragraph 283 under the heading “The Individual betting patterns”, it was said: *“Finally, in respect of the Rule E charges... The FA sets out (as it had in its written Opening) the betting patterns of those connected directly or indirectly to the Player (together with the additional bets linked by device) and what [Mr Astley] termed the “notable bettors”. It is this area of the case, corroborated as it is, by the supporting evidence as has already been identified, which lies at the heart of these charges. It is this evidence (despite the views of the various witnesses who speak as to [the Player’s] conduct and performance in the RM’s) which demonstrates beyond doubt (and certainly to the civil standard of proof) that the Rule E5 allegations made against [the Player] are true. That is because the only sensible inference which falls to be drawn from this very substantial body of evidence is that these betting patterns (and the much heightened and enhanced confidence emerging from them) can only, sensibly, be explained by spot-fixing. Furthermore, it is only when the detail and the features of the individual bettors’ wagering has been set out that the RC, can have an eye to the overall picture which emerges...”*

76. Furthermore, in oral closing, Mr Laidlaw on behalf of The FA said:

“...I want to draw attention to, and place emphasis upon, the primary submission The FA makes, namely that it is the betting patterns associated with the bets the 27 connected bettors placed on [the

Player] to be carded in the four relevant matches which lies at the centre of the E5 case....”²⁰

77. Of the 253 bettors identified as placing ‘suspicious bets’ on the Player, the individual bettors whose data was forensically analysed before the Commission numbered 33 in total. Within that cohort were different categories of bettor, which we summarise in the following manner:

- a. One group are ‘notable bettors’, so described by The FA because it had no evidence identifying a direct or an indirect link with the Player, but where it is said they exhibited an *“inexplicable level of confidence”* in the outcome of the bets placed on the Player to be carded..²¹ This group consisted of 7 bettors, although during the hearing one of these 7 bettors was effectively moved to the status of being ‘indirectly linked’ to the Player..²²
- b. The second group are ‘connected bettors’ whom The FA allege have a ‘direct’ link to the Player. The basis of that ‘direct’ link is variable and is a matter considered below. This group consisted of 10 bettors.
- c. The third group are ‘connected bettors’ whom The FA allege have an ‘indirect’ link to the Player. The basis of the ‘indirect’ link is also variable and is also a matter considered below. This group initially consisted of 16 bettors but with the addition of the previously notable bettor referred to above, increased to 17 during the hearing.

78. The Player, in his first witness statement, said..²³:

“Of the 29 names mentioned across my two interviews with The FA, to the best of my knowledge and recollection I only have a “real” relationship with only four or five.

However, I speak to these members of my family relatively rarely, and more rarely still (if at all) about football.

²⁰ Transcript Day 19, page 5, lines 7-12.

²¹ As explained in The FA’s written opening at paragraph 399.

²² See Mr Astley’s statement dated 19 March 2025 [Bundle B, page 237], after the hearing had commenced, and his comments concerning the bettor

²³ Bundle F, paragraph 40, page 10.

was a childhood friend. We still speak, but not a great deal – perhaps we'll exchange a few messages over a couple of months, with long periods in between where we don't speak. Again we speak rarely (if at all) about football."

79. The Player's statement proceeds to identify that he knew 3 of the individuals mentioned in interview as distant friends or friends-of-friends, namely _____ and 2 individuals as more remote family connections.
80. A further 8 bettors were subsequently put to the Player and through his solicitors, by letter dated 6 March 2024.²⁴, he confirmed he had a 'real' relationship with one, namely _____ and a more remote connection to 3 of those identified, the remoteness of the connection being that the Player believed that one may have attended his son's birthday party, one may have attended his wife's party and one is the brother of a friend whom the Player believes he may have met on 2 or 3 occasions between 10 and 12 years ago.
81. When cross-examined, Mr Astley, who presented the connections to the Commission, fairly stated in answer to a suggestion that the evidence about with whom the Player was close, was accepted.²⁵: *"Yes, Mr Paqueta, it's only him that knows what relationships he's got with these people."*
82. Equally, the Commission notes that when the Player was cross-examined, he was asked about the people he said he had a 'real' relationship within his statement.²⁶ in understandable detail, but it was not suggested to him that he had wrongly categorised any of the relationships or that he in fact knew those whom he said in his statement that he did not.
83. It was put to the Player that he did not challenge the evidence from Mr Astley that _____, _____, appeared to know 25 bettors.²⁷, to which the Player responded that it was what Mr Astley had mentioned, but he was unable himself to say whether or not _____ *"has connection with these people or not"*.

²⁴ Bundle D, pages 127-129.

²⁵ Transcript Day 5, page 20, lines 19-22.

²⁶ Transcript Day 16, starting at page 15, line 12.

²⁷ Transcript Day 16, page 44, lines 1-8.

84. Having recorded that the Player was asked many questions about links to bettors, we must also record that there was no evidence presented to us of the Player's _____, himself being a bettor, whether on the Player or at all. Indeed, whilst giving evidence to us on the issue of between whom betting was discussed, _____ said "*We didn't speak of bets with... doesn't like betting, we didn't speak to him about that.*"²⁸
85. In all the circumstances the Commission accepts the evidence of the Player as to whom he had a 'real' relationship with and also as to the extent of his relationship, if any, with all the other identified bettors.
86. To complete an understanding of the references to 'linked bettors' and to provide proper context for the evidence presented to us we need to consider the strength of the links.
87. As to those said to have a 'direct' link to the Player:
- a. The Player has accepted, as recorded above, that he has a 'real' relationship with _____
 - b. The FA also assert a direct link with _____, as he is the brother of _____ and is a 'friend' of the Player on Facebook. The Player, through a letter from his solicitors dated 6 March 2024,²⁹ stated that he believes he may have met _____ on two or three occasions, some 10 or 12 years ago. The Commission were unimpressed with these facts being said to support a 'direct' link to the Player. The link is very remote.
 - c. A direct link between the Player and _____ has also been asserted as they have been photographed together, _____ has described the Player as a 'primo' and they are connected through social media platforms Instagram and Facebook. In his witness statement, the Player describes _____ as "*I think, a second cousin on my*

²⁸ Transcript Day 18, page 89, lines 16-18.

²⁹ Bundle D, page 128.

mother's side of the family".³⁰ In the Commission's view, whilst there is a familial connection, it is a quite a distant one.

- d. The next individual with whom it is said there is a direct link is [redacted] the principal basis being that she is the wife of [redacted] with whom the Player admits having a 'real relationship'. Whilst in his statement the Player says that "*I mainly know [redacted]*", in his Defence.³¹ it is accepted that [redacted] was someone he had a relationship with and the Commission therefore accepts there is a direct link.
- e. [redacted] is another with whom it is alleged the Player had a direct link. The direct and unchallenged evidence of the Player is that he "*... is a friend of my cousin [redacted], who I met when I was living in Brazil. He might comment on my Instagram occasionally, but our contact does not go much further than that.*" Whilst The FA also refer to other evidence, including photographs of [redacted] with other members of the Player's family and [redacted] the fact he was one of 966 people the Player follows on Instagram, the Commission accept the Player's evidence and conclude that if the link can be described as 'direct' at all, it is, at best, distant.
- f. Lastly it is said there is a 'direct' link with [redacted] The direct and unchallenged evidence of the Player is that "*I met [redacted] when I lived in Brazil – he was older than me and I think we played football together on occasion.*".³² Whilst The FA refer to evidence including a photograph of the Player with [redacted] and [redacted] as well as to the Player following him on Instagram and having tagged [redacted] in a video, again the Commission accept the Player's evidence. The Commission considers that the link is again properly considered to be 'distant'.

88. We shall comment in more detail on the 'indirect' links to the Player when considering the individual bettors. However, we accept the evidence of the Player

³⁰ At paragraph 42 of the Player's witness statement.

³¹ At paragraph 39 of the Player's Defence.

³² At paragraph 41 of the Player's witness statement.

when he states, in his statement³³ that he does not know 19 of the original 29 bettors identified to him. We also accept what is said in the letter dated 6 March 2024.³⁴ in respect of his relations with the additional bettors referred to.

89. It suffices to note that some of the ‘indirect links’ seemed to the Commission to be tenuous: for example, in the case of _____ it seems to the Commission, The FA were unable to identify an actual person, stating in their written opening.³⁵ and in their written closing.³⁶ that “*The FA identified four individuals by this name linked to others in the investigation.*” In other instances, many of the links are social media links.
90. Whilst the links with the Player were in many instances tenuous, the Commission does accept, however, that The FA’s purpose in advancing the evidence of the ‘indirect bettors’ was not to establish a communication with the Player himself, but was primarily to advance its case that the Player had told one or more members of his family or friends, in respect of each of the RM’s that he would be carded, and the web of indirect connections to others who bet successfully on one or more of the matches is illustrative of that fact, as The FA alleged, that information spread between them and they placed successful bets on that eventuality.
91. Equally, of course, the Commission notes that this argument does not apply to what were called the ‘Notable Bettors’. Whilst we will return to the extent of the betting data relevant to the Brazilian market, the Commission notes that in identifying the ‘notable bettors’ The FA also identified that people in Brazil, with whom there was no evidence of any connection with the Player, or his friends or family, were also placing bets on the Player to be carded in the RM’s with, The FA assert, ‘inexplicable confidence’. There are also the remainder of the bettors (totalling around 220 in number), none of whom are alleged to have any link with the Player and, seemingly, in respect of whom there is no allegation that they bet with an ‘inexplicable level of confidence’, as they were not characterised as ‘notable bettors’.

³³ At paragraph 43 of the Player’s statement.

³⁴ Bundle D, beginning at page 127.

³⁵ At paragraph 395.

³⁶ At paragraph 512.

92. We will return to assess the probative value, if any, of the ‘notable bettors’ and ‘linked bettors’ below. Before we do so, we must consider the evidence that was presented to us on this crucial ‘betting data and patterns’ element of The FA’s case.
93. An unfortunate feature of the Commission hearing was that both parties spent what the Commission considered to be a disproportionate period of time cross-examining for the purposes of advancing criticisms of witnesses called by the other side, which criticisms were advanced at length in closing. It is therefore necessary to start by an assessment of the various witnesses we heard on this issue, before turning to the substance of the evidence.

Tom Astley – Betting Integrity Investigator at *The FA* and called by The FA.

94. In terms of witnesses, the most important witness on the betting data tendered by The FA was Mr Tom Astley. Mr Astley is employed by The FA as a Betting Integrity Investigator. Rather astonishingly, by the conclusion of evidence we had been presented with eight (8) separate statements from Mr Astley. It was Mr Astley who conducted the investigation into the Player on behalf of The FA under the line management of Mr David Matthews, from whom we also heard evidence and on whom we comment below. Both Mr Astley and Mr Matthews conducted the pre-charge, investigatory interviews with the Player on 11 September 2023 and 10 November 2023.
95. An unusual, and in some respects unsatisfactory, feature of the evidence presented by The FA is that in the case of Mr Astley, 4 of his 8 witness statements were served after he had initially been called for oral evidence and been cross-examined. To give that statement some necessary context, when Mr Astley was first called, he was questioned for a period of 2 ½ days.
96. In the Player’s written closing some complaint is made of the fact Mr Astley provided further statements after he had completed his initial cross-examination..³⁷

³⁷ See Player’s Written Closing at paragraph 312.

97. Mr Astley was recalled, allowing further cross-examination on the then three additional statements that had been served and indeed Mr Astley was cross-examined for a further couple of hours. As to the fourth of the additional statements, that post-dated his recall as a witness, but was produced in response to the statement of _____, whose evidence was itself introduced by the Player (as described elsewhere) only after Mr Astley had completed his initial cross-examination. It was also after further information was obtained by The FA not simply from _____, but also betting operators.
98. The Commission also notes that Mr Astley's sixth statement, being the second statement dated 26 March 2025, was produced shortly after his initial cross-examination in an attempt to answer a question which had been posed by the Commission at the end of his oral evidence. Whether a statement from him was the appropriate vehicle of communicating that information was, no doubt, not a matter for Mr Astley.
99. Whilst the Commission admitted the additional evidence from Mr Astley after he had been cross-examined, it has always been careful when considering that evidence, including its probative value and weight, to have in mind where appropriate the question of why the evidence was not produced at any earlier stage?
100. Moving on from the oddities of the timing of statements, the principal complaint made of Mr Astley on behalf of the Player was that he was not an independent expert witness.
101. It is plain that Mr Astley is not an *independent* expert witness. Indeed, Mr Laidlaw, on behalf of The FA, addressed this point in his oral closing argument. He said:³⁸

"First, Mr Astley was to accept and make no secret of the fact that as an employee of The FA, he could not be described as being independent of the Association. He said this. This is Day 4, page 19, lines 2 to 5.

³⁸ Transcript Day 19, page 79, line 23 to page 80, line 12.

“I’m not independent, I work for the Football Association, but I would consider the role I have got lands me to being the FA’s expert in regards to this investigation.”

So he was accepting that he is not independent, but that lack of independence does not mean that Mr Astley had a vested interest in any particular outcome or that he holds any animus towards the Player. He does not, and the decision whether to charge lay with the lawyers at the FA and not with him.”

102. Accordingly, it appears that Mr Astley was advanced as an expert, but not an independent one. This is further reflected in The FA’s written closing³⁹, The FA submitted:

“In respect of [Mr Astley], The FA will invite the [Commission] to find him both a highly experienced investigator in this field but also a credible and reliable witness in respect of his analysis of the betting patterns... his evidence on the essential points was either not challenged or was balanced and realistic and he displayed the impartiality the [Commission] would have been entitled to expect of an independent expert witness offering an expert opinion.”

103. Accordingly, in the Commission’s view, on what The FA have accepted was the most important element of its case, it simply did not call independent expert evidence. Instead, it relies on the evidence of its integrity investigator and asks the Commission to accept that he has shown the impartiality that would have been expected of an independent expert.

104. The oddity of the status of Mr Astley as a witness does not, however, end there and in view of the Commission’s exposes a clear limitation in his evidence. This, however, is not a criticism of Mr Astley. His first statement dated 23 May 2024, over 414 carefully drafted paragraphs presented the betting data, including that attributable to the individual bettors. Accompanying the statement were 182 detailed exhibits. The exhaustive work in collating the betting data is something which clearly deserves recognition.

³⁹ At paragraph 8.

105. However, in his third statement dated 4 February 2025, which was in response to a report provided by Mr Paterson on behalf of the Player (which is addressed below), Mr Astley said:

“Whilst I am a long-standing employee of The FA, I have had regard to the declaration an expert has to make consistent with the CPR obligations. I can confirm that I have sought to comply with those requirements.”⁴⁰

This appears to reflect a recognition or realisation on the part of The FA that whilst Mr Paterson was advanced on behalf of the Player as an independent expert witness, they simply did not have a witness of similar standing. As recorded above, this statement was made at the beginning of February 2025, whereas Mr Astley’s first statement was made in May 2024.

106. Furthermore⁴¹ and, in the Commission’s view, significantly, Mr Astley proceeded to state in his response statement:

“I have been asked not to make comments and/or engage in argument as to the inferences to be drawn from the betting patterns. I have also been asked not to repeat points made in my first witness statement or repeat the analysis which can be found there. Nor in this witness statement, have I sought to subject Mr Paterson’s analysis to any criticism. Those matters, I am told, will be dealt with in cross-examination. I have been asked to focus on any new evidence to be introduced.”

107. This appears why, in his responsive statement to Mr Paterson’s report⁴², Mr Astley does not address, for example, Mr Paterson’s comments on each of the individual bettor’s own data, which, as we shall see below, calls into question in many instances the confidence with which the individual was betting. This is important because, as referred to above in the citations in the opening paragraphs of this section, this was a key inference The FA were asking us to draw from that data.

⁴⁰ At paragraph 2 of his statement.

⁴¹ At paragraph 7 of his statement.

⁴² Dated 4 February 2025: Bundle B, page 133.

108. Mr Astley was subjected to lengthy cross-examination as to his independence. On this, in his oral closing Mr Laidlaw, on behalf of The FA responded to that challenge, stating at one point⁴³:

“... in respect of the point made by the Player’s lawyers that an independent expert in betting should have been sought... The FA are entitled to respond, and this assumes that such an expert exists, but for what purpose would an independent expert be called?”

109. Mr Laidlaw proceeded to state that *“the interpretation and the inferences to be drawn from them are for the Commission, not for the witness, expert or otherwise; that is the Commission’s core work.”*⁴⁴

110. Whilst the Commission accepts that, ultimately, any inferences to be drawn from the betting data are for the Commission to decide, the answer to the rhetorical question posed by Mr Laidlaw as to the purpose of an expert is plain and obvious: namely to assist the Commission in understanding the data presented and how it might be interpreted, for example, by commenting on Mr Paterson’s views on each individual bettor’s data.

111. In this regard, the Commission notes that The FA did not suggest, amongst much criticism of Mr Paterson, that he should not have been called as an expert, nor that he was not an expert on the betting patterns⁴⁵.

112. Accordingly, whilst not Mr Astley’s fault, as he was doing what he had been directed to do, in circumstances where it was clearly and openly accepted by The FA that Mr Astley was not an independent expert⁴⁶, from the Commission’s perspective the evidence presented by The FA on the betting data had an obvious flaw, namely the lack of an independent expert assessment of that data. That The FA chose to advance the most important element of its case without

⁴³ Transcript Day 19, page 81, lines 15-22.

⁴⁴ Transcript Day 19, page 82, lines 7-10.

⁴⁵ This is clear from paragraph 76 of The FA’s written closing, where a question from the cross-examination of Mr Paterson was quoted, namely: *“... you have provided an expert report to the Commission dealing with four areas, three of which, including performance analysis, you appear to have no expertise in at all...”* The fourth area, which inferentially is accepted by The FA as being an area in which Mr Paterson had expertise, was ‘betting data’.

⁴⁶ See The FA’s oral closing, Transcript Day 19, page 79, line 22 – page 80, line 12.

any such independent expert assessment of it was, in the Commission's view, surprising.

113. Mr Astley's evidence was also criticised by the Player on a number of other more specific grounds, some of which relate back to what was said to be his partiality.

114. Firstly, it was suggested that Mr Astley failed to make sensible concessions, such as his reliance on an unknown when answering questions, namely the individual bettors financial standing. Thus, purely by way of example, it was put to Mr Astley⁴⁷ that the Player's _____, had not wagered the maximum stake on the Player receiving a card in RM3, betting a total of £227.96, and, furthermore, hedged his bets by also placing almost twice as much, namely £418.59 to bet on the Player to 'score or receive a card' which had lower odds. This, it was suggested, was not consistent with someone who had the confidence associated with a spot-fix. When Mr Paterson's comment from his report that "*[_____] was looking to hedge his bets somewhat and was not overly confident in [the Player] being carded*".⁴⁸ was put to him, Mr Astley responded: "*We can't speak for _____ financial situation and what he had in his account at the time or the finances he had available to him.*"

115. The cross-examination continued as follows.⁴⁹:

Q: If he was part of a spot-fixing operation and he knew [the Player] was definitely going to get a yellow card in that match, he would have bet the maximum amount on that because the odds were better, rather than putting it on a lower odd bet that he had the money to do and did, wouldn't he?

A: Not necessarily. Mr Paterson makes this point a number of times that, because it's not a maximum bet, it cannot be suspicious, and that is completely incorrect.

Q: Why?

⁴⁷ Transcript Day 5, page 59, line 21 to page 63, line 10.

⁴⁸ Paterson Report, paragraph 111, Bundle F, page 183.

⁴⁹ Transcript, Day 5, page 61, line 23 to page 62, line 18.

A: Because we don't know the financial situations of any of these individuals, so just because they don't place a maximum bet, we don't know what access to funds they had at the time, so how can anyone say that because it's not maximum, it's therefore not suspicious.

Q: But, Mr Astley, that's a response you make to each point at a level of generality, but you're not looking at this forensically, are you? In this case, you do know how much money _____ has got to bet, don't you?

A: Yes, and *could tell us why he's decided to bet in this way.*"

116. In the Commission's view this is an odd and confidence sapping stance for Mr Astley to have adopted given the information presented. Not only was it not really an answer to the point that was put to him, but the bettor had placed almost twice as much money on a bet at lower odds, namely to score and be carded, as well as the bet for the Player to be carded and inferentially, and the Commission would suggest, logically, if a bettor has been told that the Player would receive a yellow card, the bettor would use their money to place the maximum stake they could on that outcome to maximise their return.

117. Later, when being cross-examined about another player, the following exchange took place.⁵⁰:

"Q: ... You don't know, and Mr Paterson doesn't know, and nobody in this room knows the financial circumstances of every bettor, but taking that to one side, it is true, isn't it, when you've seen that this particular person has bet considerably more than these amounts on other non-player card markets, you would expect, generally speaking, someone involved in spot-fixing to bet the maximum possible on a spot fix, wouldn't you?"

A: If they had the money available to them, yes.

Q: Yes. So for your theory to work, every time – and it is nearly every time – every one of these people involved in spot-fixing bets

⁵⁰ Transcript Day 5, page 153, line 8 to page 154, line 3.

considerably less than the maximum stake, it's explained because they don't have the money. For your theory to work that must be the explanation. Even though we see them in the days before and after making bets, betting much more. That's not a good explanation, is it?

A: He still placed bets well above his average for player card markets on those occasions, even if they're not maximum bets."

118. Whatever the reason for this stance, which may be explained by the fact Mr Astley had been asked, as recorded above, not to draw inferences from the data, the Commission did not consider that it was a full, considered or, indeed, a good explanation.

119. Complaint is also made by the Player, in his written closing submissions⁵¹, of the failure of Mr Astley to recognise other features of the betting data which the Player submits are inconsistent with spot-fixing.

120. We need not deal with these points in detail, as it suffices to say that we accept the validity of some of the criticism on Mr Astley's reliance on not knowing the financial status of individual bettors, whilst recognising, as we have also set out, that there was a clear flaw, in the Commission's view, in what Mr Astley was asked to present. However, having noted these criticisms, we unhesitatingly decline to accept to the invitation contained within the Player's written submissions⁵² that:

"Mr Astley's evidence was plainly so partial and his analysis of the data so superficial that his opinions on the betting data cannot be given any weight."

121. In refusing to give the evidence of Mr Astley no weight, we are mindful that a lot of his evidence, particularly in his first statement, 'simply' presented the granular data of each bettor made available to The FA. However, when considering his evidence, we have had to bear in mind the limitation on his evidence we have identified and the fact that we consider valid criticisms have been made of the evidence he has presented.

⁵¹ At paragraph 126.

⁵² At paragraph 128.

Matthew Fowler – Head of Global operations at the IBIA – called by The FA.

122. Mr Fowler provided two statements to the Commission. His first was dated 9 May 2024 and outlined the IBIA's processes and the timelines and reports concerning the RM's. The statement comprised some 13 pages. Mr Fowler's second statement was dated 4 February 2025 and was in response to the criticisms of Mr Paterson contained in the latter's report. Over 19 pages, the statement sets out more details regarding the IBIA's processes, its market coverage in Brazil and details concerning the RM's.
123. In addition, Mr Fowler signed a joint statement with Mr Paterson dated 19 February 2025. Some agreement was reached, particularly regarding the IBIA's processes, for which the Commission were grateful to both Mr Fowler and Mr Paterson.
124. As will become apparent below, it was the IBIA which first alerted The FA to suspicious betting concerning the Player. Mr Fowler was cross-examined across two days, commencing his evidence after the lunch adjournment on Day 7 of the hearing and finishing his evidence at approximately 10:30 on Day 8.
125. In his written closing submissions⁵³ it was said on behalf of the Player:
- “Mr Fowler was an unhelpful witness for the Commission's purpose, in that he was often evasive and gave long answers simply repeating passages of his statement that were largely a defence of the IBIA and its operations rather than answering questions.”*
126. However, what follows in the submissions is principally an assessment of the substance of Mr Fowler's evidence, in particular in so far as the Player contends that his evidence did not in fact support the case advanced by The FA. These are matters we shall return to below.
127. In assessing the evidence of Mr Fowler, the Commission found him to be an honest witness who was doing his best to answer the questions put to him. Whilst, on occasion, Mr Fowler was defensive of the IBIA, the Commission does not consider that to be surprising, given he is the Head of Global Operations of

⁵³ At paragraphs 129 – 135.

that organisation. This and the fact the IBIA was established by and has a board comprised of representatives of betting operators did not, in the Commission's opinion, undermine Mr Fowler's evidence.

David Matthews – Senior Manager – Integrity Investigations at the Football Association – called by The FA.

128. The Commission received a total of four witness statements from Mr Matthews, two of which were produced after the hearing before the Commission began. Mr Matthews' evidence principally dealt with matters related to a Brazilian Parliamentary Inquiry, which included his producing a copy of the report which ran to some 692 pages both in draft and final forms. He also gave evidence about email correspondence between The FA and FIFA and The FA and
and documents relating to the Brazilian market which were, or were not, produced by Mr Fowler.

129. Mr Matthews was called and gave oral evidence to the Commission. He was cross-examined on the morning of Day 7 of the hearing.

130. No particular criticisms were made in closing on behalf of the Player in respect to Mr Matthews as a witness. The Commission considers this was the correct stance on behalf of the Player. The Commission considered Mr Matthews to be a straightforward witness. Any issues relating to Mr Matthews' evidence did not relate to his quality as a witness, but rather to the substance of the evidence he gave.

Caio Campello de Menezes – lawyer – called by The FA.

131. We had the benefit of three statements from Mr Menezes, a lawyer in Brazil who was engaged by The FA to obtain documents relating to the Brazilian Parliamentary Inquiry. All three of the statements were provided *after* the commencement of the Commission hearing.

132. The Commission considered Mr de Menezes principal role was to inform the Commission of the steps he took on behalf of The FA in Brazil, as well as identifying what documents he obtained. We shall deal with the substance of his evidence when considering the Brazilian Parliamentary Inquiry below.

Benjamin Paterson – expert witness called by the Player.

133. Along with Mr Astley on behalf of The FA, Mr Paterson was the other 'key' witness called with regards to the betting data. Mr Paterson provided us with two reports. The first, dated 16 December 2024, ran to some 80 pages, comprising 272 paragraphs together with appendices, whilst the second, dated 19 February 2025 was responsive to the reports of Mr Astley, as well as Mr Fowler and Mr Johnson. In addition, Mr Paterson signed joint expert reports with Mr Fowler, on the issue of the IBIA analysis and with Mr Astley in respect of the betting analysis.
134. We have already commented that the joint report between Mr Fowler and Mr Johnson found some grounds for agreement. As between Mr Astley and Mr Paterson, there was, unfortunately, little agreement of substance.
135. Given some of the myriad of criticisms made by The FA of Mr Paterson, with which we will deal below, the Commission considers it useful to reconsider what Mr Paterson states he was asked to consider, as set out in paragraph 6 of his first report, where he says:

"I provide this report as part of the response submitted on behalf of [the Player] to charges, brought by The FA, that [the Player] deliberately sought to be awarded a yellow card in four matches in the knowledge that certain individuals would place bets on that outcome. I have been asked to review the evidence and betting data supplied by The FA and comment on the extent to which those data can be relied upon to support The FA's case that:

- (a) [The Player] deliberately sought to be carded in each of the [RM's]...*
- (b) that he did so having indicated (in relation to each [RM]) to one or more of his family members or friends that this was his intention;*
- (c) that he did so in the knowledge that one or more bettors would place a bet/s on this occurrence in reach of the [RM's]; and*
- (d) that he did so in order to ensure those bet/s were successful."*

[our underlining for emphasis].

136. We note that the key phrase used in Mr Paterson's report as to what he was asked to review was "*the evidence and betting data*", so we are unable to accept without some qualification the submission made in the Player's written closing.⁵⁴ that "*The First Paterson report makes clear that Mr Paterson's instructions were to give his opinion on whether the betting data supported The FA's case that [the Player] was involved in spot-fixing.*" As an aside, Mr Paterson's letter of instruction was not appended to his report.
137. Mr Paterson gave evidence to the Commission over 3 days, namely days 8 – 10 of the hearing. Mr Paterson was called just after 10:30 on day 8 and completed his evidence at lunch on day 10. When we come to consider the individual betting patterns, it will become apparent that a feature of The FA's closing was to suggest that 'for timing reasons' a number of his comments on individual bettors were not the subject of cross-examination. The Commission wishes to record that it was guided by the parties as to the timetable. How The FA allocated its time to question Mr Paterson for 2 ½ days across 3 days, was a matter for it.
138. In its closing The FA makes considerable criticism of Mr Paterson.⁵⁵ having initially remarked: "*[Mr Paterson], certainly to the eyes of The FA, is, by some distance, the most important of the Player's witnesses and the extent of his expertise (he provided a first report in respect of which he purported to be able to give expert evidence about the Brazilian betting market; the role and work of the IBIA; betting patterns' and the Performance Integrity Reports... produced by SPIS etc) was very much... in issue during the hearing.*"
139. The FA's written closing continues:

"In answer to Mr De Marco's own questions, [Mr Paterson] was to accept he had no expertise in the Brazilian market and his knowledge was limited to 'some understanding' of it. [Mr Paterson] was to tell Mr De Marco that he was no 'expert on their [the IBIA's] internal workings. I have worked with the IBIA in a couple of different ways...". And in respect of performance integrity analysis, in cross examination [Mr Paterson] said "... I don't believe I've claimed anywhere to be an

⁵⁴ At paragraph 117(b).

⁵⁵ Principally at paragraphs 75-78.

expert in performance analysis, but what I have got is experience in reviewing footage of suspicious matches.” In respect of the analysis of individual betting patterns, where [Mr Astley] had expressed the view that [Mr Paterson] would not have had previous experience of having received what he [Mr Paterson] described to be ‘the granular betting data’ [Mr Paterson] was effectively to accept that that was true. It was put to [Mr Paterson] “... you have provided an expert report to the Commission dealing with four areas, three of which, including performance analysis, you appear to have no expertise in at all, and the question is why on earth not make that clear to the Commission?”. In answer [Mr Paterson] said “[i]t certainly wasn’t my intention to mislead. I don’t believe I’ve stated that I have experience or stated that I have worked for an Opta or a performance analysis company in any way. It was certainly not my intention at any stage to mislead anybody. [Mr Paterson] was also to accept that he had never performed a role of the sort [Mr Astley] had in this case.”

140. The FA’s written closing then proceeds to note criticisms relevant to Mr Paterson’s betting patterns analysis. We shall return to those below but will start with the criticism that Mr Paterson was not an expert in performance analysis, the Brazilian market and the work of the IBIA.
141. Starting with the issue of performance analysis, this is a topic which is dealt with elsewhere in these Written Reasons. For present purposes we have to consider whether it in any way undermines Mr Paterson’s evidence on the betting patterns if, as suggested, he has sought to give expert evidence in an area in which he is not expert.
142. At paragraph 658 and 790 below we record that Mr Paterson conceded that whilst he had some experience in the area of performance integrity analysis, he was not an expert as such. We did not consider that this concession in any way undermined the evidence which he provided on betting patterns. He made it clear that he did not claim to be an expert in performance analysis but indicated that he had experience in reviewing footage of suspicious matches and felt that his experience was sufficient for him to make comment and criticism.

143. Next, there is the issue of the Brazilian market, which at the time of the RM's was an unregulated market. Mr Paterson dealt with this in his report in the 'Background' section⁵⁶, although in the section of his report analysing the data Mr Paterson does deal with the proportion of the Brazilian market covered by The FA's data.

144. In examination in chief, Mr Paterson was asked:

"Q: ... Mr Astley was asked whether you were an expert – whether Mr Astley thought you were an expert on the Brazilian market pre and post regulation and he said: 'Not necessarily, no'. Any comment on that?"

*A: I think that's actually a fair comment. Expert no; understanding yes."*⁵⁷

145. In cross-examination on the point, the following exchange took place on the point⁵⁸:

"Q: But why were you giving any expert opinion about the Brazilian market? I mean, why produce a report to the Commission and not tell them that in fact you have no expertise in this area at all?"

A: Well, as I said, I don't believe I don't have any expertise at all. I gave my opinion on the situation in Brazil because I was asked to give my position and understanding which is what I've done."

146. When the Commission looks to Mr Paterson's report for the impact of his views on the Brazilian market, perhaps that impact is best evidenced in his 'Executive Summary'. That commences:

"In my opinion, the betting data supplied by The FA does not demonstrate that [the Player] was booked in each match, having told his associates that he would deliberately orchestrate this, to ensure that bets placed on that outcome were successful. This is for two main reasons:

⁵⁶ Section 3, paragraphs 14-23.

⁵⁷ Transcript Day 8, page 41, line 17-24.

⁵⁸ Transcript Day 8, page 78 line 23 to page 79 line 5

a. *First, the betting data supplied is limited in scope and utility:*

- i. *In terms of scope, the data we have represents a snapshot of around 13.7% of the betting market in Brazil. This means that it is entirely possible that there is other betting on [the Player], both successful and unsuccessful, which, if it were present, would provide critical context for the limited data to which we do have access. What may appear to be unusual could, when put in context by the missing 86.3%, be shown to be entirely normal.*
- ii. *In terms of utility, the IBIA reporting system is not perfect, nor is it independent of the betting operators. This means the IBIA alerts, and the responses by operators thereto, are of limited utility when assessing [the Player's] conduct. Indeed, in a "grey" market like Brazil, where regulatory obligations are in the process of shifting, operators have a complex set of incentives when it comes to reporting."*

147. The remainder of Mr Paterson's 'Executive Summary' was focused on the actual betting data presented by The FA.

148. Without more, whilst the Commission readily accepts that Mr Paterson should have made plain in his report that whilst he was commenting on the Brazilian market, it was a market of which he had an understanding but no particular expertise, in and of itself that does not to the Commission seem to be a point of material significance and certainly is not a point which would cause the Commission to consider that Mr Paterson's evidence on the betting data itself was undermined in any material sense. Put another way, it may and does cause the Commission to have some hesitation when considering that part of Mr Paterson's report which deals with the Brazilian market, but that is not, in the Commission's view, an essential or indeed a particularly central part of Mr Paterson's overall assessment of the betting data, noting that we address whether Mr Paterson's suggestion of 13.7% was correct separately below.

149. We turn to Mr Paterson's comments on the IBIA. This was initially covered in Section 4 of Mr Paterson's report, which was also identified as being 'Background'. Mr Paterson started that section by stating:

“I have worked closely with the IBIA in my role as Integrity Operations Director at Genius Sports and as Director of Integrity at IMG Arena, and I provide some comments below based on my knowledge and experience of the IBIA.”

150. Mr Paterson makes a number of criticisms of the IBIA's processes. He starts by stating⁵⁹:

“In conclusion, whilst the IBIA is undoubtedly committed to protecting sporting integrity, it is run by gambling operators who have a complex set of incentives, particularly in a ‘grey market’ jurisdiction like Brazil where increased regulation is on the horizon.

This may explain why there are various inconsistencies in the way operators reported (or did not report) any concerns to the IBIA, which undermines the reliability and robustness of its reporting system”

before proceeding to make various other criticisms.

151. Those criticisms were addressed in Mr Fowler's responsive statement dated 4 February 2025. Importantly, in the Commission's view, when Mr Fowler and Mr Paterson met at the direction of the Commission to see what points might be agreed, Mr Paterson clearly shifted his ground.

152. In examination in chief, Mr Paterson was asked⁶⁰:

“Q: You were asked – sorry, Mr Astley was asked about your experience or expertise in the workings of the IBIA and its internal processes and structures; any comment on that?

A: I, of course, am not an expert on their internal workings. I have worked with the IBIA in a couple of ways...”

153. The Commission pauses to note that it considers that Mr Paterson, in his first report, included criticisms of the internal workings of the IBIA, yet he was now readily accepting that he was not an expert in their internal workings.

⁵⁹ At paragraphs 47 - 48 of his report.

⁶⁰ Transcript Day 8 page 43, line 15 to page 44, line 19.

154. When cross-examined the following statement was put to Mr Paterson⁶¹:

“Q: Mr Paterson, we can all read for ourselves in a very long report that you express views and a series of views about the IBIA...”

Then having been referred back to the question and answer from examination in chief recited above, the following exchange took place⁶²:

“Q: Right. So are you an expert on the IBIA’s internal workings or not? It’s your words [Mr Paterson]?”

A: I’m trying to understand the question. I know I used the words internal workings. By that I meant I wasn’t aware of their disciplinary – that disciplinary record, because, okay, I’m not an expert on their internal workings.

Q. Thank you. But you’ve expressed, as we can see ... a number of views about its independence, its function and set-up, degree of compliance of its members and the like. Do you agree that is what you’ve done?

A: Yes.

Q. You’ve never worked for the IBIA, have you?

A. I’ve never been employed by them no.

Q. No, your professional contact with them has been very limited indeed, hasn’t it?

A. I wouldn’t say very limited indeed. I have had numerous workings with the IBIA over the last 10 years or so.”

155. Whilst Mr Paterson said in his report, as recited above, that he had worked ‘closely with the IBIA’ and that he was to provide comments ‘based on my knowledge and experience of the IBIA’, the Commission has no doubt that Mr Paterson overstepped his expertise in making a number of comments and he was not an expert on the workings of the IBIA.

⁶¹ Transcript Day 8 page 80, line 2-4.

⁶² Transcript Day 8, page 81, line 13 to page 82, line 8.

156. However, the Commission then has to ask itself where it leaves us and, in particular, whether this undermines Mr Paterson's analysis of the betting data? On this question, whilst the Commission considers that it has to treat with caution comments made by Mr Paterson in regard to the IBIA, the Commission again does not consider this is a point which undermines Mr Paterson's credibility on his betting data analysis. Where, however, Mr Fowler's evidence and Mr Paterson's evidence on the operation of the IBIA conflict, we prefer the evidence of Mr Fowler.

157. The Commission noted that Mr Paterson had made a number of concessions, once he had considered Mr Fowler's responsive statement, which was to his credit. No doubt, the Commission would have had greater concerns if Mr Paterson had not amended his stance.

158. In considering Mr Paterson's overreaching as an expert, as described above, the Commission considered this was, perhaps, attributable to Mr Paterson's inexperience as an expert witness. Having made this observation, another issue arises with which we must deal. In paragraph 4 of his first report Mr Paterson informed the Commission:

"In my roles working in sports integrity, I have previously provided written testimony in several cases where individuals and teams have been suspected of match manipulation. I have been called to give evidence as an expert witness on two occasions:

a. In 2014, on behalf of Football Australia in the criminal case v Southern Stars which led to the conviction of six individuals for match-fixing offences; and

b. In 2018, on behalf of the Badminton World Federation, I gave evidence against two players at a hearing which led to bans of 15 and 20 years."

159. During the course of his evidence before us, it became clear that whilst Mr Paterson had been 'called' to give evidence in the Southern Stars case, a last-minute guilty plea meant he did not actually give evidence.

160. The FA, unattractively, in the Commission's view sought to make a point on this, boldly stating in its written closing⁶³: "... *[Mr Paterson] did not give evidence as he said in his Report and in evidence in the Australian Southern Stars case. This claim of his was misleading and is a factor which touches upon the [Commission's] assessment of his credibility.*"

161. The Commission unhesitatingly reject this submission. It turns on an overly technical and unattractive forensic analysis of the word '*called*' as it was used in Mr Paterson's report, although the Commission observes The FA's approach makes no attempt to explain away the fact that when referring to the Badminton World Federation matter in 2018 Mr Paterson clearly states that he "*gave evidence*", which are not words used in respect of the Football Australia matter.

162. The FA's criticisms of Mr Paterson do not, however, end there. When Mr Paterson was cross-examined during the hearing, when turning to the individual bettors Mr Laidlaw on behalf of The FA, having said there was not time to deal with each individual bettor said:

— "...*the theme which I'm going to explore with you is your selectiveness, and just so you have the point upfront, what you have done is to be critical on occasions for the sake of criticism and what you have not done, as we will see, is look at either all material or the overall picture.*"⁶⁴

163. In the summary of Mr Paterson's evidence in The FA's written closing submissions, The FA maintained this criticism, noting that Mr Paterson's explanation was "*that I've tried to address the points that Mr Astley had made and look at the points that he hadn't raised rather than repeat what he had*", which The FA contend does not withstand any sensible scrutiny⁶⁵.

164. In response, in the written closing submissions on behalf of the Player, it was said⁶⁶:

⁶³ At paragraph 13.

⁶⁴ Transcript Day 9, page 108, lines 19-24.

⁶⁵ See paragraph 77 of The FA's Written Closing Submissions.

⁶⁶ At paragraph 120.

“... the facts and features of the betting data relied on by Mr Paterson in his reports were largely unchallenged. Mr Paterson explained that he had not repeated in his reports all of the data (primarily averages) from Mr Astley’s reports and did not, for the most part, disagree with those figures, although he disagreed with the utility of averages. However, he further explained that he had examined all of the data in-depth and identified multiple features of the data that Mr Astley had not even considered (and that The FA has never responded to). Significantly, Mr Paterson was clear that in reaching his conclusions he had considered all of the betting data presented to him, including the underlying Excel spreadsheets and data in Mr Astley’s statements ...”

165. The Commission does not accept The FA’s criticism. Whilst individual pieces of evidence will be considered below, as an overall assessment of Mr Paterson, the Commission considered he had looked at matters in the round and that his report was to be considered as one which concentrated on points that were not made by Mr Astley, as distinct from a commentary on the points that were made by Mr Astley. The Commission also well understood that Mr Paterson did not agree with the utility of averages adopted by Mr Astley, but otherwise, as stated on behalf of the Player in closing, had little disagreement on the figures presented by Mr Astley.

166. Moving on, there is no doubt that on two occasions Mr Paterson was very uncomfortable when giving his evidence. We must address both occasions.

167. The first was at the end of the first day Mr Paterson was giving evidence, namely day 8 of the hearing. It was put to Mr Paterson that he had made a mistake in paragraph 37 of his first report, where he said:

“Knowing this I have to question Mr Astley’s statement that “[a]ll betting operators have confirmed, via UEFA, there were no suspicious bets and/or suspicious betting patterns on [the Player] on any of [the other] five matches [in which he was booked].” The operators’ failure, despite their members of the IBIA and receipt of the relevant alert, to report any unusual betting (let alone suspicious betting) calls into question the reliability of Mr Astley’s assertion and aptly demonstrates the lack of robustness in the IBIA reporting system.”

168. Mr Paterson was taken to Mr Astley's exhibit TA/197.⁶⁷ which was an email from UEFA which said:

"We can confirm that none of the suspicious bettors shared with The FA have placed any other bets on [the Player] to be booked/carded in any other game during the 2022/23 season, aside from the [four RM's]."

to which Mr Paterson responded:

"Yes, I accept I appear to have made a mistake there."

169. The Commission clearly recall this passage of evidence as Mr Paterson was plainly uncomfortable giving his evidence. He later informed us that he had '*hit a bit of a brick wall*' and did not feel particularly well.⁶⁸ at that time. However, whilst no-one noticed at the time, the email put to Mr Paterson was an email which was dated 7 January 2025. Mr Paterson's report is dated 16 December 2024 and, as such, plainly could not have been an email that he ought to have taken into account in his report.

170. The Commission is satisfied that the error was purely inadvertent, but what was put to Mr Paterson was wrong. We discount from our assessment his plain unease arising from the exchange.

171. The second occasion also occurred during Mr Paterson's evidence on Day 8 of the hearing, namely his first day giving evidence. Mr Paterson was referred to the IBIA's alert process. When looking at Mr Fowler's report, Mr Paterson highlighted the statement "*If a Member identifies unusual betting activity they generate an alert on the platform.*" Mr Paterson then continued:

"Several IBIA members are active in multiple jurisdictions, and from working with sports federations during investigations of suspected fixing in their events, they have sought to get information from betting operators, from IBIA members, who have failed to share that information. Alerts have not been raised in the platforms and data has not been shared. Now, I believe the primary reason for that was those

⁶⁷ Bundle C, page 1688-1691.

⁶⁸ Transcript Day 9, page 11 at lines 22-23.

IBIA members were working in jurisdictions where betting was not legal, and they did not raise alerts or share any information.”⁶⁹

172. Mr Paterson was then asked who the betting companies he was referring to were, to which Mr Paterson said he did not wish to say. Mr Paterson asked whether he could get advice on answering. There was then a tense exchange about whether Mr Paterson should obtain legal advice. The Commission, through the Chair, indicated that it was a matter for Mr Paterson as to whether he obtain advice, but confirmed he could not receive advice from the Player’s legal team.

173. The Chair concluded by stating⁷⁰: “... *it’s a question I think Mr Laidlaw you may have to revisit at a later stage.*”

174. Mr Paterson’s stance was consistent with what he had said in his report⁷¹ and he is criticised for it in The FA’s written closing submissions⁷² where it is said: “*Despite the time and the opportunity to take legal advice afforded to him by the [Commission], [Mr Paterson] was not prepared to assist.*”

175. The Commission considers this is unfair criticism of Mr Paterson. Notwithstanding the considerable pressure he was put under whilst giving his evidence of being told he could take independent legal advice, the Commission is unaware of whether that advice was taken because, inexplicably, The FA never returned to the issue in cross-examination. In the Commission’s view that disqualifies The FA from making the statement recited in the last paragraph. Furthermore, allied to the previous point about the wrong e-mail being put, which events were both on the same day, the Commission refuses to draw any negative inferences from the fact that Mr Paterson was clearly uncomfortable giving his evidence after the issue which led to the suggestion of his obtaining advice was raised.

176. Unfortunately, we must record another error was made, again we are sure inadvertently, in putting matters to Mr Paterson. It was put to Mr Paterson⁷³ that he had entirely ignored an alleged link between the bettors

⁶⁹ Transcript Day 8, page 113, line 25 to page 114, line 10.

⁷⁰ Transcript, Day 8, page 116 at lines 24 – 25.

⁷¹ At paragraph 16.

⁷² For example, at paragraph 105.

⁷³ Transcript Day 9, page 125, lines 10-25.

. It was put to him “So why not, in a way which I would suggest would be balanced, say: without evidence of the nature of the link, I’m not prepared to accept that exists and, therefore, I only bets on matches 3 and 4? Why be partial with the information?” However, in his report Mr Paterson had expressly dealt with Mr Astley’s contention that there was a link between these two bettors. Over some 10 lines of text Mr Paterson had explained his position, including his stating: “The reason for the link is not recorded nor are the details available any longer for checking. did not bet on Match 2, but did. It therefore seems extremely unlikely that was using betting accounts to place bets, without even attempting to place any bets on his own accounts – which he did on match 3 and 4. In my view, there is no evidence that placed the bets credited to ”⁷⁴ The Commission accepts the submission made on behalf of the Player that it was wrong to have put to Mr Paterson the question that was put.

177. Despite prolonged attempts to undermine Mr Paterson as an expert witness on the part of The FA during the hearing and in its closing submissions, accepting that Mr Paterson overreached in so far as his expertise was concerned regarding Brazil and the IBIA, as noted above, on his assessment of the critical *betting data* the Commission was content to accept Mr Paterson’s evidence. He has worked in sports betting integrity since 2009 and told us, and we accept, has been involved in identifying over a thousand events that he believed to have been manipulated.⁷⁵ We accepted his evidence on the betting data as an expert who was trying to assist the Commission.

Other Witnesses called by the Player.

178. We have commented elsewhere on the evidence of the Player himself, Christiane Tolentino and . We deal specifically with their evidence as it impacts on the betting data evidence below. It is important to reiterate that was the only one of the bettors from whom we heard evidence.

⁷⁴ Paragraph 110.

⁷⁵ Transcript Day 8, page 42, line 20.

Betting Data – suspicion raised.

179. Turning, at last, to the detail of the betting data presented to us, we start by considering the operation of the IBIA and how it came to alert The FA to suspicion on the betting patterns related to cards given to the Player during the RM's
180. The IBIA, namely The International Betting Integrity Association, is a not-for profit association based in Belgium which has over 50 sports betting operators globally as members. Mr Fowler informed the Commission that “a *significant part of the IBIA's work is its Monitoring and Alert Platform ... [which] is administered by IBIA and allows Members to share reports of unusual and suspicious betting patterns.*”⁷⁶
181. RM1, namely that against Leicester City, did not at the time of the match raise any concerns on the Platform. Instead, Mr Fowler informed us that it was on 12 March 2023 that an alert was first raised in respect of what in these proceedings has been referred to as RM2. That game took place on the same date. In his statement, Mr Fowler informed us the alert was raised by _____, which cited _____ unusual betting patterns for the Player to receive a card in RM2. Those patterns included an unusually high number of bets on the Player to be carded in combination with another Brazilian player, whom we know to be _____⁷⁷, to be carded in a game in _____ on the same day.⁷⁸
182. Mr Fowler told us that 42 members had responded to the alert, with one member, _____, also citing similar unusual behaviour. We accept the evidence of Mr Fowler.⁷⁹ that the maximum number of responses that the IBIA would have expected was 47 and it received 43 (namely the 42 responses plus initial alert). We also accept Mr Fowler's evidence that only _____ and _____, at that time, deemed the betting to be suspicious, but that it was commonplace for concerns to develop over time, particularly when betting patterns emerge.
183. Mr Fowler's evidence was that the information received from _____ and _____ showed that the “*betting activity was unusual*” but ultimately, having reviewed the

⁷⁶ Paragraph 5 of his witness statement.

⁷⁷ Also referred to in the papers as

⁷⁸ 1st Statement, Matthew Fowler at paragraph 30, Bundle B page 56.

⁷⁹ Second Statement, paragraph 57: Bundle B page 176.

data the IBIA determined that because the Player was a Premier League player who was reportedly in receipt of a large salary, he did not fit the profile of a suspicious player and because it was the first time the Player was the subject of an IBIA alert, “... *the decision taken was not to deem the betting activity as suspicious but rather to inform Members to be highly vigilant on any similar activity in the future, for example monitoring the activity on [the Player] to be shown a card in any subsequent matches.*”⁸⁰

184. Mr Fowler confirmed to the Commission that both The FA and UEFA were informed of the betting activity, although there was no formal report at that time. The FA were informed on 31 March 2023.

185. Unusual betting activity might be considered by the IBIA at an event level, or an account level. Factors which Mr Fowler informed the Commission might lead to an alert being raised by a member on an event level included:

- Stakes and volumes above the average expectations for a particular betting market.
- Significant odds movements.
- Odds changes not deterring further unusual activity.
- Activity focused on specific markets with little other interest in the wider event markets (for example, a specific game betting market in tennis).
- In-play odds which do not reflect the action in the relevant event; and
- Activity focused on a participant or team who has appeared in suspicious matches previously.

Whilst, on an account level, the following factors might lead to an alert being raised by a member:

- New accounts that appear to have been opened specifically to be on an event.

⁸⁰ Paragraph 38.

- Existing accounts betting outside of their usual parameters.
- Accounts grouped in the same location/area, particularly if the area can be linked to the teams/participants or from a region where suspicious activity often occurs.
- Activity from accounts already being monitored due to activity of concern or accounts linked to previously suspended/closed/restricted accounts.
- Out of the ordinary deposits or funding method.
- Activity from accounts of sporting participants or accounts likely linked to a participant.

186. If an alert is raised, the Platform requires them to identify certain information, including:

- a description of the markets where the suspicious activity has occurred.
- the locations of the accounts involved.
- the timing of the bets
- Whether accounts were new
- Account profile information (such as unusually large stakes or first bet on relevant sport)
- Whether the accounts are in the name of participants or appear to be linked to a participant (although no personal customer details are provided).
- Any other relevant information the member is comfortable providing; and
- What it is about the activity that the member feels is out of the ordinary?

187. Once an alert is raised, all members are notified and they are required to respond to the alert, including by stating whether they offered betting markets on the relevant events and, if so, whether they saw similar unusual activity. If they did, the member is required to identify as much detail as the member who made the alert.

188. Mr Fowler, who provided the above stated information, also informed the Commission that following the responses the IBIA then reviews all the information and any further information it may request and then decides whether a report should be made, in the present instance to The FA. The sort of factors the IBIA will consider are:

- The number of members reporting suspicious activity and the number of customers who bet suspiciously.
- The size and geographic scope of the member(s) reporting the suspicious activity.
- How developed the members(s) integrity and risk functions are.
- The relevant members customer base: so, for example, a member with a large customer base in the region of an alerted event may be given more weight.
- How often a member's alerts are found to be suspicious.
- What odds are offered in relation to the wider market: so was the member offering odds out of line with the rest of the industry.
- The size of the bets taken and attempted; whether they were maximum stakes and whether the customer(s) continued to bet despite the operator implementing odds changes.
- Whether there was suspicious activity on the same markets and outcomes across multiple members.
- The previous history of the accounts, including whether they were new, the bet size and whether it was the first bet on a sport/market etc.
- Sporting factors, such as rankings in tennis, team news, recent form etc
- Whether the opposing player/team has been the subject of any previous alerts.

- Whether the activity can be explained by a ‘tipping line’ or something similar; and
- Any other relevant open-source information.

189. The Commission was also told, as in the case of RM2, that the IBIA may still inform a sports governing body, such as The FA, even if it did not deem the activity suspicious if it has decided, for example, that the activity warrants enhanced monitoring moving forward.

190. It is important to observe that the IBIA does not have sight of the individual betting data of the bettors whose activity might be deemed to be suspicious. Rather, if a report is made to a governing body, it is that governing body which obtains the granular betting data for each bettor, as we have seen in this hearing.

191. As stated, no alert having been raised in what we have called RM1 in these proceedings, an alert having been raised by [REDACTED] in respect of RM2 and backed up by [REDACTED], the end result of the IBIA’s assessment was that no report was required in respect of RM2, but The FA were informed of the IBIA’s assessment, namely not to deem the betting activity as suspicious but to inform members to be highly vigilant.

192. In the Commission’s view, the sheer number of double bets on the Player to be carded in RM2 with [REDACTED] to be carded in La Liga on the same day was worthy of suspicion. However, the Commission notes and accepts, in respect of RM2, that in isolation the match was not considered to be suspicious by the IBIA, notwithstanding the very large number of double bets.

193. The next RM took place on 21 May 2023 (West Ham v Leeds United) and Mr Fowler informed the Commission that an alert was raised on the Platform on 22 May 2023 by the betting operator [REDACTED] who reported ‘abnormal betting behaviour’ for the Player to receive a card in the match. Mr Fowler said:⁸¹

⁸¹ Statement, paragraph 42

“The two customers of concern, who were registered in Brazil, had placed their bets after a period of dormancy and in combination with low odds selections (outcomes likely to occur) in multiple bets.”

194. The Commission heard that 37 betting operators responded to the alert, with two operators, namely _____ and _____ also citing similar unusual betting behaviour. Mr Fowler told us.⁸²

“The information gathered from the three operators indicated that the betting activity was suspicious. Of particular note, regarding the activity with _____, was that one customer, registered in Brazil, that had been dormant since placing a bet on [the Player] to receive a card in [RM2] then placed bets on [the Player] again to receive a card in [RM3]. That customer’s first bet had not been considered suspicious by _____ at the time. In the interim period, over two months, the customer did not place a single bet. In between [the Player] receiving a card in [RM2 and RM3] he played nine premier league matches without receiving a card.

One customer with _____ had been active on [RM2] placing bets on [the Player] to receive a card while several others, all registered in Brazil, displayed a notable increase in their regular stakes to support [the Player] to receive a card, placing the maximum stake permitted on the selection.

_____ reported in excess of 15 customers, who were all registered in Brazil. The majority of these customers were relatively newly opened accounts and placing maximum stake bets for [the Player] to be shown a card.

The extent of the betting support witnessed across the three operators, combined with the previous concern surrounding [the Player] to receive a card in [RM2], was such that the betting activity was deemed suspicious by IBIA.”

195. The Commission understands Mr Fowler’s evidence to have been that the IBIA report the matter to, in the present instance, The FA, but the IBIA itself does not

⁸² Statement, paragraphs 47-50.

make a determination. It essentially hands the matter to The FA to investigate, having raised a concern. The following exchange took place when Mr Fowler was cross-examined, which reinforced this stance⁸³:

“Q: So if we just come back to, as you say, the sort of global holistic approach to these factors, the presence of these features in and of themselves doesn’t evidence spot-fixing does it?”

A: No, our role isn’t to establish if spot-fixing has occurred... many of these factors, like I state in the statement, can be explained by information in the public domain, other open source research. When this moves from explainable activity to unexplainable activity is when some or many of these factors exist but the operator and IBIA are unable to establish a reason for the activity, so it needs to be looked at in the round, but also with alongside analysis to try and establish if there’s a reason for the activity.

Q: No, that is entirely fair and then what you do is you pass that on to a particular, say, sports governing body and they investigate further?”

A: That’s right, so to be clear, IBIA don’t have any statutory powers, we’re unable to investigate, you know, into players, that’s simply not our role. Our role is to objectively as soon as we can review the betting patterns that are reported to us. If they reach our internal thresholds to be deemed suspicious, then we will generate a report to the sports governing body regulator or law enforcement in some cases. That then begins a wider process of investigation where our operators provide the customer level information.”

196. As the Commission has seen, that ‘customer level information’ is provided to, in the present instance, The FA as opposed to the IBIA whose role, having raised the alert, is effectively complete as regards the match in respect of which the report has been generated, although it will also inform its members advising them of the action taken and the reasoning for that decision⁸⁴. In the Commission’s

⁸³ Transcript Day 7, page 105 line 8 to page 106 line 11.

⁸⁴ Fowler Statement, paragraph 25 – Bundle B, page 55

view this is consistent with the fact the IBIA itself did not see the granular betting data we have been presented within the hearing.

197. In respect of what has been called RM3 in these proceedings, there was a clear link in the IBIA's analysis to RM2. Mr Fowler accepted, in cross-examination, that in isolation RM3 would probably not have been deemed suspicious. He said.⁸⁵:

"Q: ... and so match 3, ignore the fact that matches 1 and 2 have taken place, just looking at the betting on match 3, it is likely, isn't it, that it would also not have been suspicious just in and of itself?"

A: If there had only been one alert at the time, we would probably have taken a similar view and asked our members to monitor for further suspicious activity..."

198. We also observe that Mr Fowler, in his statement in response to Mr Paterson's report, noted that whilst the IBIA would have expected 47 responses from its members on RM3, it in fact only received 38 which Mr Fowler described as "*below expectations*".⁸⁶, although the Commission notes Mr Fowler's evidence that only one member, namely _____, of those who did not respond, had a presence in the Brazilian market and that they reviewed their data at the time and determined there was no suspicious activity.

199. In any event, a report dated 21 May 2023 was sent by the IBIA to The FA. It is important to record what The FA received. Having identified RM2, the summary at the top of the report stated:

"An alert was raised in the IBIA platform by _____ for suspicious betting activity for Lucas Paqueta (West Ham) to be shown a card. Two further operators, _____ and _____ also reported suspicious betting on the same selection. The betting activity indicates involvement of Lucas Paqueta in any potential manipulation."

200. This last sentence is concerning to the Commission, not least as this was the first formal report to The FA which ultimately led to these proceedings. In the

⁸⁵ Transcript Day 7, page 159, lines 4-10.

⁸⁶ Response Statement, paragraph 68, Bundle B page 178.

Commission's view, the IBIA was simply not in a position to make such a statement, yet it was reporting to The FA that the betting activity indicated involvement on the part of the Player.

201. When questioned by the Commission, it was noted that by the time of the second report, which relates to RM4 and is referred to below, the wording in the summary had changed to state: *"The betting activity indicates the potential of Lucas Paqueta to be involved in any manipulation"*. When challenged on this Mr Fowler, who confirmed he had 'signed off' the documents, said on the summary in the first report relating to RM3:

"... it should have said the word 'potential'. I'm happy to withdraw that, and apologies for any confusion, I hadn't picked up on that, but the correct wording is in the second report there."

202. Returning to the report itself, it included the following information:

"Description.

– reported identifying two customers, registered in Brazil, displaying suspicious betting activity for Lucas Paqueta to be shown a card. One of the customers had previously bet on Lucas Paqueta to be shown a card against Aston Villa on 05/03/2023 with no bets in between. Both bets were duly successful. Both customers placed the bets as part of a same game multiple-bet, combined with there to be at least one goal in the match.

– reported identifying between 15 and 20 customers, all registered in Brazil betting on Lucas Paqueta to be shown a card. There were approximately fifty bets that were a maximum stake bets and the majority of customers had either newly opened the accounts or were accounts that were previously dormant. The turnover on this selection significantly exceeded regular expectations.

Three of the customers had placed bets on Lucas Paqueta to be shown a card against Aston Villa while one of the customers had also

bet previously on a Brazilian player to be carded in a previous IBIA Alert

—
reported witnessing five customers, registered in Brazil placing pre-match bets on Lucas Paqueta to be shown a card. Four of the customers placed maximum stake bets, betting significantly outside out of their regular activity in terms of stake and the type of market bet on. One of these accounts had previously bet on Lucas Paqueta to be shown a card against Aston Villa on 05/03/2023. The other account of concern was newly registered. Betting offered for Lucas Paqueta to be shown a yellow card was suspended following these bets and not offered in the live market.

Background information and Match Analysis

- *Lucas Paqueta has featured in a previous IBIA alert (3811) in March 2023. The alert was raised for concerning betting on Paqueta to be shown a card. The irregularity of the betting activity on 3811 was deemed insufficient to be deemed suspicious. That alert has, however, been considered as supporting evidence in the assessment of this alert.*
- *Lucas Paqueta was booked in the 65th minute.*

Suspicious History

IBIA has no previous alerts deemed suspicious on Lucas Paqueta, although there were concerns over alert 3811 which was ultimately not deemed suspicious.

Investigation - Next Step:

- *IBIA Members are committed, through our code of conduct, to assist in any investigations into suspicious betting activity reported by IBIA.*
- *In order to access customer data please make requests to the below compliance contacts”*

The compliance contacts were those of the 3 betting operators identified earlier in the report.

203. In his first statement, Mr Astley records that:

“On 24 May 2023, the IBIA informed The FA and UEFA of an alert related to suspicious betting activity on [the Player] to be shown a card in Match 3...

On 24 May 2023, the betting operator (who own) also formally notified The FA of suspicious betting they had identified in Match 3. Those bets were specifically placed on [the Player] in the ‘To be shown a card’ or ‘To score or to be shown a card’ markets. further notified The FA that some accounts had also backed [the Player] to be booked in Match 2. subsequently shared details of suspicious bettors in Matches 2 and 3 with the FA directly, under the terms of our Memorandum of Understanding.

As all the bets were placed outside the UK, and aside from the data ..., UEFA shared the remaining bettor data across Matches 2 and Match 3 with The FA. UEFA shared this data with The FA for the purpose of protecting European football against fraud and match-fixing in accordance with its rules and regulations. UEFA may share personal data with UEFA Member Associations.

The majority of this betting data was shared with The FA between 13 June 2023 and 11 August 2023, with the final tranche of data shared on 20 December 2023.”

204. Whilst The FA were, no doubt, considering the information provided, RM4 occurred on the opening day of the 2023/24 Premier League season. That was 12 August 2023 and on that date an alert was raised on the Platform by . Mr Fowler told us.⁸⁷:

“Given the previous alerts and concerns regarding suspicious activity on [the Player], IBIA immediately informed the FA via email that an alert had been raised. The alert was raised in the Platform shortly before [RM4] kicked off with the FA informed by IBIA approximately ten minutes after that...

⁸⁷ Statement, paragraph 53-58.

43 Members responded to the alert, with five additional operators, citing similar unusual betting behaviour...

Across the six members who cited unusual betting activity, there was a mixture of newly opened accounts, customers returning from dormancy and established customers betting outside of the normal behaviour (in terms of the type of market bet on and the stake size), registered in Brazil, displaying an abnormally high level of confidence in [the Player] receiving a card."

205. The details were again the subject of a formal report to The FA, the report being dated 14 August 2023. The IBIA also reported to UEFA and the Great Britain Gambling Commission's Sports Betting Unit. The report description was in the following terms:

"Summary An alert was raised in the IBIA platform by due to suspicious pre-match betting activity for Lucas Paqueta (West Ham) to be shown a card. Five further operators, also reported suspicious betting related to this outcome. The betting activity indicates the potential of Lucas Paqueta to be involved in any manipulation.

Description

– This operator reported multiple new and already established customers based in Brazil expressing unexplained betting support for Lucas Paqueta to be shown a card vs. AFC Bournemouth. It should be noted that several of these established customers were also active on the previously reported match (Alert 3894 - West Ham vs. Leeds United) – where similar suspicious activity for Lucas Paqueta to be shown a card was witnessed and duly occurred.

– Reported multiple accounts, both newly created and already established, based in Brazil showing betting support for Lucas Paqueta to be shown a card.

– This operator reported multiple newly-opened accounts also supporting Lucas Paqueta to be booked in what the operator deemed to be an ‘unexplainable confidence’.

– This operator reported three customers, once again based in Brazil, expressing support for Lucas Paqueta to be shown a card.

– Reported notable betting support seen across six Brazilian accounts supporting Lucas Paqueta to be shown a card. Notably, all these bets of concern were also combined with the selection of ‘Under 6.5 goals to be scored in the match’ – a low-odds selection that may suggest an effort on behalf of the customers to disguise the suspicious activity.

– This operator reported multiple, predominantly new Brazilian accounts also showing suspicious betting support for this outcome. Notably, this operator also reported that the customers in question were insensitive to odds-changes, with betting support witnessed throughout odds of 4.8 down to 2.7 (decimal). Furthermore, of the small number of dormant accounts that were seen wagering on this outcome, none had placed bets on card markets prior to this, further increasing concerns.

Comparative Staking Information

– 98% of the turnover within ‘Card’ markets seen on this match was witnessed specifically for Lucas Paqueta to be shown a card. Furthermore, it should be noted that following the initial wagers on this outcome taken by the operator at odds of around 4.3, these odds were consequently decreased significantly to 1.5 (implying a probability of 67%), despite average odds in the market at this stage being around 2.5. Significant attempts were still witnessed at these prohibitive odds, further increasing concerns.

– The wagering within this suspicious selection in question made up 98% of the total turnover seen within the ‘To be carded’ market.

– The stakes seen for this outcome accounted for 94% of the total turnover seen across the ‘To be carded’ market.

– The stakes from these customers for Lucas Paqueta to be booked accounted for more than 80% of the turnover seen throughout this market.

– Specific staking information regarding percentage of turnover in unavailable at this stage.

– specific staking information regarding percentage of turnover in unavailable at this stage, however, as previously mentioned, the customers involved were insensitive to odds changes, with support witnessed from odds of 4.8 to 2.7, further demonstrating the irrational confidence for this outcome.

Sporting Factors and Match Action Analysis

- There are no sporting factors to adequately account for the confidence in the betting activity seen. Whilst sporting factors such as a preponderance of cards received in previous matches naturally factors into bettors wagering behaviour, the insensitivity to odds changes in this instance can only be viewed as suspicious in nature.

- Furthermore, based on historical bookings statistics, it is fair to conclude that Lucas Paqueta is not a player that is prolifically shown a card. As a point of reference, the player was shown five yellow cards throughout 28 appearances in the previous season for West Ham and a total of just 13 cards across 95 games since the start of the 2020/2021 season including previous clubs (Lyon). Simply put, if this staking behaviour was a legitimate consequence of sporting factors, similar and comparable betting would be expected to have been witnessed regularly in previous matches where the player is involved – betting that is simply not seen.

- Furthermore, the location of the customers is extremely notable with all of the customers involved in this suspicious wagering based in the Brazil – the nationality of the player.

- Simply put, for bettors to express such targeted and isolated betting confidence for lucas Paqueta [sic] to be shown a card is unexplainable by any legitimate sporting factors and consequently can only be considered suspicious from an integrity perspective.

Suspicious History Player/Team Historically reported matches...

Reference is made to the previous alert and report, before the contact details of the relevant betting operators are provided.

206. On this report, Mr Astley informed the Commission.⁸⁸:

“On 12 August 2023, at 3:06pm (6 minutes after Match 4 had kicked off), the FA received an email from the IBIA to inform that one of their operators had raised an alert regarding irregular betting on [the Player] to be carded. This was followed up on 14 August 2023 by a formal betting alert being raised by the IBIA...”

This led to [the Player] first being contacted by The FA on 14 August 2023, requesting he attend an interview.

On 18 August 2023, the betting operator shared details of suspicious bettors in Match 4 with The FA directly, under the terms of our Memorandum of Understanding...”

207. At this stage contact was made with the Player. As reflected in the Player’s first of two interviews, The FA had been told of suspicions in relation to RM’s 2, 3 and 4. RM1 had not been identified, and only RM’s 3 and 4, as identified in the foregoing paragraphs, had been the subject of formal IBIA reports.

208. Although Mr Paterson has questioned the independence of the IBIA and Mr Fowler was cross-examined about this, in the Commission’s view, accepting that the IBIA is a creature of the betting industry, albeit with separate and independent staff, these points did not impact on the IBIA’s role as we have described above.

209. However, given the role of the IBIA, we reject the submission advanced by The FA in paragraph 6(2) of their written closing submissions that six different betting operators offering markets in Brazil (managing 10 different bookmaker brands) *“had identified by their systems that spot-fixing was likely to be an explanation for the unusual betting activity they reported to the IBIA.”* On the information reported to The FA that, in the Commission’s view, is going too far. Before such a view could reasonably be reached, a great deal more evidence had to be

⁸⁸ Paragraphs 14-16 of his statement.

considered. At best, in all the circumstances, the IBIA members were, through the IBIA platform, simply raising an alert which was deemed suspicious by the IBIA itself in respect of RM's 3 and 4 and reported for further investigation accordingly.

210. Indeed, this was reflected in Mr Fowler's evidence to the Commission: he was referred in cross-examination to the list of factors considered by the IBIA in assessing whether betting was suspicious, as we have set out above. It was put to Mr Fowler on more than one occasion that a particular factor could also be reflective of perceived 'inside information' or a 'hot tip' and Mr Fowler accepted that was potentially the case, albeit stating that matters had to be looked at in the round. Perhaps most notably, when 'existing accounts betting outside their usual parameters' was put to Mr Fowler the following exchange took place⁸⁹:

"Q ... it comes back to that's an indicator of confidence of bettors in a particular outcome?"

A: Yes, its confidence, interest. Correct.

Q: But confidence, as I come back to, could be for various reasons, it could be, couldn't it, it could be spot-fixing, it could be inside information, it could be hot tips, you'll see these sorts of features?"

A: Absolutely, yes."

211. In the Commission's view this recognised the limitations of the IBIA's role, namely once it had raised a red flag in the form of a report, it was down to, in the present instance, The FA to obtain additional evidence, including the granular betting data, to assess whether spot-fixing was, in its view, the explanation.
212. One subsidiary issue, which gave rise to two distinct points, which the Commission must deal with, was the percentage of coverage within the Brazilian market by members of the IBIA and The FA data. The two points relate to the relevant percentage and the source of the material used to calculate that percentage.

⁸⁹ Transcript Day 7, page 103, line 10-17.

213. In his first report Mr Paterson had used open-sourced data to opine that The FA had obtained data from 11 betting operators, with those operators having a 13.7% market share. Mr Paterson stated⁹⁰:

“Therefore, I am unable to make any assessment of betting patterns on 86.3% of the market. This is important because, in order to determine what is suspicious betting activity, one must first identify what is normal betting activity:

- a. In the market in general (i.e. card markets on Premier League matches, from individuals in Brazil);*
- b. In the specific market in general (i.e. [the Player] to be carded, from individuals in Brazil) across a decent cross-section of the market; and*
- c. By the individuals placing bets on those matches... How frequently do they normally bet on these kinds of markets (side bets or player-related markets), and what are their normal staking limits (both average and large bets)?”*

214. Mr Fowler responded to this in his statement dated 4 February 2025, suggesting that Mr Paterson’s 13.7%:

“... doesn’t take in to account the fact that IBIA members active in Brazil at the time of the Relevant Matches reviewed their markets at the time of the alerts in the IBIA Platform. However, even using this metric, H02 [Gambling Capital] estimates that IBIA Members whose data was relied on by the FA represented 32% of the Brazilian sports betting market in 2023 and also 32% of the market in the first six months of 2024.”⁹¹

215. Mr Fowler had earlier explained⁹² that the IBIA had utilised data provided by H2 Gambling Capital whom Mr Fowler said: *“are widely regarded as the leading data and market intelligence company in the international gambling industry”*. Mr Paterson, in compiling his report, had not used H2 data.

⁹⁰ 1st statement at paragraph 55.

⁹¹ Second Statement at paragraph 47.

⁹² Second Statement at paragraph 39.

216. During the course of the hearing, at the Player's representatives request, what was said to be the underlying data from H2 to establish the 32% figure was disclosed, albeit in a redacted form. It was redacted, the Commission was informed, because of non-disclosure agreements.

217. Whilst a figure of 67% had also been referred to as being the percentage identified by H2 as representing the online sports betting revenue for IBIA members in Brazil, Mr Fowler in cross-examination confirmed that the comparable figure to Mr Paterson's 13.7% was 32%. The following exchange took place⁹³:

“Q: So the 11 operators are the betting operators from which we have that type of detailed data; you understand that's what it's about?”

A: Yes

Q: And so Mr Paterson – and we'll come on to the methodology –

A: Sure

Q: - but he's saying he thinks that is 13.7%, but in your paragraph 47, last sentence, you say: "...H2 estimate the IBIA members' whose data was relied on by the FA ..." That being the 11 operators.

A. Yes

Q. "... represented 32% of the Brazilian sports betting market in 2023 ..." So just for comparison, it's the 13.7% and the 32% are the two numbers that are comparable for the 11 operators for whom we have the detailed breakdown?

A: For the data that was provided to the FA, yes."

218. Despite the time spent on this point during the hearing, the Commission considers it need only state as follows: the granular data that The FA presented represents, on its own case, at best, 32% of the market. On Mr Paterson's assessment, it was 13.7%. In either case, there is a significant element of the Brazilian market on which data was not presented. Whether it is approximately

⁹³ Transcript Day 8, page 7, lines 5-23.

14% or 32% really does not assist the Commission, over and above the point that the granular data represented a relatively small percentage of the market.

219. The Commission also notes the slightly different point made by Mr Fowler, in his second statement⁹⁴ that at the time of the RM's IBIA members equate to 62% of the Brazilian online betting and iGaming markets based on *revenue*, and 67% of online sports betting *revenue*, such that, as Mr Fowler says in his statement:

"... when alerts on the [RM's] were reviewed by IBIA members this covered over two thirds of the Brazilian sports betting market at the time, based on revenue."

220. Before we come to consider the granular data, we need to identify how what we know as RM1 came to be introduced. In his first statement, Mr Astley simply says.⁹⁵:

"Subsequent analysis of the initially shared betting data by identified bets placed on [the Player] to be shown a card in Match 1 by three bettors who had also bet on [the Player] in Match 2."

Further, when he was cross-examined Mr Astley informed the Commission that although RM1 was not a match on which a relevant alert or report was raised by the IBIA, *"That was something I identified by doing my own analysis of the betting, but I think there were only 17 or 18 individuals who bet on that."*⁹⁶

Betting data – the details

221. Underpinning The FA's case was data of individual bets:

- (a) Numbering 17 bets for RM1.
- (b) Numbering 249 bets for RM2.
- (c) Numbering 87 bets for RM3; and
- (d) Numbering 189 bets for RM4.

⁹⁴ At paragraph 43.

⁹⁵ At paragraph 17.

⁹⁶ Transcript Day 4, page 142, lines 21-42.

222. Mr Astley gave evidence that The FA was able to detail these 542 bets which were by 253 different bettors who placed bets on the Player for stakes in the sum of £46,758.83 with a collective return of £213,703.81, reflecting a net profit of £166,944.98.

223. At the outset of considering these bets, we remind ourselves of Mr Astley's first statement at paragraph 46, when he turns to "Overall Betting Data". He said:

"The betting on [the Player] across all four matches appears hugely orchestrated, heightened by suspicious features of the betting, including 26 bettors linked either directly or indirectly to [the Player], accounts being newly created seemingly to place bets on [the Player], accounts taking standout positions on [the Player], accounts not taking in any other markets on those games, price changes on [the Player] not deterring further bets from being placed and bettors continuing to place bets late into the game, all of this occurring in four separate games, with nearly all betting being successful."

224. Given what is recited above from Mr Astley's introduction to the overall betting data in paragraph 46 of his first statement, in particular his evidence that it appeared 'hugely orchestrated', as alluded to at paragraphs 37 to 39 above, the Commission were very surprised that in its written closing, when criticising Mr Paterson, The FA stated⁹⁷:

"The repeated comparisons [Mr Paterson], throughout his reports, had sought to draw with a sophisticated or orchestrated spot-fixing operation were entirely inappropriate and unhelpful. The FA had never put the case on that basis. Indeed, in both its Case Summary and the Opening the case against the player had been put quite differently. It was a forensic device to misstate the nature of The FA's case in order to draw, from the Player's perspective, helpful comparisons."

225. It was certainly the case that Mr Paterson's evidence to the Commission was that the betting patterns in this case were extremely unsophisticated. In his report⁹⁸ he said:

⁹⁷ At paragraph 176(6).

⁹⁸ At paragraph 103(c). See also paragraph 101.

“Although Mr Astley describes the betting as “orchestrated”, it is extremely unsophisticated. Whilst Mr Astley relies on the connections between the individuals involved as adding to the level of suspicion, I consider that it can have the opposite effect. Despite these connections, there is no attempt to disguise the identity of the bettors (for example by using simply and widely available tools like proxy servers) and, in several cases the same device or network has been used to place the bet. If these individuals were betting on the basis of inside information, that would be a surprising level of naivety.”

226. Given The FA’s statement that it has never suggested references to sophistication and orchestration and Mr Paterson’s reference to such factors was “entirely inappropriate”, it is necessary to look at the references footnoted in the above passage from The FA’s closing submissions, both to the Case Summary and the Opening to see what was said. The reference in the Case Summary is to paragraph 24 which states:

“But it is not The FA’s case that [the Player] would have known of each and every bettor who would place money on him to be carded. As will become clear, 253 individuals based in Brazil would place such bets across one or more of the [RM’s]. It is more likely that [the Player] indicated to only one or perhaps a very limited number of individuals (probably family members or a close friend from home) that he was prepared to deliberately seek a card in order to assist that individual/s to win money which by his [The Player’s] standards would have been very modest indeed. But what [the Player] could have had no control over is the extent to which the information he provided would be more widely shared as it plainly was. But it is not The FA’s case that LP profited personally for the money won from the bets placed in Brazil.”

227. That, in the Commission’s view, this was addressing a slightly different issue is evidenced by the fact the above recited statement from Mr Astley’s statement, including the contention that the betting appears to be “hugely orchestrated” was itself recited (in full) in the Case Summary, at paragraph 61.⁹⁹ In the Commission’s view, paragraph 24 of the Case Summary was dealing with the suggestion that the Player passed on information to only one or more individuals

⁹⁹ Bundle A, page 20.

he knew, with the Player then having no ability to control how that information spread in Brazil. That is not, in the Commission's view, the same as the suggestion the betting in Brazil was or was not "hugely orchestrated".

228. As to The FA's Opening the paragraph relied upon was paragraph 37, which was in materially the same terms as paragraph 24 of the Case Summary. Again, however, the Commission notes that the relevant paragraph of Mr Astley's statement recited above was similarly recited in the opening submissions¹⁰⁰. For the same reasons as explained with respect to the Case Summary, the Commission accordingly considers that paragraph 37 of the opening statement was dealing with a subtly different point.

229. Unsurprisingly, Mr Astley was cross-examined on this point. The following exchange took place¹⁰¹:

"Q: Now, in your witness statement... you say this "The betting [data] on [the Player] across all four matches appears [highly] orchestrated ...". Is that still your view?"

Chair: I think you say 'hugely orchestrated'

Q: "Hugely", yes.

A. Yes, based on the further reasons I go through in para 46, yes.

Q: I suggest to you that that is at least an overstatement by you, an exaggeration. Would you agree?

A: No."

230. By the time Mr Paterson was cross-examined, it appears The FA had moved away from the suggestion made by their witness, Mr Astley, that the betting patterns were 'hugely orchestrated', notwithstanding the fact that passage had been relied upon in the Case Summary and in opening. The following exchange took place¹⁰² after Mr Paterson was shown the paragraphs from the Case

¹⁰⁰ At paragraph 137.

¹⁰¹ Transcript Day 4, page 92 line 19 – page 93 line 8

¹⁰² Transcript Day 9, page 98, line 15 to page 100, line 7.

Summary (namely paragraph 24) and Opening Note (namely paragraph 37) referred to above:

"A: I'm sure somewhere in Mr Astley's comments he used the term "sophisticated" and "orchestrated" in his explanation of what has transpired.

Q: Well, you're right, he does use either or both of those words, and we could look at the context later, but my question is a different one, because this is the document where the FA have set out its case, and I'm going to suggest that, if you look through the whole of this document, you would not see at any point any suggestion of sophistication or anything like that. This is simply a case where a player, no doubt ill-advisedly, has given information to assist family or friends make some money out of a bookmaker in Brazil. He wouldn't have known a fraction of the 253, and he wouldn't have benefitted himself, there's certainly no evidence of this, from the monies they had won. That's always been the case that has been presented against him.

A: I accept that's a possibility and as 24 is written I accept that's a possibility, yes. You asked me, though, why I believed you would use the terms sophisticated or orchestrated and I've explained I was asked to review the evidence, particularly the betting evidence as presented by Mr Astley, and that's what I did, and those terms were used. That's why I used those terms.

Q: I'm going to suggest that in fact you have mischaracterised the FA's case throughout this report to introduce a level of sophistication and organisation as a comparator which is not appropriate. That is not the case you're being asked to meet.

A: I don't think that's true. I think I've considered all the aspects, including what you have put there, but the fact is 253 individual bettors and information being shared as widely as that is not a characteristic that I have seen before in spot-fixing.

Q: I'm not suggesting it is, Mr Paterson, but it is a characteristic consistent with the case that the FA present against this Player. The

information was plainly more widely shared. He didn't know that. That's the nature of the case.

A: It's extremely unusual. I accept it's a possibility as put."

231. The Commission does not consider this was a fair line of questioning to put to Mr Paterson. He had commented in his report that the betting data was not hugely orchestrated as had been suggested by Mr Astley, The FA's lead witness, in his witness statement.
232. When Mr Laidlaw was asked questions by the Commission at the end of closing submissions on behalf of The FA, on the suggestion the betting was 'hugely orchestrated' he simply said The FA "*disagreed with Mr Astley.*" This was most surprising in the Commission's view, given it was a statement made by The FA's lead witness on the betting data. It is important, therefore, to give that statement proper context.
233. Having been taken to Mr Astley's paragraph 46 and the suggestion made in closing that there had never been any suggestion of the betting patterns being 'sophisticated' or 'orchestrated', the following exchange took place: —

"Q: In light of that, is the key to what you're saying the use of the word "sophistication" or there some other explanation?

*A: No, I think – and you will remember that Mr De Marco seized upon those words. I think the short position is that the FA's case is that it is not highly orchestrated. We disagree with Mr Astley. I hope I'm right – and I'm not giving evidence, but we will check if you forgive me Mr Stoner. I think that he was taken to this in cross-examination, and I think he gave an answer, and I think he may have said that he meant something different, but I want to check that because I'm not sure that was his position and I don't want to make that assertion to you without having checked. So we will do that, and perhaps we can send an email through, either if I am wrong, or if we can find it, we will give you the reference."*¹⁰³

¹⁰³ Transcript Day 19, page 108, line 20 to page 109, line

234. A little later it was then said by Mr Laidlaw:

“... So we think the cross-examination by Mr De Marco, my learned friend Mr De Marco, Day 4, page 94 line 4 onwards.”

235. That stage of Mr Astley's cross-examination follows closely from that which we have recited above. Mr Astley had been referred to part of Mr Paterson's report where he said there is no evidence of unexpected orchestration or cohesion between the bettors and that he would have expected to see more consistency in individuals betting on occasion if this was a spot-fixing operation. He was taken to the fact only 3 of the 253 bettors bet on all four matches and was asked:

“Q: So when you say “highly orchestrated”, you're not talking about 253 people, obviously are you?”

A: I'm talking in a general way in terms of how the betting has unfolded, and you'll see at various points in my statement I talk about the number of accounts that were opened specifically to place bets in some of the games, and other features of the betting, which to me makes this orchestrated. So yes, its – Mr Paterson has said that there, my view is different in terms of the behaviour of the betting patterns overall, not just...

Q: Yes, but if there was a highly orchestrated spot-fixing operation, one would expect those who are actually involved in that operation to be betting on all the spot fixes?

A: I think part of the work I've done is identifying where individuals have shared accounts, potentially shared accounts, and as you will know, some of these people are linked to the Player, so what's to say that they're looking to try and hide their bets because they're very conscious of the fact that they're family members of the player and therefore aware how - what would happen if these bets were identified.

Q: Let's just try and put it another way because you've used very strong and emotive language, I think I was corrected by the Chair “hugely orchestrated”, rather than “highly orchestrated”, perhaps even stronger language. Would you accept this: if you had 20 people who all bet on the same four matches and were all connected, that certainly

looks more orchestrated than having three out of 253 people betting on all four matches, when we're looking at the orchestrated part; would you accept that?

A: We aren't looking at just three people here, are we though? We're looking at the case as whole, so we can't just distil this down to those three individuals, all of whom were linked to the Player.

Q: Yes, and just taking each part to you, and you can make your arguments through your counsel, I'm sure, at the end, but if you go to 148 again, (iii): "None of the bettors made any effort to conceal their identifies or use proxy servers, shell accounts or multiple bookmakers". Again, that is another highly unusual feature in a spot-fixing operation, isn't it?

A: My initial witness statement makes many references to the potential - to what the betting operators have given us in accounts that are linked to people who bet on this match, so I would disagree with that aspect of Mr Paterson's statement because we were provided with information from the operators that people had shared betting accounts which does indicate an effort to conceal identities."

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236. We have recited this lengthy passage of evidence, for this was the only reference we received on behalf of The FA in response to the questions posed by the Commission at the hearing as to why it was said that Mr Astley, the principal investigator for The FA into these bets and who has presented the granular evidence to the Commission, who had clearly stated that the betting was 'hugely orchestrated', was saying something different in evidence.
237. The Commission rejects that suggestion. In the Commission's view, Mr Astley was given plenty of opportunity to disassociate himself from his suggestion that the betting patterns were 'hugely orchestrated', but he refused to do so. Initially expressly and then in more detailed questions, the Commission's view is that Mr Astley stuck doggedly to his view of orchestration.

238. The Commission is also mindful of Mr Astley's statement dated 4 February 2025 in response to the report of Mr Paterson where he said¹⁰⁴:

"Mr Paterson does not accept the betting "is orchestrated", by which I mean the betting is planned and coordinated."

before proceeding to identify that 25% of bets on RM2 were placed by accounts opened on the day of the match *"indicating there appears to have been a degree of planning and organisation"* as well as identifying that 69% of the bets on RM3 were placed in the 113 minute run up to kick off, with the remaining 27 bets being placed after kick off *"again indicating to me that there was an element of organisation"*.

239. That The FA sought to disassociate itself from the evidence of Mr Astley is concerning to the Commission. Firstly, there was not, in the Commission's view, any evidential basis for doing so given Mr Astley's evidence was clear. Secondly, Mr Astley was the principal person who had conducted, in meticulous detail, the investigation into the granular betting data and presented it to the Commission as The FA's principal witness on the data. Yet, by saying on this point that it 'disagreed' with its own witness, the Commission's confidence in The FA's case could only be undermined. The clear appearance given to the Commission was that The FA was not altogether certain what case it was presenting against the Player. Although the Commission accepts the point was just one of a number of strands of evidence relating to the betting patterns presented by The FA, in the Commission's view it was nonetheless an important one.

240. Moving on, it is also important to record what the Player's position was on the betting patterns. In the written opening statement made on behalf of the Player, it was said¹⁰⁵:

"The starting point is that the betting data – which is at the centre of The FA's case – can be explained by any of three most likely different scenarios: (i) the individuals betting in the belief they had inside

¹⁰⁴ At paragraphs 22-23.

¹⁰⁵ At paragraph 13.

information, (ii) alternatively in the belief they had a hot tip, or (iii) spot-fixing.”

The Player’s position was that if an innocent explanation, namely those identified in options (i) and (ii) above, were at least as likely as spot-fixing, The FA could not meet the burden on it to establish the E5 charges.

241. On the betting data and patterns themselves, the Player’s position, as the Commission understood it, was reflected by Mr De Marco in his oral opening when he said: “... *I do want to make clear at the outset that of course we accept that, stripped of context and analysis, some of the data looks suspicious, of course we accept that...*”¹⁰⁶ just as Mr Paterson starts his commentary in his report on the data relied upon by The FA with the words: “*I acknowledge that, at first blush and in isolation, the betting data relied upon by The FA appears suspicious.*”¹⁰⁷

242. As to what was meant by a ‘hot tip’ or ‘inside information’, although perhaps not the best or clearest of labels, the Commission consider, after hearing the evidence and argument, that it was clear what was meant by their use. As explained by Mr De Marco in his oral opening:

*“...the data can best be explained by the following scenarios. Firstly, the 253-odd bettors were betting in the belief, at least a considerable number of them, were betting in the belief they had some inside information. Alternatively, there were betting in the belief they had a hot tip that they thought was a good tip, or thirdly, that this was an orchestrated spot - fixing operation involving the Player. Those are the three, we say, most likely scenarios to explain the betting data, and obviously only one of those three scenarios is consistent with the fixing charges, the third of them...”*¹⁰⁸

The Commission understands a key element, as the Player puts it, is that the bettor *perceives* they are in receipt of a ‘hot tip’ or inside information. Thus, in

¹⁰⁶ Transcript, Day 3, page 11 line 24 – page 24, line 2.

¹⁰⁷ At paragraph 52 of his report.

¹⁰⁸ Transcript Day 3, page 50, lines 8-19. See also, Mr Paterson in Transcript Day 9, page 88, lines 7-20.

these Written Reasons a 'hot tip' or perceived 'inside information' is referred to as an innocent explanation in the context of the E5 Charges.

243. This explanation has to be considered in the context of the family dynamics, especially through the hair salon run by the Player's mother, to which we shall return.

244. We also observe that confusingly, and unhelpfully, a number of times in his report Mr Paterson refers to 'inside information' not in the sense just described, but instead in the sense of information having been passed as part of a spot-fix. Accordingly, care has to be taken when considering Mr Paterson's evidence when he uses the term 'inside information'.

245. In turning to consider the detail of the betting data, we remind ourselves that The FA's case is a circumstantial one. As Mr Laidlaw, on behalf of The FA, stated in oral closing¹⁰⁹:

"... the FA's position is that this is a strong circumstantial case, particularly when one puts together the evidence from the betting operators, the IBIA, that which appears in the Brazilian Commission's report, Mr Paquetá's links to so many of the bettors and the fact he was booked in all the matches in which there were suspicious betting patterns, and no suspicious betting patterns were reported as being attached to any other match in the relevant period in which he was carded."

246. That the Player was booked in all four RM's is common ground, and we have already considered the role of the IBIA and to some extent the relevant "links" between the Player and, it is said, 27 of the bettors. Accordingly, we should next consider: (i) the evidence from the betting operators (including more detail on individual links); (ii) the strand of evidence that there were no suspicious betting patterns reported as being attached to any other match in the relevant period in which the Player was carded; and (iii) the evidence of the Brazilian Commission's report.

¹⁰⁹109 Transcript, Day 19, page 17 lines 14-23

The evidence from the betting operators

247. A summary of the evidence from the betting operators appeared in the very useful form of 'The FA's Working Document' for the purposes of the hearing, which listed each of the 253 bets, highlighting in yellow any bet by a bettor said to be linked to the Player and including matters such as the bettor's name, the time the bet was placed, the bet type, the relevant betting market (which was predominantly on the Player 'to be carded' market), the odds, the stake and the winnings. The document also included some averages: namely the average stake for some of the bettors on all football bets; on all football bets not including the bets on the Player in the RM's; the average stake on all player to be carded bets and the average stake for player to be carded bets not including those bets placed on the Player in the RM's.
248. The documents appended to Mr Astley's statement yielded more detail. Thus, purely by way of example, Mr Astley's exhibit TA41 contained detailed comments from the betting operator on bets placed on RM4. The comments include matters such as 'safe account overall'; 'higher stake than usual' and 'fresh user' as well as identifying links with other bettors and the nature of that link. Mr Astley's exhibits also included the detailed football betting history of most of the individual linked or notable bettors.
249. When considering the betting data, the Commission has in mind the terms of The FA's position as set out at the beginning of its written closing submissions.¹¹⁰:

"Twenty-seven of those connected bettors – all of whom are based in the country of [the Player's] birth – placed bets on [the Player] to be carded in one or more of the relevant matches... with such an enhanced level of confidence that the only sensible inference to be drawn – the single irresistible inference – is that they had been told (directly or indirectly) that the Player had indicated he would deliberately seek a caution in those games and that information must have originated from the Player.

That, submit The FA, is the only conclusion that falls to be drawn from the sheer numbers of those connected to [the Player] who, variously,

¹¹⁰ At paragraphs 1 and 2.

placed bets from accounts recently opened or which had previously laid dormant; who had either before not placed bets on [the Player] or bets upon him in the player to be carded market; and who, almost without exception, were prepared to wager far more than they had previously bet in the particular betting market. It is also a striking feature of those patterns that no connected bettor (save for Bruno Tolentino...) sought to place a wager on the Player to be carded on any other Premier League game within the relevant period..."

250. This largely reflects the contents of Mr Astley's comments on the 'overall betting data' contained in paragraph 46 of his statement, which we have already recited, which is a paragraph with which Mr Paterson, in his report, stated contained a "great deal" with which he did not agree.
251. We have already commented, at some length, on the suggestion in Mr Astley's statement that the betting data illustrated betting across all four matches was "hugely orchestrated", which is a position The FA has sought to resile from.
252. The Commission fully understands, however, why The FA would seek to resile from that statement as the betting data does not, in the Commission's view, reflect the execution of a coherent and planned spot-fixing operation. Notably, the varying numbers of bets across the four RM's does not appear consistent with an orchestrated spot-fixing operation, namely 17, 249, 87 and 189 respectively.
253. In the Commission's view, common-sense dictates that if an individual benefits from receipt of information on a spot-fix, they would wish to also benefit from future spot-fixes. Of course, it does not follow that all individuals who bet on a match would learn of subsequent spot-fixes from the person or persons who are told that a card is to be obtained. However, in the Commission's view that, in itself, suggests a level of control from the person or persons who are said to have been told by the Player that he would be carded (over whom they told) which is simply not reflected by the significantly fluctuating numbers of bettors across the four RM's in this instance.

254. It is also important that Mr Paterson states, in his report ¹¹¹, that in his experience manipulation is kept a closely guarded secret with only a handful of insiders' party to the information. The Commission accepts this evidence. It is logical: if someone is going to spot-fix an event, the less people that know about it the better, not least so those involved can maximise their returns, especially given that if a large number of people bet on the same outcome the odds may worsen.
255. The Commission prefers this explanation to that advanced on behalf of The FA that the Player must have spoken to one or perhaps a limited number of the bettors, as reflected in paragraph 24 of the Case Summary and paragraph 37 of the Opening statement, which suggested it to be "*probably family members or a close friend*" without any corresponding explanation of how the information spread to variable numbers of individuals for each Match, recalling as we do that The FA is advancing a case to seek to persuade us that a spot-fix occurred and not any other possible explanation, such as what is referred to on behalf of the Player as a 'hot tip' or perceived 'inside information'. The reality of the varying numbers of bettors across the 4 RM's, in the Commission's view, is that they are more consistent with word of mouth discussions, which gained varying degrees of traction, arising from what Mr Paterson has referred to as perceived 'hot tips' or perceived 'inside information'.
256. The Commission also notes that when cross-examined about the fact 253 bettors were involved, Mr Astley accepted that was "*highly unusual*" for a spot-fixing operation.¹¹²
257. Connected to the foregoing, is the fact that of the 253 bettors just three (3) placed bets on all four of the RM's and just nine (9) placed bets on 3 of the 4 RM's.
258. The Commission does note, however, that whilst logic dictates that all those involved in a spot-fixing operation would bet on all the RM's, against this to have just 3 bettors placing bets on all 4 RM's is, nonetheless, consistent with The FA's case that the Player told one or perhaps a very limited number of individuals that he was prepared to deliberately seek a yellow card. However, what is lacking

¹¹¹ At paragraph 103.

¹¹² Transcript, Day 4, page 92 lines 16-18.

from The FA is any real explanation of how the information then spread to approximately 250 further bettors.

259. The Commission also notes that of the 3 bettors who had placed bets on all four RM's, one, namely _____ was someone the Player stated in evidence, that he did not know. He was described by The FA as one of those having an 'indirect' link to the Player, that link being said to be the fact he was a Facebook friend of the _____, _____¹¹³. This is one of the links the Commission considers to be tenuous. It is certainly not persuasive in and of itself in establishing a link between the Player and _____, yet it is said he was in receipt of information directly or indirectly which enabled him to bet on all 4 RM's. The other two bettors who bet on all 4 RM's were _____ and _____. Although it is not necessary that whoever, on The FA's case, was in receipt of information from the Player that he would be carded in each of the RM's themselves bet on all 4 RM's (or, theoretically, that it was the same person or person(s)), clearly when the individual betting data of those who did bet on all 4RM's is considered, one would expect to see extreme confidence in the outcome.

260. Of course, it is always possible that those close to the Player sought to disguise their activity by using other people's accounts. Mr Paterson, in his report however considers there is no attempt to disguise the identity of bettors, such as by the use of simple and widely available tools like proxy servers.¹¹⁴

261. The FA, however, has asserted that the use of other people's accounts was a feature of the betting data. Thus, for example, it was suggested in The FA's closing submissions that _____, _____, may have used the accounts of others. No doubt wishing to tie _____ into the betting patterns given the importance The FA attaches to the evidence from the Brazilian Parliamentary Commission, which we shall refer to below (as well as other

¹¹³ See Exhibit 35 to Mr Astley's statement.

¹¹⁴ See paragraph 103c – In this sub-paragraph Mr Paterson refers to 'inside information' which given the terminology used elsewhere in his report is unfortunate. However, the Commission accepts this was meant, on this occasion, to be a reference to a spot-fix. See also paragraph 10.b.(iii) of Mr Paterson's report.

aspects, such as the fact the 'indirect link' with [REDACTED] was with [REDACTED]), they state.¹¹⁵

"The fact there is no positive evidence that [REDACTED] placed any bets in his own name does not, of course, mean he did not benefit financially from [REDACTED] indication that he would deliberately seek a card. [REDACTED] is well connected to the vast majority of the linked bettors and it is perfectly possible that they (or others) acted as a proxy for him."

262. In the Commission's view, especially in circumstances where we have already recorded that we had direct evidence from [REDACTED] that [REDACTED] did not like betting, for the above cited words to move from the speculative to a meaningful submission, the Commission would expect to see evidence from the betting data showing that other accounts were indeed used.

263. Whilst that is certainly not the case with [REDACTED], the Commission received evidence that some of the betting accounts were 'device linked', which also brought into the equation a new category of bettors, namely those described as 'device linked'.¹¹⁶ Ten such bettors were identified. In addition, there were device links between the cohort of 27 'linked' bettors. The betting operator [REDACTED] identified a number of links and, in doing so, explained that a 'device link' was considered a strong link: it meant that one device was used to log into more than one account; an 'IPv4' link was not considered as strong, that was where two or more accounts used the same Ipv4 network address, which could simply be the same public Wi-Fi; whilst an Ipv6 link, was considered by [REDACTED] to be a strong link as it was like a device and a network link at the same time.

264. On the issue of the use of other's accounts to place bets, examples of the use of another's account advanced by The FA included:

- a. The fact a link was identified by [REDACTED] between the accounts of [REDACTED] and [REDACTED], although the nature of that link was no longer visible on the exhibit. The latter would, for present purposes be one of the ten 'device linked' bettors. The information provided

¹¹⁵ Written closing at paragraph 4.

¹¹⁶ Identified in paragraph 32 of The FA's written closing submissions.

by [redacted] identified that [redacted] placed five bets on RM2 and six bets on RM3. The FA also identified that in purely timing terms, three of the first four bets placed on RM3 were placed by [redacted] and that she had not previously placed any bets on the player to be carded market, with the bets placed exceeding the average stake for any single bets previously placed. Therefore, The FA ask us to infer that the bets were in fact placed by [redacted].¹¹⁷ Against this, Mr Paterson considered the point in his report and concluded.¹¹⁸ that in his view there was no evidence that [redacted] placed the bets credited to [redacted]. For reasons we explain when considering the individual accounts of [redacted], we accept what Mr Paterson says.

- b. [redacted] account was identified as being linked to six other accounts and The FA submitted.¹¹⁹ that given the timing of the bets, allied to the fact [redacted] was struggling to get bets on in his own name for RM4, the accounts of [redacted]

[redacted] (all 'device linked' bettors) were said to be consistent with [redacted] using those accounts.¹²⁰ Mr Paterson commented on the use by [redacted] of other bettors' accounts in his report.¹²¹ He suggested that "*it is hard to understand*" how the conclusion that other accounts were being used was reached, particularly for RM4. Mr Paterson said that for RM4 he himself did not place a bet on the Player to be carded with [redacted], other than as part of an accumulator, and he would have expected him to place bets himself. Mr Paterson also commented that the other bettors placed bets with operators that [redacted] did not himself use, namely [redacted], [redacted] and [redacted] which Mr Paterson would expect to have seen [redacted] use, if he was using the accounts of others. We accept this evidence.

¹¹⁷ At paragraph 307.

¹¹⁸ At paragraph 110.

¹¹⁹ See written closing at paragraphs 321-326.

¹²⁰ Other links are identified, for example in paragraph 329.

¹²¹ At paragraph 130.

- c. In cross-examination it was put to Mr Paterson whether he knew whether bets placed by _____ were placed by _____, _____ . Mr Paterson said he could not say.¹²²
- d. In the case of _____, The FA suggests that her account its linked with three other accounts, namely _____ (all 'linked bettors') such that it is indicative of the same device having been used and consistent with _____ having set up these accounts, using the details of others. Whether this extends to a submission that the latter bettor placed all the bets is not clear. However, Mr Paterson does not agree with the suggestion. He says that if _____ had been using the account he would have expected more wagers with higher sums and he notes that bettor placed bets with _____, _____ and _____, whereas _____ place a single bet for £73.70, which was less than the maximum permitted stake. Again, we accept Mr Paterson's comments.
- e. It was suggested that _____ placed bets through an account in the name of _____, as he was unable to place bets in his own name. This point was identified in Mr Astley's statement.¹²³ but was not commented on by Mr Paterson in his report.¹²⁴, presumably because he agreed. Indeed, the Commission note there may have been a good reason for this bettor to use his partner's account within his own household, but whether that is evidence which supports an allegation of a spot-fix between the Player and one or more individuals, where the information has spread to these bettors is, in the Commission's view, doubtful.
- f. In respect of _____ it was said she was the girlfriend of _____ and she placed a bet just four minutes after _____ placed a bet on RM1. The FA state.¹²⁵: "... it would appear likely either they were together at the time or that both bets were placed by the same person." Ultimately,

¹²² Transcript Day 9, page 148, line 20 to page 149, line 8.

¹²³ At paragraph 281.

¹²⁴ At paragraphs 211-215.

¹²⁵ Written closing submissions at paragraph 499.

was the only bettor from whom the Commission heard evidence. He said, when questioned on this point, that at the time of the bets “*we didn’t have any relationship at all*” and, when asked how she came to place the same bet just 4 minutes after , he said he did not know, but “*we have the same circle of friends*”..¹²⁶

- g. With it was alleged that given the timing of bets and the bettors having the same surname, the bets were placed by the same person, either or . Both the are described as ‘notable bettors’, however despite their meticulous searches The FA have found no link between these bettors and the Player. It is therefore difficult, in the Commission’s view, to see how if only one of them placed the bets this is evidence of spot-fixing by the Player.

265. The flavour from the above recited examples leads the Commission to conclude, on the issue of whether bettors were using the accounts of others, that whilst it appears this may have happened on occasion there is insufficient evidence, and insufficient strength in the evidence that has been identified, for the Commission to conclude that there was a large-scale attempt by certain bettors to use the accounts of others to hide their activity. As such the Commission considers that it is evidentially a point in favour of the suggestion that the proper inference to be drawn from the betting data on this issue is that it evidences other possibilities than a spot-fix.

266. The Commission is also of the view that in some of the examples given there is a clear family link which is more likely, in those instances, to explain the use of different accounts than involvement in a spot-fix operation.

267. Indeed, returning to where we introduced this point, having reviewed this element of the evidence we accept the opinion of Mr Paterson to this extent: overall the Commission finds there was no material attempt by the bettors to disguise their identity and that if they were involved in a spot-fix, that exhibited a surprising level of naivety.

¹²⁶ Transcript Day 18, page 84, line 7 to page 85, line 6.

268. Another feature of the data presented by The FA was the opening of a large number of new accounts to facilitate bets on the Player receiving a yellow card. Indeed, as we have recorded, Mr Astley in his statement dated 4 February 2025 told the Commission that on RM2, 25% of the bets (namely 65 of 249 bets) were placed by accounts that were opened on the day of the match. That is certainly a statistic which caused the Commission to pause and reflect, especially given the fact that Mr Fowler had informed the Commission that one of the factors the IBIA takes into account in considering whether there is suspicion is the opening of new accounts.

269. However, the key feature of the issue regarding newly opened accounts, in the Commission's view, was that identified in paragraph 106(a) of Mr Paterson's report. He said on 'new accounts' (and indeed on the activation of dormant accounts):

"... it is common for bettors acting on a 'hot tip' to open new accounts to seek to maximise the amount they are able to wager. It is not necessarily indicative of those bettors being in possession of information relating to a fix. In addition the opening of new accounts — (or reactivation of old accounts) is concentrated on Match 2 and Match 4, with significantly less activity in relation to Match 1 and Match 3. Indeed, of the three accounts opened or reactivated in the vicinity of Match 1, one account bet only on Match 1, and the other two only on Matches 1 and 2 (and those two are 'notable bettors' which I understand are not connected to [the Player]). If those were accounts created in order to maximise profit from inside information, I would have expected to see them betting on each of the Relevant Matches."

This is an example of where the language used by Mr Paterson is unfortunate, but the Commission understands the reference to 'inside information' to be a reference to a spot-fix, not perceived 'inside information' as it has been used, as we have described above as an alternative explanation to spot-fixing.

270. This was not a point, as the Commission understands, that Mr Astley responded to in his responsive statement. Mr Paterson's views were, however, put to him in cross-examination and, in the Commission's view, Mr Astley did not really

challenge them.¹²⁷ The exchange in cross-examination finished in the following terms:

“Q ... I think the point is a very simple one, Mr Astley: the fact a lot of people are betting in the way they are is just as consistent in them believing something to be true as them knowing it to be true? [namely by reason of a hot-tip or perceived inside information as opposed to a spot-fix]

A: Potentially

Q: Thank you. And so that's what he says also about the setting up of new accounts, that how we got to this 106(a), they believe it to be true, they set up new accounts, right?

A: Some of them do, yes.”

271. Accordingly, in the Commission's view whilst there was evidence of new accounts being opened and dormant accounts being reactivated so as to facilitate bets being placed on the Player to obtain a card, the evidence was neutral as to whether that was because of a spot-fix or because of alternative explanations, such as a 'hot tip' or perceived 'inside information'.

272. Central to The FA's case presented to us on the betting data is the suggestion of an enhanced level of confidence in the bettors. In the Commission's view it is a logical consequence that if a player has informed a person or persons in a spot-fix that they will be carded in that game, that knowledge is going to be reflected in a bettor's confidence. One aspect of that is the likelihood of the bettor placing the maximum stake possible on that outcome.

273. On this point, the data presented by The FA included:

- (i) Evidence that 41 bets with a total stake of £2,790.74 were rejected by betting operators because either the bettor concerned had reached their maximum staking limit and/or the maximum number of bets they were

¹²⁷ Transcript Day 4, page 147, line 4 to page 150, line 14.

permitted to place.¹²⁸ The number of bettors on that list is approximately 20 bettors, although only 7 of those were linked bettors.

- (ii) Evidence from _____ that on RM3 there were approximately 50 bets that were maximum stake bets, and the majority of customers had either newly opened accounts or were using accounts that had been previously dormant.¹²⁹
- (iii) Evidence from _____ that on RM3, 4 out of 5 bettors placed maximum stake bets which were outside of their regular activity in terms of stake and type of market bet on. The other bet was by a new account and betting was suspended for the Player to be shown a yellow card after these 5 bets were placed.
- (iv) Evidence to the effect that the account of the 'device linked' bettor _____ made repeated attempts to place maximum bets on the Player to be carded in RM4.
- (v) Evidence that _____ placed a maximum bet on RM4 with _____.
- (vi) Evidence that _____ placed a maximum bet on RM4 with _____.
- (vii) Evidence that _____ placed a maximum bet on RM4 with _____.
- (viii) Evidence that _____ placed the maximum number of bets he was permitted to place within a 24-hour period on RM2 and placed a maximum bet on RM4 with _____. It was also alleged that his account was linked to that of _____ (a 'device linked' bettor) who placed a maximum stake bet on RM4.
- (ix) Evidence that _____ placed a maximum bet with _____ on RM2 and that he reached the maximum number of bets permitted within a 24-hour period on RM4 and that his bet with _____ on RM4 was also a maximum bet.

¹²⁸ Exhibit 69 to Mr Astley's first statement.

¹²⁹ See The FA's Opening Statement at paragraph 259 reflecting paragraph 67 of Mr Astley's first statement.

- (x) Evidence that [redacted] placed a maximum bet with [redacted] on RM4. It was also alleged his account was linked to that of [redacted] (a 'device linked' bettor), whose first bet on an account with [redacted] on RM, was a maximum bet.
- (xi) Evidence that [redacted] placed a maximum bet with [redacted] on RM4, which followed his being rejected to place further bets with [redacted]. It was said to be the bettor's first ever bet on the card market. The Commission understands the allegation to be one of the bets being the first on the card market with [redacted].

274. In his report, Mr Paterson commented on maximum bets stating.¹³⁰:

"... in this case I do not see what I would expect to see from a spot-fixing operation, namely extreme and universal confidence, manifesting in multiple maximum stakes bets placed by a few individuals but spread across multiple bookmakers and placed through shell accounts or disguised by proxy servers."

275. Mr Paterson also commented that the key individuals involved do not exhibit the tendencies of those with knowledge of a fixed outcome, including, by way of example, that [redacted], whom he identifies was cited by The FA as being 'the first or amongst the first to receive the inside information from [the Player]', placed relatively few bets on the RM's, as opposed to multiple repeated bets for maximum stakes. Further, on the individuals identified in the above list, Mr Paterson said:

- (a) In respect of the bettor [redacted] having reviewed his available betting history, he *"would have expected to have seen a much greater level of confidence displayed with multiple maximum bets placed on these outcomes if he indeed held such inside knowledge."*
- (b) In respect of the bettor [redacted], he said that the bettor had only bet on 2 of the 4 RM's and on only one of those, namely RM1, did he bet anything like the maximum stake.

¹³⁰ At paragraph 12.

- (c) In respect of the bettor _____, Mr Paterson says *“The fact that [_____] has wagered on all four ... Relevant Matches is more suspicious. However, in these four matches he has not always wagered the maximum stakes, something I would certainly have expected to have seen were the outcome known to him.”*
- (d) In respect of the bettor _____, he placed a bet on RM4 at odds of 4.25 with _____ but then placed the maximum bet at odds of 1.75 with _____. Mr Paterson says: *“With the exception of the aforementioned bet at 1.75 with _____, the size of the bets placed by [this bettor] are not maximum wagers, and there is little to suggest that [this bettor] is a sophisticated gambler in any way. Therefore, the fact that [this bettor] has placed such a poor value bet at 1.75 doesn’t hold too much relevance. If [the bettor] had wagered maximum stakes and varying odds levels and appeared to be a knowledgeable bettor, then the bet at 1.75 would be a lot more suspicious.”*

276. In addition to the foregoing, in his report Mr Paterson identifies a number of bettors, who on at least one of the RM's, placed a bet which was not a maximum bet. The bettors mentioned include:

_____ (namely a total of 17 of the 33 bettors said to be linked or notable bettors, in addition to those we have already identified Mr Paterson has mentioned, who comprise a further 5 bettors). Accordingly, Mr Paterson has suggested that 22 of the 33 linked and notable bettors placed bets which were not all at maximum stakes, including all bar one of the bettors with whom the Player said in evidence he had a ‘real relationship’, namely _____ – from whom the Commission heard evidence.

277. Mr Astley was asked about Mr Paterson’s evidence when he was cross-examined. His answer, on more than one occasion.¹³¹, was that the financial

¹³¹ Transcript Day 4, page 88, lines 16-22; page 98 line 22; page 111 lines 8-16; Day 5, page 61, lines 2-4; page 62, lines 8-12; page 68, line 22; page 138, lines 16-18; page 142, lines 20-22; page 143,

circumstances of the individual bettors were not known. We have already commented, negatively, on this aspect of Mr Astley's evidence when considering him as a witness. We need not reconsider that evidence, save for adding that Mr Astley often referred to the fact the financial circumstances of the bettors was not known was an agreed fact with Mr Paterson.¹³² However, the Commission observes that whilst this is clearly correct, it is an anodyne and unhelpful statement as the Commission plainly did not have the banking details of the bettors.

278. The totality of this evidence on maximum bets is such that the Commission is not persuaded that the 'enhanced level of confidence' the bettors were said to have by The FA is supported by the evidence relating to maximum bets, certainly on the consistent basis one would expect to be associated with a spot-fix.

279. Whilst the Commission is careful to acknowledge that other factors need to be considered to place each bettors' bets in context, the Commission accepts the evidence of Mr Paterson that a spot-fixing operation would expect to see multiple bets at maximum stakes. However, in the Commission's view, on this point the patterns of the betting data presented simply do not show that, including, importantly, from those closest to the Player.

280. One of the other considerations for the Commission when considering the betting data and the betting patterns is the reference to and use of 'averages' for bettors when placing bets on the Player. Thus, purely by way of example, when Mr Astley turns to the individual bettors, the first he considers is . In Astley's statement.¹³³ he says:

"The average stake for these 21 player card market bets is £57.41, however when the 10 relevant [bets on the Player] are removed, [Yan Tolentino's] average player card market stake falls to £35.67."

This is a relatively atypical approach in Mr Astley's statement.

lines 24-25; page 145, line 25 to page 146, line 3; page 152, line 25 to page 153, line 5; page 154, lines 17-20.

¹³² See joint report, Bundle H, page 22, paragraph 6.

¹³³ At paragraph 84.

281. In his report, Mr Paterson commented on the use of averages in the following manner. He addressed what he referred to as ‘standout positions’, which was language Mr Astley had used in paragraph 46 of his statement (which we have already recited). In reading the following citation, we remind ourselves that, as stated above, the 13.7% referred to by Mr Paterson was said by The FA to properly be 32%:¹³⁴

“Mr Astley makes regular comparisons between the amounts bet on [the Player] with bettors’ average stakes. There are two problems with this: first, these ‘averages’ are based on information from only 13.7% of the market ... meaning they are unreliable and, secondly, average stake is often not the best indicator of an individual’s usual betting activity. An individual’s maximum previous stake, perhaps when they felt confidence in a selection, is often a better indicator. It is also common practice for the vast majority of bettors to alter their stake size based on the type of bet they are placing, meaning that ‘average stakes’ become even less relevant.”

282. In his responsive statement¹³⁵, Mr Astley rebutted this stating that Mr Paterson’s comments overlooked the fact that betting operators would usually be prepared to accept much larger stakes on markets such as Match Odds, Over/Under Goals and Both Teams to score, than was the case on player card markets. Mr Astley illustrated this by taking an example of the odds offered on different markets from a Premier League game unconnected to the Player. Ultimately, Mr Astley concluded, his point was that looking at larger stakes placed was “*not... a directly comparable marker*”.¹³⁶

283. In cross-examination on the point, Mr Paterson maintained his stance. For example, when asked about the missing data from the Brazilian market being purely theoretical, Mr Paterson said¹³⁷ that reviewing the betting data from other betting operators could only add and provide more relevance. Whilst the Commission acknowledges the point made on behalf of The FA that more data was likely to show similar patterns to the data that had been obtained, if those

¹³⁴ Mr Paterson first report, paragraph 106(b).

¹³⁵ At paragraph 24.

¹³⁶ At paragraph 27.

¹³⁷ Transcript, Day 8, page 171 at lines 7-21.

bettors had other accounts, overall the Commission considers that the lack of data does add an element of caution to the assessment of the available data, especially in so far as averages are applied and relied upon. Ultimately, we simply do not know what is in the data The FA have not been able to obtain.

284. On the second element, the Commission understands that many of Mr Astley's references to averages were to averages 'on the player to be carded market'. Therefore, if the bets on the Player in that market are much higher than on other bets placed on the same market, that is useful information and raises a question as to why? However, we also accept that if there is evidence to suggest that the bettor has placed high stakes in other markets, which illustrates that the bets placed on the Player are well within the usual range of stakes for that bettor, that is also useful information.

285. Ultimately, on this point, the Commission had in mind the points made on behalf of The FA and the Player on the use of averages when it considered the granular data of each bettor and the analysis made by both Mr Astley and Mr Paterson in respect of how we assess the evidence of the data.

286. Whilst still considering averages, we considered that the argument made on behalf of The FA¹³⁸, that the average bet across the 542 bets placed on the Player to be carded being £86 fell to be considered in the context of average monthly wages in Brazil of £466, was not a helpful argument. Not only was this a point where the limited scope of the available data was important, but whether or not the individual bettor's bets represented to *them* such a proportion of their wage depends on their own financial circumstances, which is information we have already confirmed is not available.

287. Returning to remind ourselves of the various features Mr Astley mentioned in paragraph 46 of his statement (which we have already recited) as supporting the allegation the betting was suspicious, in addition to points already discussed he also includes the suggestion that bettors were not taking any interest in other markets on the RM's and that price changes were not deterring further bets.

¹³⁸ Opening Statement at paragraph 139.

288. Mr Paterson deals with these suggestions in his report¹³⁹ and comments that such behaviour was consistent with ‘hot tips’ and not ‘inside information’. Once again, the Commission understands the use of the term ‘inside information’ here to be a reference to spot-fixing, not to ‘inside information’ as the term was used in the hearing as previously described.
289. The terms of Mr Paterson’s report on this point were put to Mr Astley in cross-examination.¹⁴⁰ The Commission does not consider that Mr Astley’s answers indicated any particular disagreement with what Mr Paterson had said. Mr Astley was also asked¹⁴¹:

“And his second point about the hot tip is it is just as consistent, if someone has a hot tip they believe in, that it’s likely, they think, this will happen, it’s just as consistent that they will have little interest in other markets as if they had actual inside information: you would accept that, would you?”

To which he responded:

——— *“You’re theorising again a lot over here ...”* ———

290. Whether it was because this was an aspect that, as reflected in paragraph 7 of Mr Astley’s second statement, Mr Astley had been asked not to comment on when preparing his statements, the Commission found this response to be unhelpful. Mr Paterson was not directly challenged on these points.
291. The Commission accepts the evidence of Mr Paterson that the issues of insensitivity to price changes and not betting on other markets within the RM’s are as explicable by reference to ‘hot tips’ or perceived ‘inside information’ as they are on a spot-fix.
292. Mr Astley, in summarising in paragraph 46 what he says were suspicious features of the betting, also refers to the fact bets were placed late into the game. The Commission understands the point that this suggests a high degree of

¹³⁹ At paragraphs 106 (c) and (d).

¹⁴⁰ Transcript Day 4, page 146, line 4 to page 147, line 3.

¹⁴¹ Transcript, Day 4, page 156, line 9 to page 156, line 15.

confidence in placing a bet on a particular player to be carded, when part of the game has elapsed and he has not yet been carded.

293. In their written closing submissions, The FA identified:

“The final 27 bets placed on RM3 were placed after the match had kicked off, including the final eight bets which were placed between 2:13pm and 2:46pm (i.e. as late into the match as the 61st minute)”¹⁴²;

and

“There were 189 suspicious bets reported to The FA as having been placed on [the Player] to be carded in RM4... of which one was unsuccessful with the balance being successful. RM4 was a 3pm kick off, with the final 14 bets of these bets being placed between 3pm and 4:33pm (i.e. as late as the 78th minute of the match).”¹⁴³

294. In the Commission’s view such a number of late bets is suspicious viewed in isolation. Against this, however, the Commission is also mindful, in respect of RM4:

- (a) As evident from The FA’s Working Document, all bar 3 of the 189 bets were placed on the day of the game, which suggests that any confidence that the Player would be booked only arose late and shortly before the game; and
- (b) This information has to be considered in the context of the Player only being booked in the 94th minute of the game as well as the evidence received from Mr Moyes that given the possibility of a transfer to MCFC, there were discussions within the WHUFC hierarchy as to whether or not the Player would play in RM4, given the risk of injury, a risk that was also of concern to the Player. Mr Moyes told the Commission he talked it through with the Player and persuaded him to play on the basis that, if the game was going well (or even badly), Mr Moyes would substitute him early to minimise the risk of injury.

¹⁴² Written Closing Submissions at paragraph 204.

¹⁴³ Written Closing Submissions at paragraph 210.

295. The figures from RM4 were put to Mr Paterson in cross-examination. The following exchange took place.¹⁴⁴:

“Q: And the last bet... was placed at 4:33 in the afternoon which is said to be the 78th minute of the game. Doesn’t that in itself suggest to you that this is highly suspicious, that this is a typical feature of spot betting?”

A: Actually, no. The bets during lives themselves, I mean, there’s an extension of pregame. There’s – it’s not quite the same as match-fixing where you’ve got algorithms driving the odds, there’s an element of manual trading to this, and just – just, being, you know, completely transparent, those 14 bets, the fact they’re placed live in and of itself is maybe not that suspicious. I get the fact you’re saying the last bet being placed in the 74th minute ...

Q: 78th minute ...

A. 78th minute is – yes, it is a little bit suspicious.”

296. The Commission considers that Mr Astley was right to say the timing of some of the bets raises suspicion, particularly in respect of RM4. However, when viewed in the unusual circumstances of that game, not least where the Player had been told by Mr Moyes he would be substituted, if possible, but was only booked in the 94th minute and our comments regarding RM4 in the player performance analysis section, we do not consider this to be a major point. The Commission also considers it could, no doubt, also be explained by confidence arising from a ‘hot tip’ or perceived ‘inside information’ as much as it could from a spot-fix operation.

297. Before turning to the data relating to the individual bettors, we still need to consider a number of general points relating to the betting data.

298. The first is the allegation, as it was put in the FA’s written closing, that notwithstanding the fact he was a very well-paid player and there was nothing in the spot-fixing operation for him, he did it “... *presumably in a misguided attempt to give his family members or friends an advantage over the bookmakers...*”¹⁴⁵.

¹⁴⁴ Transcript, Day 9, page 41, lines 1 -16

¹⁴⁵ Paragraph 4.

299. We deal separately below with matters relating to _____ as they were referred to in the Brazilian Parliamentary Inquiry, but the Commission is not persuaded by this submission made on behalf of The FA. As identified in The FA's opening submissions.¹⁴⁶, the 542 bets that were referred to in their Working Document totalled stakes of £46,758.83 with a return of £213,703.81 and a net profit of £166,944.98.

300. These are very serious sums but, in the Commission's view, have to be set in the context of the undoubted and significant generosity the Player has shown to his family,

302. In considering the fact the Player is well paid, allied to his generosity, the Commission believes that when considering the betting data this is a point which is clearly against The FA, in the absence of compelling evidence to the contrary. It simply makes no sense for a well-paid individual, who has amply demonstrated

¹⁴⁶ At paragraph 139.

¹⁴⁷ Player's 3rd statement at paragraph 6.

¹⁴⁸ 1st statement at paragraphs 6-7.

his generosity and who appears to have no interest in betting, to 'give his family members or friends' an advantage over bookmakers for comparatively modest sums.

303. Yet, The FA has presented its case on the basis, as explained at paragraph 4 of its written closing submissions, that in respect of each of the E5 charges “[*the Player*], before each of the RMs has told one or more of his family members or friends that it was his intention to seek a yellow card.”¹⁴⁹ That has to be considered in the context of The FA also arguing that it was beyond the control of the Player that the information was shared with over 250 bettors in Brazil, but that he did it “*presumably in a misguided attempt to give his family members or friends an advantage over the bookmakers...*”¹⁵⁰.
304. If we accept, for the purposes of argument, that information was given to a family or family members, or to a friend or friends, the sums those individuals would have individually won, whatever they might precisely have been, by reference to the data we have seen, in the Commission’s view *seriously* undermines the suggestion made by The FA that the motivation for the Player was a misguided attempt to give his family members or friends an advantage when considered in the context of his generosity, income and lack of interest in betting.
305. The FA also assert, in their written closing submissions, that the Player was effectively to accept when giving oral evidence that he had not appreciated that the international bookmakers were monitoring the betting in the then unregulated Brazilian market, nor had he appreciated that IBIA members had committed to reporting suspicious activity, with material being made available to The FA. Whilst the Commission accept that the Player gave this evidence, in the Commission’s view it has no evidential value. Indeed, the Commission consider it is evidence of The FA seeking to draw negative inferences where there is no basis to do so. The evidence simply has to be considered in the context of the Player’s evidence contained in his statement that “*I do not bet on sport and I have never had a*

¹⁴⁹ At paragraph 54.

¹⁵⁰ FA’s Written Closing at paragraph 4.

betting account. As I have no interest in betting in sport, it is also not something that I discuss with others."¹⁵¹ The Player was not challenged on this evidence.

306. Accordingly, in the Commission's view, it is quite unremarkable and, indeed, is to be expected, that someone who has no interest in betting does not know matters relating to the manner in which betting operators monitor betting and report suspicious activity.

307. Another matter relates to RM2 and the fact that of the 249 bets referred to in The FA's Working Document, a very high total, namely 178, were double bets: namely the Player to be carded in his game against Aston Villa and for another player to be carded in a game in namely in his game between . It is fact that both the Player and were both booked. There is no doubt that the betting data on this match caused concern to the Commission: the sheer number of double bets on both players to be carded cannot fail to raise suspicion.

308. In considering this, however, we must firstly clearly state that we have no jurisdiction over and nor was he before us to offer any relevant evidence he may have. It would be entirely inappropriate for us to draw any inference on the evidence we have seen involving bets on and we expressly do not do so. This is especially so as we do have evidence, in the form of a letter obtained by The FA, albeit rather remarkably only on the 13 March 2025, namely just 4 days before the Commission hearing started, that was not the subject of any investigation on the part of .

Similar confirmation was subsequently obtained from UEFA and FIFA, which we refer to below.

309. The fact of the number of doubles remains, however, although we note that such behaviour was unique to RM2. We have already commented on the fact that 65 of the 249 bets placed on RM2 were placed by accounts opened on the day of the match and the fact that we consider this is equally explicable by people believing they have a 'hot tip' or perceived 'inside information'. The Commission

¹⁵¹ 1st Statement at paragraph 14. Bundle F page 17.

also notes that bets were placed at half-time of the match. We repeat our comments already made on the late placing of bets above.

310. The Commission also notes that of the 249 bets placed on RM2, The FA's case¹⁵² is that 35 of those bets were placed by 15 'linked bettors', namely just 7% of the bets placed. The remainder were therefore placed by individuals with whom The FA has been unable to establish what they refer to as a 'direct' or 'indirect' link. Even if one adds in the 'notable bettors' said to have bet on RM2, which adds 4 more bettors and 15 more bets, that still accounts for just 20% of all the bets on RM2 (although only 6 of the 'notable bettors' bets appear to have been doubles for both players to be carded), which does not suggest that those who can be 'linked', however remotely, to the Player or those who are said to have an inexplicable level of confidence, appear to have been particularly central to the betting on RM2 or the double with the game in .

311. All these factors led to the Commission's concerns being reduced.

312. Against this, however, the Commission notes the evidence presented by The FA that for the betting operator the stakes wagered on the Player to be carded in RM2 accounted for 60% of their total stakes for single bets on the market, whilst in combination with , those stakes made up 90% of the multiple stake bets waged on the market¹⁵³. Mr Paterson accepted the suggestion put to him¹⁵⁴ that the figures were 'extremely high', although that statement was qualified by Mr Paterson's suggestion the figures did not mean much as presented.

313. However, he was more receptive of the evidence presented by The FA that for the bets staked on the Player to receive a card, including bets in combination with , amounted to almost 100% of the total stakes placed on the player to be carded market. Mr Paterson said¹⁵⁵: "*so they've added a little more context there, so, yes, from Betano's perspective I can understand why that is suspicious for them.*"

¹⁵² Written Opening at paragraph 239. See also Written Closing at paragraph 122.

¹⁵³ See FA Written Closing at paragraph 130.

¹⁵⁴ Transcript, Day 9, page 5 lines 3-4.

¹⁵⁵ Transcript, Day 9, page 9 lines 6-8.

314. Mr Paterson also suggested, when questioned about 178 of the 249 bets being double bets, *“They’re coordinated as in they’ve all placed the same bet, yes.”*¹⁵⁶
315. Equally, the Commission notes that Mr Fowler, when questioned about the fact the IBIA had not deemed the betting on RM2 to be sufficiently suspicious in isolation to warrant a report, accepted that the features of the betting could be explained by other factors than spot-fixing..¹⁵⁷
316. We shall return to the circumstances of RM2 when considering the evidence from the Brazilian Parliamentary Inquiry below. That aside, whilst RM2 caused us concern at the outset and some of the data is clearly suspicious, when viewed in totality our concerns were assuaged, but some suspicion remains. However, when we rhetorically ask the question, taking all the circumstances of RM2 into account, does the suspicious data cause us to determine, on the balance of probabilities, that it was as a result of the Player having indicated that he would receive a yellow card in RM2, we do not think the alternative options of a ‘hot tip’ or perceived ‘inside information’ can be said to be any less likely than a spot-fix.
317. Moving on from RM2, we also need to consider the direct evidence we heard, in particular from the Player’s mother and the sole bettor who gave evidence, namely , as to how this evidence impacts upon our assessment of the betting data. In the Commission’s view, this evidence provides crucial context for the betting data.
318. In passing, we should state that in so far as there is criticism of the fact the Player did not adduce evidence from more of the linked bettors:
- (1) We note that the burden is on The FA to prove its case, not on the Player to prove his innocence.
 - (2) We accept the evidence given by the Player that contact with others was left to his lawyers.¹⁵⁸

¹⁵⁶ Transcript, Day 9, page 9 lines 16-17.

¹⁵⁷ Transcript Day 7, page 133, lines 5-9.

¹⁵⁸ For example: Transcript Day 16, page 28, line 22 to page 29, line 5.

- (3) We accept the evidence given by the Player's mother, Christiane Tolentino that _____ is not a witness because he was being investigated in Brazil.¹⁵⁹ and that others in Brazil did not come forward because of guidance received from solicitors.¹⁶⁰, whom the Commission understands to be solicitors in Brazil.
- (4) We accept that the bettors whom the Player accepts he knows were in fact contacted by the Player's solicitors, Level, and they all declined to participate on the basis of legal advice, save for¹⁶¹ In passing, we also note and accept, that The FA contacted 20 of the bettors and 6 of the notable bettors..¹⁶²
- (5) We accept the evidence of _____, that he was given an 'order' by _____ Christiane Tolentino not to speak about the case and that the solicitors would take care of it.¹⁶³ We should observe we formed a view of _____ that she was a powerful personality and if she said something was to be done or not done, _____ would fully respect that wish.

319. Christiane Tolentino gave the Commission evidence that she and the Player are very close and speak very regularly, evidence which was corroborated by the Player. In her statement, she told us:

"We talk in great detail about his life, his mood, how he is treating himself, and of course his football – everything really..¹⁶⁴"

and

"In general, Lucas and I like to talk in detail about his football. We speak about his training, his approach to games (both specifically and in general), and his attitude and concerns in his career more generally. He often tells me if he is feeling good about an upcoming game or, if he is focused on a difficult game or playing a new role in the team,

¹⁵⁹ Transcript Day 17, page 36, lines 21-24.

¹⁶⁰ Transcript Day 17, page 39, lines 1-6.

¹⁶¹ Player's closing submissions at footnote 64.

¹⁶² Astley Statement dated 9 April 2024, at paragraph 14, Bundle B, page 241.

¹⁶³ Transcript Day 18, page 82, line 10-18 and page 83, lines 14-17.

¹⁶⁴ 1st statement at paragraph 4, Bundle F page 44.

*about how he intends to deal with that challenge. Most of the time, I have a good idea of what is going through Lucas' mind."*¹⁶⁵

320. We also were told by Christiane Tolentino, in her statement, about how she was close to _____ because they worked together in a hairdressing salon in Rio. This was the salon that had been purchased with part of the money gifted by the Player when he moved to AC Milan. She also said, in the context of discussions in the salon:

*"It is possible that I might have said something to someone about Lucas' mood being low, or that he was struggling with something as part of these daily conversations. I don't know for sure and I don't remember anything specific, but I would consider that a normal conversation and nothing to do with gambling. It never crossed my mind that this kind of information might have been relied upon by people wanting to bet on my son."*¹⁶⁶

321. It is evident to the Commission that the Player and his career were a source of considerable pride for the family. We also accept he was a frequent topic of discussion within the hair salon.

322. When Mrs Tolentino gave evidence to the Commission, the following exchange took place in answer to questions from the Commission.¹⁶⁷:

"Q: Can I just ask if Lucas has ever spoken or been angry or frustrated at the situation that his team, West Ham United, have found themselves in, in terms of maybe being at the bottom of the league and maybe not doing as well as he might have anticipated?"

A: So it's true that we have spoken of him being sad, upset. Lucas is very respectable and very dedicated to his work and respect all the trainers. So he would always, it's something that he values very much and he always spoke to me about also.

¹⁶⁵ 1st statement at paragraph 14, Bundle F page 46.

¹⁶⁶ 1st statement at paragraph 20.

¹⁶⁷ Transcript, Day 17, page 57, line 3 to page 58, line 1.

Q: Is the fact that he was expressing himself to be angry and frustrated something that would have been shared between, or talked about to Bruno or Yan or the others in the salon?

A: When I went into the salon, and if I close my eyes I can remember it as if it was today, 'Hey are you well?', 'Yes, all well' 'How is Lucas, is he playing?', 'Yes he is playing. Yes, he is trying to give his best because the team cannot go down. Today is sad, he is angry. He would like to help his trainer'. And those conversations I had in my shop, because these were people of my total trust. I always shared everything, everything about Lucas."

323. The FA were critical of Christiane Tolentino's evidence in their closing submissions.¹⁶⁸ Some of the points taken in that criticism, in the Commission's view were bad points: for example, in suggesting that Mrs Tolentino's evidence that there had been no family gatherings since the announcement of The FA's investigation was in contrast to that of _____ was simply wrong. His evidence.¹⁶⁹ was clearly that he had not seen the Player since the middle of 2023. This must have been before the announcement of The FA's investigation, which _____ was after RM4, namely the first game of the new season in the summer of 2023, by which time the Player was plainly back in England.

324. Equally, in so far as it is maintained, the Commission rejects the suggestion that there would have been no talk of relegation before RM1, which took place in November 2022. The Commission considers that it is entirely to be expected that if a team is not doing well come November, the players and staff at the club concerned would seek to better their position to ensure they did not get embroiled in a relegation battle. In the Commission's view there is nothing in The FA's suggestion.

325. The FA's closing submissions also challenged Mrs Tolentino's evidence that she did not know that _____ were what _____ was said to be heavy bettors. The FA said: "*The [Commission] will, no doubt, wish to consider whether that can possibly have been the position – [Christiane Tolentino] even went as far to say that she had not even known that any of the*

¹⁶⁸ Written Closing Submissions, paragraphs 627 – 634.

¹⁶⁹ Transcript Day 18, page 31, line 25 to page 32, line 3.

three betted? [] was , she worked and spoke with these three individuals... It is inconceivable, argue The FA, that both she and [the Player] would not have known of the heavy gambling habits [of the three].”¹⁷⁰

326. The Commission has carefully considered the evidence on this point and does not agree with The FA's submission:

(1) Firstly, the Commission, having seen Mrs Tolentino give evidence, formed the view her personality was such that she would not be crossed

(2) Secondly, The FA suggest that the three were ‘heavy gamblers,
’. The Commission does not accept the premise within The FA's submission that a heavy gambler,
is someone who will share that knowledge with all family members; and

¹⁷⁰ Written Closing Submissions, paragraph 627.

¹⁷¹ Transcript Day 18, page 88, line 25 to page 90, line 5.

327. Thus, notwithstanding The FA's suggestions the Commission accepts Christiane Tolentino's evidence that she was unaware of the betting habits of and and that she said, in innocence and ignorance, in the salon the types of comments that we have recited above which others may have perceived as inside information.

328. We accept The FA's submission that Christiane Tolentino said, during cross-examination:¹⁷²

"Q: In your conversations with Lucas about football, has he ever said anything which might be useful to a bettor placing a bet on Lucas to be carded?"

— Interpreter: Sorry placing a bet on Lucas to be? —

Q: To be carded, yellow carded is probably a better phrase.

A. Never. We never have spoken in any type of issue like that, or theme like that. That doesn't make part of my son's character."

329. The Commission considers there is nothing in this point. It was an answer given by someone who is not a bettor in response to a question clarified to be about being yellow carded. The Commission construes the answer as being no more than a statement by Christiane Tolentino that her son had not said he would be yellow carded, which, of course, is entirely consistent with his defence.

330. Turning to the direct evidence of his evidence was introduced late in the proceedings, necessitating an adjournment. As stated, that is because he informed the Commission, he did not receive the initial email from Level on behalf of the Player. His evidence was important, in the Commission's view, in providing

¹⁷² Transcript, Day 17, page 13, lines 8-17.

context from the only bettor we heard evidence from as to why he had placed a bet and, in particular, the marriage between his evidence and the suggestion advanced on behalf of the Player by Mr Paterson that the betting patterns were explicable by reason of the bets being placed in reliance on 'hot tips' or the belief of perceived inside information.

331. In his witness statement dated 2 April 2025, _____ said, in relation to RM1, in respect of which he had placed a bet of R\$750 (£117.27):

"Prior to placing my bet, my _____ told me that he believed that Lucas would get a yellow card in the match. This was a conversation that took place face to face the night before the game and we spoke again in the morning the day of the game.

_____ he said that he had spoken to Christiane, who told him Lucas was upset about the situation at West Ham (who were, at the time, towards the bottom of the table). _____ said that this, combined with his own analysis and knowledge of how Lucas plays, had convinced him that Lucas was _____ going to get a yellow card so he thought it was a very good bet." ¹⁷³ _____

332. _____ said he was convinced by _____ to place the bet and that given what he said Christiane Tolentino had said he felt very confident and so placed a large bet.¹⁷⁴ He also told us, in his statement, that _____ and he often talked about betting and that " _____ and _____ give out lots of tips to different people (_____ once suggested that he might start his own tipster group on Telegram)... "¹⁷⁵.

333. _____ also told us of other bets he placed based on the advice of _____ and that he had also advised him to place a bet on the Player in RM2, where he was told as part of a group conversation at a friends' condo. _____ said that _____ told people to bet on the Player to get a card in RM2 and for another player, _____, to get booked, which we know was in a _____. However, _____ told us that he did not place the bet, as he thought

¹⁷³ 1st statement at paragraph 6: Bundle F page 361.

¹⁷⁴ 1st statement at paragraph 7: Bundle F page 361.

¹⁷⁵ 1st statement at paragraph 8: Bundle F page 361.

the probability wasn't worth it..¹⁷⁶ The Commission observes, this is not evidence of someone who knew the outcome was certain.

334. again told to place a bet on RM3. said in his statement:

*"As had happened previously, mentioned (face to face) that he had spoken with Christiane and that she had confirmed that Lucas would be in the team and that he was very fired up. By this time, I understood that Lucas was aware that Manchester City were interested in signing him, and my own perception was that this would also be playing on Lucas' mind. On this occasion, I had more money available and I believed that Lucas was particularly fired up for this game because I thought he would [be] keen to impress. However, I thought slightly differently to and, instead of a yellow card, I felt very confident, when Lucas was in this kind of mood, he is very likely to score... Therefore, I placed a very large bet of around R£9,000 on Lucas to score – unfortunately, however, the bet was unsuccessful."*¹⁷⁷

335. The statement also details how and had a similar conversation in respect of RM4, saying *"had spoken with Christiane again and told me that she had said he was excited for the new season. Although Lucas had been linked much more strongly with Manchester City by this point, that was not part of recommendation – it was all about Lucas' mood."*¹⁷⁸ However, said he did not bet as money was tighter given his big loss on RM3.

336. He proceeded to say that never said or implied that he *knew* the Player would receive a card..¹⁷⁹

337. was cross-examined, although interestingly in its written closing Submissions, The FA does not appear to challenge any of the above cited evidence, rather adopting the approach of seeking to discredit the witness

¹⁷⁶ 1st statement at paragraph 12: Bundle F page 362.

¹⁷⁷ 1st statement at paragraph 13: Bundle F page 362-3.

¹⁷⁸ 1st statement at paragraph 14: Bundle F page 363.

¹⁷⁹ 1st statement at paragraph 15: Bundle F page 363.

generally: for example, they state.¹⁸⁰ “*Whether his evidence may be credible and truthful is, of course, for the [Commission]...*”. In oral closing, although The FA made plain their stance that the Commission should not accept [redacted] as a good witness, the main issue raised seems to have been that it would have been better to call other bettors as opposed to [redacted], a point that was developed from paragraph 259 of The FA's written closing where it was said he was one of the small number of bettors for whom The FA did not have an email address and the suggestion was made that perhaps he had been selected as he could not be criticised for not responding to The FA.

338. The Commission considered this a rather introspective stance on the part of The FA and, in any event, as we have already stated we have accepted the evidence tendered as to why the other bettors did not attend to give evidence, as tendered by Christiane Tolentino. We also accept [redacted] evidence as to why he did not respond to the first email sent by the Player's solicitors, namely because he did not receive it.

339. [redacted] also produced a second witness statement, which arose from details of his betting accounts being provided to The FA. This led The FA to examine that data in detail and identify queries, including an allegation that, contrary to what he had said in his 1st statement, [redacted] had in fact placed a bet on the Player to be carded in RM3 though a [redacted] account. The FA's stance on this information was that it wished to retain the information it had gleaned for cross-examination, but the Commission determined, having heard submissions, that the better course was for [redacted] to be told of the information in advance of his being cross-examined (which was to be remotely, from Brazil, with the aid of an interpreter).¹⁸¹

340. [redacted] evidence was that he had not personally opened a [redacted] account, but that he had assisted a friend [redacted] to open such an account given that [redacted] had told [redacted] he could not open an account

¹⁸⁰ At paragraph 259, referring to their points at paragraphs 638-648 which relate to other accounts and seeking to discredit [redacted].

¹⁸¹ Ruling at Transcript Day 15, page 33, line 20 to page 35, line 1.

in his own name due to an issue with a tax code. Thus, his evidence was that it must have been [redacted] who placed the bet on the Player to be carded in RM3.

341. The Commission observes that based on exhibit TA/264 exhibited to Mr Astley's eighth statement, the bet that [redacted] has admitted placing on the Player in RM3, namely for him to score, was for £1,431. This, of course, was not a suspicious bet in The FA's Working Document, as it was not on the Player to be carded market and was lost. However, in contrast, the bet that was placed in the [redacted] account for the Player to be carded was said to be for £83.37 which causes the Commission to question why, if the bet was in fact placed by [redacted] as The FA suggests, he would admit to placing a bet on RM3 in the sum of £1,431 but not one of £83.37.¹⁸², even allowing for the fact the latter bet was a successful bet on the Player to be carded, whereas the first was not.

342. In considering the information concerning [redacted] bets and his credibility as a witness, which The FA have challenged, we note that in The FA's closing submissions,¹⁸³ it was said:

— *[redacted] was told that the betting data on his [redacted] account showed he had placed a bet on that account on 17 May 2023, 16 minutes before the bet on RM3 on the [redacted] account, but he maintained that was not a bet placed by him.* —

343. The FA had, quite properly, been clear to us that in considering the [redacted] data the timings were an hour behind BST. Therefore, the bet was timed on exhibit TA/262 as being at 11:08 but was in fact placed at 12:08. This is relevant because when one considers [redacted] 'admitted' bet on the Player to score, placed with [redacted], this was placed at 12:24.¹⁸⁴

344. Accordingly, the 'admitted' bet was in fact placed 16 minutes *after* the [redacted] bet that [redacted] says was placed by Mr Lucas, not 16 minutes *before* as was asserted by The FA. We accept the submission made on behalf of the Player.¹⁸⁵ that the significance of this is that it makes no sense for

¹⁸² The Commission notes that exhibit TA/262 suggests the stake was 521.5, which the Commission assumes was a sum in Brazilian Reals, as opposed to pounds sterling.

¹⁸³ Paragraph 646.

¹⁸⁴ Exhibit TA/139 at Bundle C, page 718.

¹⁸⁵ Written Closing Submissions at page 201.

to place a small bet on the Player to be carded, if this were a spot-fix, but then place a significantly larger bet later, on a matter which could not be spot-fixed, namely for the Player to score.

345. Taking all the detail of the submissions about the account into consideration, the Commission is not persuaded by The FA's arguments that the explanation for the account advanced by was false.

346. The Commission has also had regard to the cross-examination of on his account and his explanation that he did not remember that account or the bets placed on it, none of which were on the 'player to be carded' market.¹⁸⁶ The Commission did not consider this to be inconsistent with evidence that:

*"...I don't remember that account or those bets because it has been a long time, but what I do remember is that when I started betting, I didn't understand very much about football and when I started I went on tips — from friends and people that were influencers in bets. If there's no bets on cards, then it's certainly because nobody gave me a tip for a bet on cards."*¹⁸⁷

347. Reference was also made to account, on which 281 bets were placed between July 2022 and June 2023. The FA¹⁸⁸ make the point that just six of the 281 bets were on a named player to be carded market and the bet placed on RM1 for the Player to be carded was for £117.27, a sum which was far higher than any of the other player to be carded bets. We have already referred to how told us that had convinced him to place the bet. He also informed the Commission that he was tipped by a to place a bet on another player to be carded (on whom The FA notes that bets had also been placed by).

¹⁸⁶ FA Written Closing at paragraph 640.

¹⁸⁷ Transcript, Day 18, page 43 line 21 – page 44 line 2.

¹⁸⁸ FA Written Closing at paragraph 641.

348. Again, the Commission finds that nothing said was inconsistent with his evidence that he acted on tips or that his evidence could not be relied upon. When discussing the account he said.¹⁸⁹:

“...I don’t monitor my account in that detail to know how many bets I made and what bets I made, because I can say that the bets I made, the most part of them, were through tips and the people who gave the tips, usually they have statistics, and a statistic involving cards are a bit more difficult to do, so it’s not just anyone that can do it and it’s difficult to convince me to make a bet on cards also.”

349. was also taken to a account. This was opened at the same time as the account and was operative and used on just 10 occasions, via 4 accumulators and 6 single bets, all of which were on the player to be carded market, albeit not on the Player. said that he opened the account for its ease of use and confirmed that the bets were placed as a result of tips arising from a group discussion. Again, the Commission found nothing in these explanations which suggested to us that he acted otherwise than on tips or that his evidence could not be relied upon.

350. A point was also put to that on RM1, on which it was common ground he had placed a bet of £117.27 at 12:38, that a bet of £117.23 had been placed at 12:42 by . He informed us that he knew , but she was not ‘specifically’ a , but that by November 2022 they had no relationship.¹⁹⁰ He denied that there was any connection between the two bets, although he said *“We had the same circle of friends”*.¹⁹¹

351. This is obviously consistent with evidence that he acted on tips and that there were groups of friends who discussed such matters. Whilst the Commission is sceptical as to this evidence, it does not consider that The FA have established, on the balance of probabilities, it was false or that it undermines the remainder of evidence.

¹⁸⁹ Transcript Day 18, page 48, lines 14-21.

¹⁹⁰ Transcript, Day 18, page 84 line 11 to page 85 line 1.

¹⁹¹ Transcript, Day 18, page 85 line 5 to line 6.

352. A further point of 'coincidence' was also put to [REDACTED], namely that [REDACTED], had bet on RM3 including a bet placed within 'a minute or so' of the bet which had been placed on the [REDACTED] account we have already referred to. [REDACTED] said he did not know [REDACTED] had bet on RM3.
353. The Commission notes this, as it also notes that all but the first 3 of 87 suspicious bets in The FA's Working Document referable to RM3 were placed on the day of the match. However, in the Commission's view, the force is in any event taken out of the point by reason of the fact [REDACTED] placed bets on RM3 at 11:39, 11:42 and 12:06.¹⁹² and so the Commission gains nothing from it.
354. Accordingly, overall, on the direct evidence the Commission heard from Christiane Tolentino and [REDACTED], the Commission accepts that there was talk of betting in and amongst the Player's family and friends, but not between all the family members. The Commission is also of the view it appears a lot of the discussion involved [REDACTED] and that in the case of [REDACTED] his bet on RM1 for the Player to be carded was not as a result of being told of or being involved in a spot-fix, namely that the Player would be carded, but rather was as a result of a 'hot tip' or perceived 'inside information', in the sense of being told of the Player's mood as construed by [REDACTED].
355. As such the Commission considers that the direct evidence called on behalf of the Player, which is preferable evidence to circumstantial evidence, supports the suggestion advanced on behalf of the Player, not least by Mr Paterson, that the explanation for the betting patterns was the receipt by bettors of what they considered to be a 'hot tip' or perceived 'inside information'.
356. Thus far it is clear that on the crucial issue of the analysis of the betting data, the Commission is not of the view the betting data is illustrative of a spot-fix. Rather, in the Commission's view it is in many respects inconsistent with a spot-fix, but consistent with alternative explanations.
357. However, the Commission is mindful that The FA states "... *it is only when the detail and the features of the individual bettors' wagering has been set out that*

¹⁹² Bets 3, 7 and 17 on RM3 in The FA's Working Document.

*[the Commission] can have an eye to the overall picture which emerges....*¹⁹³.

Thus, we turn to consider the individual bettor's data, in so far as we have not considered it, to determine if that establishes that the "*the single irresistible inference*"¹⁹⁴ is that the enhanced level of confidence is as a result of a spot-fix, or, rather more importantly, whether on the balance of probabilities a spot-fix is established, which is the test we must apply.

358. Thus, having made the findings we have made on a more general basis, we cross-check those against the analyses of the individual bettors, which occupy many pages of the submissions, to see if when considering those analyses, we are persuaded there was an enhanced level of confidence and, if so, whether that was attributable to a spot-fix.

359. In undertaking this exercise, we do not intend to repeat every piece of the detailed information contained in the documentation: for example: in the FA's opening submissions the individual analyses run from paragraphs 306 – 549, covering 45 pages, whilst in the FA's written closing the same analyses run from paragraphs 283 – 560, over 41 pages. Furthermore, we do not intend to recite all of Mr Astley's evidence, which we have nonetheless carefully considered, because this is inextricably linked with, and indeed forms the base of, The FA's position as set out in its written closing submissions.

360. The Commission has painstakingly considered all the evidence presented, including on the cross-examination of the relevant witnesses, but when considering the individual bettors we shall seek to concentrate on what we consider to be the principal reasons for stating whether the evidence relating to any individual bettor, in the Commission's view, supports The FA's case of a spot-fix or not.

Bettor:

361. and is one of those the Player has said he has a 'real' relationship with. He bet on all 4 RMs, placing 8 bets across those 4 matches, although one was cashed out. The FA suggests that it was

¹⁹³ FA Closing Submissions, paragraph 283.

¹⁹⁴ FA Closing Submissions, paragraph 1.

who was the first, or amongst the first, to receive the information from the Player that he would deliberately seek a card.¹⁹⁵ We have already commented that the discussions we were told about by appear to have largely involved . He was the first bettor to place a bet on RM1 and his total stakes on all RMs for the Player to be carded were £782.79, which returned £3,801.69 with a net profit of £3,018.90 (using that term in this section for this and all bettors as it is used in the FA's closing submissions, namely by identifying the return less the stake).

362. There is no doubt that data suggests he is a regular and committed bettor. He placed more than 3,500 bets between December 2021 and February 2024, wagering more than £167,000 and losing over £10,000.¹⁹⁶ The FA point out that of the 3512 bets placed, just 122 (namely 3%) were on the 'player to be carded market', including, of course, the bets on the Player in the RM's.

363. Given this history, if was the first or one of the first to receive information from the Player that he would deliberately be carded the Commission considers it very surprising that he wagered 'only' £782 over the 4 RM's and, indeed, cashed out the first of his bets on RM1, betting a slightly smaller sum the following day. This is especially so, given:

(1) Two days before RM1, on which bet £115.65 on the Player to be carded (having cashed out a previously placed bet of £117.27), he placed two single bets of £992.56 and £791.84 on the corners market, on matches not involving the Player.¹⁹⁷

(2) On RM2, placed bets of £198.42 on the Player to be carded, in a month in which he staked over £12,000, including 6 bets over £600.¹⁹⁸

¹⁹⁵ FA's Written Closing, paragraph 331.

¹⁹⁶ Player's Written Closing, paragraph 151.

¹⁹⁷ Report of Mr Paterson at paragraph 121, Bundle F page 186.

¹⁹⁸ Player's closing submissions at paragraph 153(b).

(3) On RM3, [redacted] placed a single bet of £120 on the Player to be carded. RM3 was in May 2023, a month in which he staked £25,198.37 including 11 bets with stakes over £600.¹⁹⁹; and

(4) On RM4 [redacted] placed two single bets totalling £49.75 plus an accumulator, including the Player to be carded in the sum of £181.69, in a month in which he staked £7,633.84.²⁰⁰ Indeed, 2 days before RM4 [redacted] had won over £10,000 on a bet²⁰¹, which suggests he had money available for maximising bets, especially if he was aware of a spot-fix with certain outcomes.

364. In the Commission's view these figures undermine the suggestion of an enhanced level of confidence reflecting a spot-fix. Yet this was the bettor The FA states may have been "*the first or amongst the first*" to be informed of a spot-fix and a person the evidence of [redacted] informs us, as described above, appears to have been at the centre of betting discussion and tips, including taking comments made by Christiane Tolentino and offering suggestions on the back of that information regarding the Player, certainly to [redacted].

365. The Commission also notes the suggestion of The FA that on RM4, [redacted] sought to disguise his betting by placing a bet on a player to receive a card who was not likely to play and who indeed did not play, thus voiding the bet. However, this does not seem logical given that once the bet was voided, he appears to have continued to place bets on the Player, using his own account.

366. Similarly, there was a suggestion that [redacted] used other 'linked' accounts, although in reality the submission is speculative. We have already commented above on our views on the use of 'linked' accounts to place bets. The Commission does not accept the suggestion that because [redacted] had not been able to place bets on a newly opened account with [redacted], we can conclude that other accounts were used by [redacted] to place bets. The Commission notes that The FA have placed some emphasis, when suggesting that bets were placed by [redacted] using the accounts of others

¹⁹⁹ Report of Mr Paterson at paragraph 124, Bundle F, page 187.

²⁰⁰ Mr Paterson's Report at paragraph 125, Bundle F, page 187.

²⁰¹ Mr Paterson's Report at paragraph 127, Bundle F, page 187.

on RM4, on the timing of those bets. However, the Commission is unpersuaded by this in the context of a match in which *all* the bets we have data about were placed on the day of the match, save for the first 3 (out of a total of 189).

367. The Commission agrees with Mr Paterson's summary of the data relating to

²⁰².

"... it is hard to make a clear case that the betting activity of [redacted] is itself suspicious. [redacted] has a history of wagering on his nephew and the size, frequency and nature of his successful bets in isolation are not out of character with his other betting activity. I note that Betano's comment on [redacted] betting is that his is a 'safe account overall'."

368. The totality of the evidence heard by the Commission suggests that

[redacted] was at or near the centre of the betting activity we have considered in great detail. He is also central to the Brazilian Parliamentary Inquiry evidence, to which we refer below. Accordingly, in all the circumstances, the Commission consider that it is significant that in looking at his own individual betting patterns, overall, we do not consider it is supportive of the suggestion he bet with enhanced confidence on the Player, or that it is evidence which is supportive of a spot-fix involving the Player.

Bettor:

369. [redacted] and another with whom he accepts he has a 'real' relationship. [redacted]. He placed 10 bets on the Player to be carded across RM's 3 and 4 with total stakes of £813.30, a return of £2,030.69 and a net profit of £1,217.39. [redacted] did not bet on RM1.

370. The totality of the data available to the Commission showed that [redacted] placed a total of 397 bets on football between July 2022 and January 2024, with just 21 of those bets, including on the Player, being on the 'to be carded' market. The Commission notes that of those bets the average stake was £57.41, but for the 11 bets placed on the 'to be carded' market other than in respect of the Player, the average falls to £35.67. However, from considering exhibit TA/40 to Mr

²⁰² Report at paragraph 133, Bundle F page 191.

Astley's statement, the average concerning bets involving the Player appears to include the £380.64 bet we refer to below, which rather distorts that average.

371. All of the five bets placed on RM3 were singles, in the sums of £83.72, £380.64, £37.95, £20.93 and £123.21. Whilst The FA highlight that the £380.64 bet was the largest stake ever placed by [redacted] through his [redacted] account, the Commission considered it was far more relevant that it was not simply on the Player to be carded, but was in fact on the Player 'to score or be carded'. This was at odds of 2.1, compared to the odds of 3.5 for a bet in the sum of £83.72, also placed with [redacted] some 39 seconds before. In the Commission's view this data is simply not supportive of The FA's suggestion that the betting data illustrates an enhanced level of confidence which can only be supportive of a spot-fix. The very significantly larger sum staked by the bettor was in fact suggestive of his hedging his bets, as suggested by Mr Paterson.²⁰³
372. All of the five bets placed on RM4 were singles on the Player to be carded, in the sums of £81.24, £8.34, £26.15, £25.75 and £25.37, which appears to have been significantly below the maximum stakes.²⁰⁴
373. The data also shows that of the 397 bets on football a total of 44 involved matches in which the Player was involved, including 3 days before RM3 placing a bet of £491.94 on 10 bets involving the Player's performance against AZ Alkmaar, a match which has raised no suggestion of suspicion. [redacted] lost £142.84 across those 10 bets.²⁰⁵, although the Commission notes that none of the bets staked were on the Player to be carded.
374. None of the foregoing information leads the Commission to conclude that there was enhanced confidence, on the balance of probabilities, that [redacted] was aware of a spot-fix involving the Player.
375. The FA also suggest that [redacted] placed bets through the account of another bettor, [redacted], although the nature of the link between the two accounts, which was identified by [redacted] is no longer identifiable. The FA refer to a number of bets placed on the account of [redacted]

²⁰³ Report at paragraph 111, Bundle F page 183.

²⁰⁴ Report of Mr Paterson at paragraph 115, Bundle F page 184.

²⁰⁵ Report of Mr Paterson at paragraph 112, Bundle F page 184.

on RM2 and RM3 and suggest²⁰⁶ that as no bets had been placed on that bettors account on the 'to be carded' market before, this together with the fact there was a device link between the accounts, the timing of the bets and the link between [redacted] and the Player means "*it is considered likely that these bets were in truth placed by [redacted] J.*" The Commission is unable to accept this speculation, not least as it makes no sense to the Commission why [redacted] would not place any bets on RM2 on his own accounts but then place the bets on RM3 we have described, including the numerically most significant hedged bet on the player 'to score or be carded'.

376. We should also add that the Commission have also carefully considered the criticisms made of Mr Paterson on his assessment of the bettor [redacted]²⁰⁷, but nothing in the points made changes what we have already said about Mr Paterson's evidence or the fact that we do not consider that the betting data and patterns of [redacted] are supportive evidence of knowledge of a spot-fix involving the Player.

377. In particular, The FA suggest, in respect of Mr Paterson's assessment of [redacted]²⁰⁸:

"But what [Mr Paterson] was [sic] to accept was that his report bore no reference (and The FA categorised [these] points as the 'bigger points') to the following... First, the [redacted] link between the Player and [redacted] J; second, the link to [redacted] (the first bettor on RM3) or, if that is a link which exists then [redacted] placed the first bets on RMs 1 and 3; third that [redacted] J bet of £380.64 was the largest bet he had ever placed on a player to be carded market; fourth the bets on [the Player] in RM3 had been placed on a [redacted] account, which had remained in dormancy until the double placed on [another Brazilian player]; fifth, and despite having another account, that the [redacted] betting account was opened on the day of RM4. The witness denied having ignored the more important point in seeking to advance his theory."

²⁰⁶ Written Closing Submissions at paragraph 300.

²⁰⁷ FA Closing Submissions at paragraphs 301 – 313.

²⁰⁸ FA Closing Submissions at paragraph 312.

378. As to the points made, it is common ground there is a link with the Player, which of itself establishes nothing and we have specifically dealt with points 2 and 3. As to the fourth point, the FA state the player concerned was suspended in connection with unlawful gambling. However, there is simply no evidence of any investigation or charges against the other player and we are in no position to make any findings and expressly do not do so. The dormancy has to be placed in the context of overall betting, on which we have commented above. Lastly, the opening of a new account could be consistent with other possibilities, such that in the Commission's view the FA's attack on Mr Paterson in respect of his treatment of the betting data of simply fails.

Bettor:

379. This bettor is another with whom the Player suggests he has a 'real' relationship. He placed 4 bets on the Player to be carded in each of the 4 RM's, with total stakes of £293.18 providing him with a return of £1,126.77 and a net profit of £923.59.²⁰⁹

380. This bettor placed a single bet on RM1 in the sum of £117.27 for the Player to be carded, and a 'double' bet of £38.15 on RM2 for the Player to be carded along with to be carded in . He placed a single bet on the Player to be carded in RM3 in the sum of £80.48 and a single bet of £57.28 on the Player to be carded in RM4.

381. Although has placed bets on all 4 RM's, which raises suspicion, the stakes placed are not, in the Commission's view, consistent with someone who is aware there is a spot-fix and who has the confidence associated with that. In the context of his overall betting data this bettor has twice placed bets for over £800 and has placed a number of bets for over £100. The Commission accepts Mr Paterson's evidence.²¹⁰ that:

"... I would have expected to have seen a much greater level of confidence displayed with multiple maximum bets placed on these

²⁰⁹ TA/78; FA Written Closing at paragraph 368.

²¹⁰ Report at paragraph 153.

outcomes if he indeed held such inside knowledge” (namely knowledge of a spot-fix).

382. The Commission notes the evidence of The FA that the bettor placed 50 bets on player to be carded markets, with the two largest bets being on the Player and the fact the average stake on that market was £13.80 including the Player, but £8.62 without the bets on the Player. This, in the Commission’s view, is of little weight, although it is more interesting to note that the four bets on the Player in the RM’s were at an average of £73.30.

383. However, in the Commission’s view, there is no evidence to suggest this enhanced confidence was as a result of knowledge of a spot-fix, as distinct from being in receipt of a ‘hot tip’ or perceived ‘inside information’, especially when the aforementioned points about his overall betting and the size of the stakes are taken into account.

384. A reference is also made to having device links to other bettors’ accounts.²¹¹, although there is no actual suggestion that he used other accounts to bet. Indeed, the Commission considers this unlikely in circumstances where he plainly used his own account openly.

385. Accordingly, on the balance of probabilities, there is nothing in the betting data of which in the Commission’s view suggests that his betting showed enhanced confidence resulting from being aware of a spot-fix.

Bettor:

386. Another bettor with whom the Player has informed the Commission he has a ‘real’ relationship; . This bettor placed 6 bets across RM’s 2, 3 and 4 with total stakes of £484.64 providing a return of £3,319.18 and a net profit of £2,834.54. did not place a bet on RM1.

387. The bettor placed two double bets on RM2, in the sum of £72.77 and £38.15 for the Player to be carded and to be carded in . He then placed

²¹¹ FA’s Written Closing submissions at paragraph 374.

3 single bets on RM3 in the sums of £119.25, £95.40 and £80.00 on the Player to be carded and 1 single bet of £79.07 on RM4.

388. The bettor has placed 574 football bets. Whilst Mr Astley's analysis relies on averages,²¹² this is a good example of where the Commission considers that a broader analysis of the betting data is of more use. Mr Paterson identified²¹³ that his betting included 20 bets larger than the £119.25, being the largest bet on the Player to be carded, including one bet of £327.04 on WHUFC to beat Fiorentina in June 2023, which was successful. Furthermore, just 3 days before RM3 the bettor staked £320 on the number of shots the Player would have against AZ Alkmaar.

389. The Commission notes the points made in the FA's written closings on this bettor,²¹⁴ including the reference to linked accounts, the timing of bets and the criticisms of Mr Paterson's evidence. However, the Commission does not consider the evidence relating to this bettor, on the balance of probabilities, supports enhanced confidence associated with knowledge of a spot-fix, as distinct, especially in the context of linked accounts, of the alternative possibilities of a 'hot tip' or perceived 'inside information'.

Bettor:

390. We now move on from the bettors with whom the Player accepts he has a 'real' relationship, to whom we can add _____, on whose evidence we have already commented. This bettor, _____, is another with whom the Player accepts there is a link. She is the _____ of the previously discussed bettor, _____, whom the Player says is the person he 'mainly' knows. She placed one successful double bet on RM2 for the Player to be carded and for _____ to be carded in _____. Her stake was £73.70 with a return of £1,028.12 and a net profit of £954.42.

391. The betting data available to the Commission showed that _____ had placed 776 bets.²¹⁵ Of these bets it is common ground that 47 were on the 'player

²¹² 1st statement at paragraphs 195 – 196, Bundle B page 23.

²¹³ Report at paragraph 169, Bundle F page 199.

²¹⁴ At paragraphs 388 – 397.

²¹⁵ TA/134.

to be carded market' and Mr Paterson suggests that 338 of the bets "*include at least one leg linked to card markets*".²¹⁶ Whilst the FA suggest that it is informative that the bet placed on the Player to be carded was over 12 times the average stake placed by the bettor on the 'player to be carded market', the Commission also note that stakes of £73.70 were not unheard of in the bettor's betting history, although only 4 of the 776 placed were for more than placed on the Player to be carded.

392. A suggestion is made by The FA that the account of [REDACTED] was in fact used by her husband, the previous bettor mentioned.²¹⁷ There is no direct evidence of this and the Commission accepts the point made on behalf of the Player.²¹⁸ that if [REDACTED] account was being used by her husband as the result of a spot-fix, one would expect bets on all RM's to maximise profit and it calls into question, if the previous bettor was disguising a bet because of knowledge of a spot-fix, why he used his own account at all.

393. Assuming, however, that the account was used by [REDACTED], in the Commission's view, on the balance of probabilities, it is not consistent with evidencing enhanced confidence arising from knowledge of a spot-fix but instead is consistent with the bettor having received a 'hot tip' or perceived 'inside information' on RM2 and placed a bet accordingly.

Bettor:

394. We now turn to 3 bettors whom the Player accepts in his statement he knew as distant friends, or friends of friends. We will then consider the bettors the FA allege have a 'direct' link with the Player, followed by those whom the FA allege have an 'indirect' link with the Player.

395. The first is [REDACTED] who is described by The FA as being 'directly' linked to the Player due to photographs and the fact the Player follows the bettor on Instagram.

²¹⁶ Report, paragraph 178 at Bundle F, page 201.

²¹⁷ FA Closing Submissions at paragraph 402.

²¹⁸ Player's Closing Submissions at paragraph 166(d).

396. The bettor placed 3 bets on the Player to be carded in RM2 and RM3. The total stakes were £175.48, with a return of £799.35 and a net profit of £623.87. The first bet, on RM2, in the sum of £12.59 was a double bet on the Player to be carded and [redacted] to be carded in [redacted]. The second bet on RM2 was a treble bet, in the sum of £2.23, for 3 players to be carded (including the Player and [redacted]). [redacted] also placed a bet of £160.66 on RM3 for the Player to be carded, which is twice the size of his usual average stake. [redacted] opened a [redacted] account on the day of RM2, on which he has placed just 5 bets, all involving the Player.

397. Whilst this history raises some suspicion, it has to be set in the context of the bets not being maximum bets and the fact that [redacted] did not bet on RM1 and RM4. Accordingly, in the Commission's view, this is not supportive on the balance of probabilities, of the betting data and patterns for [redacted] being supportive of enhanced confidence arising from knowledge of a spot-fix. Rather, in the Commission's view, it is supportive of an alternative explanation, such as the discussion surrounding a 'hot tip' or perceived 'inside information'.

Bettor:

398. The FA allege a 'direct' link with the Player as he has been photographed with the bettor alongside [redacted], [redacted] and the Player follows [redacted] on Instagram and tagged him in a video posted on his Facebook page.

399. [redacted] placed two bets on RM2 for the Player to be carded. One was a single bet and one a double on the Player and [redacted] to be carded. The total stakes were £122.86 returning £1,180.62 and a net profit of £1,057.76.

400. The betting data available on [redacted] showed he was a frequent bettor, with some 525 bets placed.²¹⁹, although The FA state that the bets on the Player were the only bets of the 525 placed on the 'player to be carded' market.²²⁰ The Commission also notes that accounts of 2 others were linked to [redacted]. Mr Paterson identifies in his report²²¹, that after May 2022 [redacted] placed larger

²¹⁹ TA/141.

²²⁰ FA closing submissions, paragraph 439.

²²¹ Paragraph 198.

stakes than before that time, including larger stakes than those placed on the Player on 29 occasions.

401. In circumstances in which the stakes appear not to have been out of line with other bets placed, to have been below the maximum stakes permitted and, in particular, the fact only bet on 1 of the RM's, on the balance of probabilities the Commission does not consider that the data referable to this bettor supports the suggestion he was aware there was a fixed outcome and accordingly bet with an enhanced level of confidence.

Bettor:

402. This is a bettor the Player has identified as a 'distant friend' or a 'friend of friend', although The FA assert there is an indirect link, because the bettor is known to , .
403. The bettor only bet on RM2, a double for a stake of £71.22 on the Player to be carded and to be carded in . The return was £993.52, with a net profit of £922.30. The FA again rely on averages, stating that although the bettor had placed other bets on the 'player to be carded' market, in this instance his bet was £23 more than his average on that market.
404. In the Commission's view this is not significant: it does not appear to suggest the enhanced confidence associated with knowledge of a spot-fix but is consistent with the bettor being in receipt of a 'hot tip' or perceived 'inside information'.
405. In fact, in any event, it appears The FA's case is that the bet was placed not by at all, but instead by , on whom we have already commented. Specifically, in the context of , the Commission is not persuaded there is evidence, on the balance of probabilities, to support the suggestion of use by the other bettor.
406. Accordingly, again, in respect of this bettor we find no evidence, on the balance of probabilities, to support the suggestion the bettor had knowledge of a spot-fix and bet with enhanced confidence as a result.

Bettor:

407. This is a bettor who is said by The FA to be directly connected to the Player, because they are friends on Facebook and the Player has said he believes they may have met on 2 or 3 occasions, 10 or 12 years ago. He is the brother of the bettor _____, whom we have previously discussed. In the Commission's view this is weak evidence on which to base a 'direct' link.
408. This bettor placed 2 single bets on the Player to be carded, one on RM1 in the sum of £108.98 and one on RM4 in the sum of £57.28. His return across the 2 bets was £448.98 with a net profit of £282.72.
409. According to the information available to the Commission, the bettor has placed 1,362 football bets, of which 23 bets were on player to be carded markets. The FA, relying on averages, state that the average bet on the player to be carded markets, excluding the bets on the Player was £7.79. There is no suggestion that this bettor's account was linked to any other bettor.
410. The stakes placed by this bettor are undoubtedly markedly higher compared to his other stakes on the same market. However, this is as explicable by reason of the bettor believing that he had a 'hot tip' or perceived 'inside information' on these matches as much as from the receipt of information of a spot-fix. The fact that the bettor only bet on 2 of the 4 RM's, taken with the foregoing and the fact he 'only' bet a sum of £166.26 on the Player to be carded, means the Commission are not persuaded this bettor was in receipt of information there was a spot-fix that the Player would be carded in RM1, nor in RM4.

Bettor:

411. This is another bettor The FA assert is 'directly' connected to the Player. As we have previously commented, whilst there is a _____ connection, in our view it is a distant one.
412. _____ placed 11 bets across RM's 2, 3 and 4, one of which was an unsuccessful bet. His total stakes were £949.79, with a return of £4,480.91 and a net profit of £3,531.12.

413. placed 6 bets on RM2, including 4 doubles on the Player to be carded and to be carded in . These were in the sums of £77.65, £73.71, £46.36, £15.53. Another double, also in the sum of £15.53, was for the Player to be booked and to beat , which bet was lost. He also placed a single bet on the Player to be carded in the sum of £49.15. Two of the accounts were opened on 4 February, but one was not used until the day of RM2 (12 March 2023).
414. The bettor had a bet rejected by one operator, probably because he had reached the maximum number of bets to be placed within 24 hours.
415. On RM3, the bettor placed 4 single bets on the Player to be carded in the sums of £253.67, £127.25, £92.97 and £38.08, whilst on RM4 the bettor placed one bet of £159.93.
416. The FA states that across his accounts, on the available data, the bettor's average stake is £16.02, whilst the average stake on the player to be carded market is £52.19, which falls to £28.71 if the bets on the Player are removed. The Commission notes that he also placed a double bet of £54.33 on two players to be carded, wholly unconnected to the Player.
417. When Mr Paterson was cross-examined on this bettor, he stated:²²²
- "I accept that the betting activity of this bettor slightly lends itself more to spot-fixing than that of the others."*
418. The Commission considers this concession was rightly made. We then remind ourselves that the connection with the Player was a distant one, so we turn to consider what the Player said in cross-examination on the link. However, the Player was simply asked whether , , knew , to which the Player answered he did..²²³
419. In all the circumstances, there are clear question marks relating to this bettor's data. However, not least in circumstances where there is no clear evidence of any real link between the Player and the bettor and, importantly, the fact the

²²² Transcript Day 10, page 16, lines 2-4.

²²³ Transcript Day 16, page 40, lines 13-14.

bettor did not bet on RM1 (with the suggestions of links to other accounts not appearing to suggest that the bettor used another account for RM1), the Commission is not persuaded, on the balance of probabilities, that the evidence relating to this bettor's accounts provides evidence he was aware of a spot-fix involving the Player to be carded.

Bettor:

420. We now turn to consider the betting data of those whom The FA allege are 'indirectly' linked to the Player or are a 'notable bettor'. We have already passed general comments on both of these categories.

421. The first such bettor is . He is said to be indirectly connected by reason of being the brother-in-law of and by being a Facebook friend of the Player. He placed one treble bet on RM4, including that the Player be carded, for a stake of £15.84. The bet was unsuccessful.

422. The Commission struggles to see the utility of the evidence of this bettor. In the Commission's view it certainly does not support the suggestion that the bettor was in receipt of any information that the Player was to be carded. —

Bettor:

423. Another bettor said by The FA to be indirectly linked to the Player, the link is the tenuous one that she is married to the previous Bettor, whose betting patterns, as we have said, we struggle to see the relevance of.

424. This bettor placed 3 bets on RM3 for the Player to be carded for total stakes of £533.32, with a return of £2,319.31 and a net profit of £1,785.99. One account used was opened on 6 May 2023, with the first and only bet on the account being on RM3, which was on 21 May 2023. This was a bet in the sum of £401.56, which was substantially bigger than any other bet placed on the 'to be carded' market.

425. However, examination of the betting data presented by The FA shows that large bets are not unknown for this bettor: for example, bets placed in August and September 2022 included stakes in the sums of £912.47 and £1,721.85.²²⁴ As

²²⁴ TA/58.

Mr Paterson observes these bets are “*quite extreme*”, but it puts what might also be said to be bets which were outliers on the Player into some context. Mr Paterson also, fairly, conceded in cross-examination that the bets appeared to suggest a “*huge amount of confidence*” which he said may also explain the other large stakes mentioned.²²⁵

426. Given the lack of any link to the Player, however, allied to the fact the confidence may derive from the bettor believing she has a ‘hot tip’ or perceived ‘inside information’, we are unable to conclude, on the balance of probabilities, that this is evidence that she had information of a spot-fix involving the Player.

Bettor:

427. The ‘indirect’ link asserted by The FA with this bettor is that she is known to . The bettor only bet on RM2, one bet a single bet with a stake of £34.53 on the Player to be carded and the second a double bet, with a stake of £73.71, on the Player to be carded and to be carded. For her total stakes of £108.24, the bettor received a return of £1,135.29 and a net profit of £1,027.05. The bets were the first ever bets on the account, although it had been opened in October 2022, namely 5 months before RM2.
428. 29 bets have been placed by the bettor since the above bets on RM2, only one of which was on the ‘player to be carded’ market, although the Commission notes with interest it was for a stake of £83.90.
429. The FA in their closing submissions note that when cross-examined Mr Paterson, when invited to look cumulatively at the betting patterns for this bettor, together with , and , refused to accept the suggestion “*this starts to look like spot-fixing rather than [Mr Paterson’s] inside information*”..²²⁶ In the Commission’s view Mr Paterson was right to refuse to accept the suggestion: the betting patterns of the 5 mentioned bettors do not start to look like spot-fixing. The data for this bettor is as consistent with this bettor being in receipt of a ‘hot tip’ or perceived ‘inside information’ on RM2.

²²⁵ Transcript Day 9, page 150, line 7-11.

²²⁶ FA Closing Submissions, paragraph 349 and Transcript Day 9, page 160 lines 18-19.

Bettor:

430. This is another bettor whom The FA contend has an 'indirect' relationship with the Player. That is because this bettor is the brother of _____, who is known to the Player. It is also said that the _____, _____, follows this bettor on Instagram. In the Commission's view, the link is 'indirect' with the Player to the full extent of the meaning of that word.
431. The bettor placed 3 bets on RM2, the first a single in the sum of £38.63 on the Player to be carded, the second a double on the Player to be carded and _____ to be carded in _____ in the sum of £30.91 and the third a single bet on the Player to be carded in the sum of £32.86. This bettor's total stakes were £102.40, returning £652.81 with a net profit of £550.41. The account used by the bettor was opened on the day of RM2 and the 3 bets mentioned were the largest stakes placed by the bettor.
432. There is no suggestion that this bettor placed bets on RM1, RM3 or RM4. The betting data presented is not, in the Commission's view, on the balance of probabilities, consistent with knowledge of a spot-fix. It is equally, and, in the Commission's view, more likely that this bettor received a 'hot tip' or perceived 'inside information' on one match, RM2, and bet accordingly.

Bettor:

433. Another 'indirect' connection is identified, namely he is the brother of _____ (whom we have already discussed), who is a _____ of the Player. Again, the connection is remote, but the Commission accepts he was a bettor who might well have access to information circulating amongst family and friends of the Player.
434. This bettor placed 7 bets across RM2, RM3 and RM4. His total stakes were £1,606.21, with a return of £6,606.23 and a net profit of £5,000.02..²²⁷

²²⁷ See TA/82.

435. The bettor placed 5 bets on the Player to be carded in RM2, four of which were doubles with to be carded in . The stakes were for £73.71, £73.71, £121.83, £12.59 and £6.23.
436. The bettor placed a single bet on RM3 in the sum of £832.14, which was the largest stake placed by any of the 253 bettors in the data supplied to us, for the Player to be carded. The bettor also placed one bet on RM4, in the sum of £486 on an account which had been dormant for over a year before the bet was placed.
437. The totality of the betting data provided shows that this bettor had placed 607 football bets, with the largest stakes being those on the Player in RM3 and RM4. The same data shows he placed 17 bets on the 'player to be carded' market, with The FA identifying his average stake, excluding those on the Player, being £60.63 which rises to £130.15 when the bets on the Player are taken into account.
438. Such betting clearly raises suspicion. However, the Commission notes that the bettor did not bet on RM1, which suggests the bettor was not in receipt of information about a spot-fix on that match. In the Commission's view, this causes doubt as the basis of the betting on the other matches. There is undoubted confidence, but in the Commission's view there is nothing to link this to the Player. The confidence could well have been derived, in the Commission's view, from discussion around 'hot tips' or perceived 'inside information'. We do not find the betting data of this bettor provides evidence of knowledge of a spot-fix.
439. Mr Paterson opines on this bettor in his report²²⁸ and concludes "*Certainly [the bettor] bet with confidence, but the reason for this remains unknown.*" Mr Paterson was not challenged on this in cross-examination, it is said for reasons of time²²⁹, although it is suggested his report lacks balance and is selective. However, the points made by The FA are not sufficient to dissuade the Commission from accepting Mr Paterson's statement, which accords with the Commission's own view.

²²⁸ At paragraphs 181-185.

²²⁹ FA's Written Closings at paragraph 414.

Bettor:

440. Another 'indirect' link is alleged, because this bettor is the mother of [redacted] (whom we have already discussed) and [redacted] (the last bettor discussed). Again, the connection to the Player is remote, but the Commission accepts she was a bettor who might well have access to information circulating amongst family and friends of the Player.
441. This bettor placed just one bet on RM2, namely a double bet on the Player to be carded and [redacted] to be carded in [redacted]. The stake was £73.70, with a return of £1,028.12 and a net profit of £954.42. Mr Astley has suggested that the account may not have been used by the named bettor, but instead by her son in law, [redacted]²³⁰ (on whom we have already commented). This allegation is maintained in the FA's written closings.²³¹
442. On the basis it is alleged the bettor did not place a bet, but instead the account was used by another, we note that Mr Paterson suggests, in his report²³², that if that were the case he would have expected to have seen significantly more wagers placed with higher sums of money involved. Mr Paterson also notes that the single bet placed was not for the maximum stake allowed.
443. Again, Mr Paterson was not cross-examined on his comments, it is said for 'timing reasons'. We again consider that Mr Paterson's reservations accord with our own. In the Commission's view there is simply insufficient evidence to determine, on the balance of probabilities, that this account was used by another bettor. As such we do not find the betting data of this bettor supports the suggestion the bets were as a result of knowledge of a spot-fix.

Bettor:

444. Another bettor whom The FA alleges is indirectly linked to the Player, this time on the basis the bettor knows [redacted], who also follows this bettor on Instagram. In terms of a connection to the Player, this again is weak.

²³⁰ 1st statement at paragraph 226, Bundle B page 29.

²³¹ At paragraph 419.

²³² At paragraph 188.

445. The bettor placed 9 bets across RM2, RM3 and RM4 with total stakes of £2,010.31, a return of £7,679.29 and a net profit of £5,668.98. On RM2 the bettor placed 3 bets on the Player to be carded which were doubles in the sums of £61.93, £320.00 and £480.03. Two of those doubles were for the Player to be carded and for total goals to be over 0.5. This, The FA suggest, based on Mr Fowler's evidence, was a low-risk selection to try and avoid detection.²³³ The other was a double for the Player to be carded and to be carded in , although this was the smaller stake of £61.93.
446. One bet was placed by the bettor on RM3, which was a stake of £800.00 for the Player to be carded combined with an 'over 0.5 goals to be scored in the match' bet.
447. In respect of RM4, five bets were placed: three single bets on the Player to be carded in the sums of £114.66, £39.09 and £57.13, a treble bet of £64.15 on the Player to be carded, the Player to make 2 or more tackles and with both teams to score; and a double bet of £73.32 on the Player to be carded and over 0.5 goals to be scored in the match. The bettor also sought to place other bets, which were rejected because he had already placed the maximum number of bets with that operator. One of the accounts used was opened on the day of RM4.
448. The information provided by The FA²³⁴, shows this bettor is a committed bettor. There are details of 1145 bets, with stakes totalling £142,736 and evidence of eight bets of over £500 and 194 bets on the 'player to be carded' market, including a bet on the Player to be carded in the Europa Conference Final as part of an £84.45 treble, which was a bet that was unsuccessful.
449. Mr Paterson comments that a common trait of this bettor's bets is to include, in addition to a bet on the 'player to be carded market', other legs which not do not involve that market and, as such, whilst he agrees with Mr Fowler's suggestion that combining potentially suspicious activity with low odds selections in multiple bets is a method of betting to try and avoid detection, in this instance Mr Paterson considers it is a common trait of this bettor's bets, the majority of which were unsuccessful. He comments "*[The bettor's] motivation for betting in this way is*

²³³ Closing Submissions at paragraph 451.

²³⁴ TA/167.

*unknown, but it is entirely plausible that [the bettor] regularly uses this to increase the staking limits available to him compared to a single bet. It is not inherently suspicious...*²³⁵

450. The Commission notes The FA's criticism of Mr Paterson using the term "*it is a little concerning to see the largest wagers that [the bettor] has placed on a player to be carded to have been on the Player...*", stating that is inappropriate language for an independent expert, but given what we have already said about the attacks on Mr Paterson as an expert, we are unattracted to the semantic attack on one sentence in a section of the report dealing with the bettor over 6 paragraphs.

451. Considering whether the evidence of this bettor supports The FA's case the Player was involved in a spot-fix, having regard to the fact this bettor did not bet on RM1 (which, as with other bettors we would have expected if he was given or was aware of information from the Player) and the comments made by Mr Paterson, which we accept in the context of all the data for this bettor, the Commission does not consider, on the balance of probabilities, that the evidence of this bettor supports the suggestion of a spot-fix.

Bettor:

452. The 'indirect' connection with the Player in this instance is this bettor is known to , they have been photographed together, allied to the fact they are friends on Facebook and mutual followers on Instagram. The Commission again notes this is a remote link to the Player.

453. The bettor placed 3 bets on RM3 and RM4, for a total stake of £608.61 with a return of £1,679.48 and a net profit of £1,070.87.

454. The single bet placed on RM3 was for a stake of £345.46, being a single bet for the Player to be carded, the largest previous bet on this account being for £39.93. The bettor placed 2 bets on RM4, for the Player to be carded, in the sums of £39.09 and £224.06. The bettor also had 2 attempted bets on RM4 rejected.

455. The overall data for this bettor show 299 football bets being placed, over 40 of which were for stakes of over £100. Although the FA identify that the £345.46

²³⁵ Mr Paterson's report at paragraph 209, Bundle F page 208.

stake on RM3 was the largest ever stake on the player to be carded market, Mr Paterson identifies that is correct, as a single bet, but the bettor also bet £805.68 on a player to be carded for Boca Juniors in November 2023, across 4 separate bets, which were unsuccessful. Mr Paterson states that there is no reason to suggest these bets were suspicious and *“this demonstrates that the bets from [the bettor] on [the Player] to be carded are not as suspicious as they are presented as being....”*²³⁶.

456. Mr Paterson also observes that the bet of £345.46 does not appear to have been a maximum bet²³⁷.

457. We note the submission made by the FA about the linked account, but even having regard to that, when we consider that the bettor did not bet on RM1 and RM2 (which we would expect if the bettor was aware of spot-fixing), allied to the points made by Mr Paterson, who again was not cross-examined on these points ‘for timing reasons’, such that we are left with general criticisms of selectivity and lack of balance²³⁸, against which we have logical statements from Mr Paterson based on the data supplied, we accept what he says and overall we do not find evidence in this bettor’s patterns, supporting the suggestion that he bet with enhanced confidence arising from information that the Player would be carded.

Bettor:

458. Another bettor who is said by The FA to be ‘indirectly’ linked to the Player, this is because the bettor knows , and the bettor are friends on Facebook.

459. This bettor is interesting as he was one of the 3 bettors to place bets on all 4 RM’s, staking £568.43 with a return of £3,242.06 and a net profit of £2,673.63. The bettor placed 9 successful bets. He also had five bets rejected on RM4.

460. The bettor placed one bet on RM1, on an account which had been largely dormant before the bet was placed, the stake being £58.77 on the Player to be carded. The previous bets on the account were only for £1.40 and 84p. On RM2,

²³⁶ Report at paragraph 213.

²³⁷ Report at paragraph 214.

²³⁸ FA Closing Submissions at paragraph 469.

the bettor placed two double bets, in the sums of £115.90 and £12.25 for the Player to be carded and to be carded in . One bet was placed on RM3, in the sum of £104.43, for the Player to be carded and 5 bets were placed on RM4, all single bets for the Player to be carded, in the sums of £30.35, £29.31, £30.91, £10.49 and £175.92.

461. Four of the bets on RM4 were placed using an account opened on the date of the match, this being the account which rejected the placing of five further bets, for sums between £138.79 and £208.00. No other football accounts have been placed by this bettor on that account since those on RM4.
462. The overall data for the bettor shows he placed 926 football bets through 4 accounts, with his largest profiting bets on the Player. The bettor has placed a total of 52 bets on the player to be carded market, which Mr Paterson suggests highlights he has a *‘proclivity to this kind of wager’*²³⁹. He also notes that, in fact, the largest bets on the ‘to be carded market’ are not on the Player but instead on a player in a game in Brazil across 3 bets, 2 of which included an extra time element, which were unsuccessful. The stakes on those bets totalled £1,040.06.²⁴⁰
463. Mr Paterson accepts that the fact the bettor has bet on all four matches is more suspicious but notes he has not always bet at the maximum stakes, noting, for example, that a single bet of £58.77 on RM1 is not typical for someone who believes the outcome is pre-arranged.²⁴¹
464. He concludes *“the betting seen is more akin to someone who believes they have a good tip and a likelihood of winning, but far from a belief that the outcome is certain.”*²⁴²
465. This is another bettor as to whom Mr Paterson was not cross-examined, ‘for timing reasons’.²⁴³ We have observed the criticisms made, including the suggestion Mr Paterson did not make clear that 724 of the 926 bets were under £5, whilst noting that Mr Paterson’s report did in fact observe that the bettor has

²³⁹ Report at paragraph 218, Bundle F, page 210.

²⁴⁰ Report at paragraph 219, Bundle F, page 210.

²⁴¹ Report at paragraph 220, Bundle F, page 210.

²⁴² Report at paragraph 221, Bundle F, page 211.

²⁴³ FA closing submissions, paragraph 481.

a huge disparity between his smallest and largest bets, stating that he has placed numerous bets under £1 as well as numerous bets (14) in excess of £100. In such circumstances, this criticism of Mr Paterson is, in the Commission's view, not well made.

466. We accept there are aspects of this bettor's data which entitle The FA to raise it as suspicious, but overall we accept the comments of Mr Paterson. This is not a bettor whose data, in our view, supports the suggestion the Player was involved in a spot-fix.

Bettor:

467. The indirect connection alleged by The FA with the Player is the fact she is followed by _____, _____ on Instagram, one of 'just' 924 he follows. Given we are considering whether the Player was involved in a spot-fix, this is another bettor whose connection to the Player is at the outer extremities of what can be called an 'indirect connection'.

468. The bettor placed two bets on RM4, for £29.31 and £30.91 and attempted to place a third bet, which was rejected. She therefore staked £60.21 on the Player to be carded, which returned £230.19 and a net profit of £169.98. The account was opened on the day of RM4.

469. In circumstances where there is no suggestion that this bettor placed bets on RM1, RM2 or RM3 the Commission is not persuaded by the utility of this betting data in supporting a claim the Player has been engaged in a spot-fix. If the bettor was in receipt of information about a spot-fix, as we have said with other bettors, we would expect to see her having bet on all 4 RM's. Further, there is no suggestion of any link to other accounts, and we note the evidence of Mr Paterson.²⁴⁴ that the bettor's data is consistent with a recreational bettor, compared to a knowledgeable or sophisticated bettor (which comment Mr Paterson was not questioned on 'for timing reasons'.²⁴⁵).

470. In the Commission's view, the better view of this evidence is that the bettor received a 'hot tip', or what she perceived as 'inside information', opened an

²⁴⁴ Report, paragraph 224, Bundle F page 211.

²⁴⁵ FA Closing Submissions, paragraph 486.

account and bet on the basis of that for RM4. The data does not support the suggestion the Player was involved in a spot-fix.

Bettor:

471. The indirect link to the Player in this instance is said by The FA to be a social media connection to

, as well as being the boyfriend of another bettor. This appears to the Commission to be a weak link to the Player, although the Commission wholly accept this bettor may have been privy to discussions between family and friends of the Player. Indeed, the Commission notes that

, when he gave evidence, stated that he placed a bet as a result of a tip from ²⁴⁶, whom the Commission considers may well be the same person.

472. The bettor placed a single bet on the Player to be carded on RM1. The stake was £116.77, with a return of £373.65 and a net profit of £256.88. This was much higher than the average for his previous stakes. The bettor did not bet on RM2, RM3 or RM4.

473. Even accepting the stakes were much higher than on other bets placed by this bettor, the Commission does not accept that this is evidence of an enhanced level of confidence arising from knowledge of a spot-fix involving the Player, as opposed to the bettor simply receiving a 'hot tip' or perceived 'inside information' in respect of just one match, namely RM1.

Bettor:

474. Included as a 'linked bettor' by The FA because of an apparent relationship with the previous bettor, and the fact of a link on Instagram with , . Again, the Commission considers this a weak link to the Player.

475. This is another bettor with just a single bet, placed on the Player to be carded on RM1, in the sum of £108.98 with a return of £348.75 and a net profit of £239.77.

²⁴⁶ Transcript Day 18, Page 50, lines 2-9.

The bet was much higher than her average bets, although the data available for this bettor is very limited.²⁴⁷.

476. The bet was placed 1 minute and 4 seconds after the previous bettor. However, there is no suggestion of a device link and if the two bettors were in a relationship this is perfectly explicable, including that they were both in receipt of the same 'hot tip' or perceived 'inside information' and decided to both bet accordingly. Given there is no suggestion of betting on the other RM's the Commission again does not accept that this is evidence of an enhanced level of confidence arising from a spot-fix involving the Player, as opposed to the bettor simply receiving a 'hot tip' or perceived 'inside information' in respect of just one match, namely RM1.

Bettor:

477. The FA's suggestion of an indirect link is because she is a mutual Instagram follower with [redacted] and the last bettor mentioned. The Player confirmed, through his solicitors, in correspondence that to the best of the Player's knowledge, this bettor is the girlfriend of [redacted], although the latter gave us direct evidence that she was not a girlfriend, and they were not in a relationship at the time of her one bet. Again, considered from the perspective of the Player, the link to him is remote.

478. The one bet was on RM1, being a stake of £117.23 on the Player to be carded with a return of £375.15 and a profit of £257.92. The bet was placed just 4 minutes after [redacted] bet was placed, such that The FA suggest they were together or the bets were placed by the same person, something which [redacted] rejected in his evidence before us.

479. We have already commented on the evidence of [redacted] and the betting data for this bettor is limited. Again, however, a single bet on a single RM, leads the Commission to conclude this bettor's bet was far more consistent with the receipt of a 'hot tip' or perceived 'inside information', leading to the bet, as distinct from knowledge of a spot-fix involving the Player.

²⁴⁷ TA/147 and Mr Paterson Report, paragraph 228 at Bundle F, page 212.

Bettor:

480. The FA allege that this bettor is indirectly linked to the Player, because she is the girlfriend of _____, who is one of the directly linked bettors we have already considered. The bettor also has social media links to a number of other bettors.
481. This bettor placed a total of 6 bets across RM1, RM2 and RM3 with total stakes of £725.03, giving a return of £2,284.57 and a net profit of £1,559.54.
482. On RM1 the bettor staked £108.98 on a single bet for the Player to be carded, the bet being placed within 3 minutes of the bet of _____. On RM2 two double bets were placed, for stakes of £77.64 and £38.15 on the Player to be carded and on _____ to be carded in _____. One of the bets was on a _____ account, opened in November 2021, but dormant until the day of RM2 and the bet on that account was placed 32 minutes after _____ bet on the RM.
483. Three bets were placed on RM3, all for the Player to be carded, with stakes of £253.52, £163.36 and £83.38. The FA inform us the bets for the Player to be carded, across all 3 RM's were higher than the bettors' average bets, and that she only bet on the 'player to be carded' market on 8 occasions, 6 of those bets being those placed on the Player.
484. Mr Paterson highlights, in his report²⁴⁸, that 11 of the 46 bets for which data is available involve the Player, including five bets on his shooting activity, including one triple bet of £119.84 relating to the game between WHUFC and AZ Alkmaar. The bet was unsuccessful.
485. It is surprising to the Commission, that if this bettor was aware of a spot-fix involving the Player, they would bet on RM1, RM2 and RM3 but then *not* bet on RM4, just at a time when logic dictates that confidence, given past success, would be at its highest.
486. Mr Paterson was cross-examined about this bettor's data and he stated.²⁴⁹:

²⁴⁸ At paragraph 234.

²⁴⁹ Transcript Day 10, page 30, lines 3-9.

“Q: Hugely out of character, displaying massive confidence, almost a degree of certainty, if that’s possible in a football match of course.

A: I wouldn’t go that far. I accept these bets in her account is one of the most – one of the more suspicious, yes, and the bets are out of character for her.”

487. A little later, the cross-examination exchanges continued as follows:²⁵⁰

“A: You asked me if the confidence shown was that of - - I can’t remember the word you used.

Q. Close to certainty

A: Yes, as close to certain as humanly possible. This betting shows a very high degree of confidence compared to her normal betting activity, yes. I wouldn’t go as far as using the wording you have used.

Q: Those bets represent 63% of the stakes across that account

A: Okay

Q: And when we look at those factors against those that you’ve identified, again, your position is: well, nobody could draw any sensible, confident conclusion from this; is that your position?

A: Yes, you can’t draw a conclusion. She shows a much higher level of confidence than she has shown on others. More so than probably any other bettor, yes.

Q: Right.

A: So I accept it’s suspicious.”

488. Noting, as we do, that The FA have persistently taken the line that Mr Paterson’s report was not balanced and was selective, we consider this extract shows that Mr Paterson was considered and careful in providing his evidence to the Commission. Ultimately, he stands by his report, which concludes that this bettor

²⁵⁰ Transcript, Day 10, page 31 lines 2-20.

was not involved in the orchestration of the outcome of bets, and has not placed maximum wagers, but accepts the betting is suspicious.

489. The Commission agrees with this stance. The betting on this account entitles the FA to raise suspicions. However, we then ask whether this assists us in our consideration of whether the Player was involved in a spot-fix and given the 'indirect' nature of the link, the failure of the bettor to bet on RM4 and the lack of maximum bets, we conclude that we can say no more than stating the FA were entitled to raise suspicions. However, it seems there is a substantial evidential gap between that suspicion and it establishing the Player was involved in a spot-fix.

Bettor:

490. The Commission considered this was weak evidence, given The FA said they had identified 4 individuals with this name linked to others in the investigation, such that we do not even know the individual we are dealing with or what the actual link might be.

491. In any event whichever of the 4 placed a bet, it was just a single bet on RM1 for a stake of £46.71, returning £149.46 and a net profit of £102.75, the account being used having been opened the previous day. Only 3 other bets have been placed, all for under £1. The bettor did not bet on RM2, RM3 or RM4.

492. Mr Paterson, who again was not cross-examined on his comments on this bettor "for reasons of timing"²⁵¹, concludes on this last fact that she would not appear to be involved with any orchestration of the outcome..²⁵² Rather, it seems to the Commission, this appears to be another bettor who had a 'hot tip' or perceived 'inside information'. That the bet placed was much higher than the others is, in the Commission's view, of very limited weight given the total data is just 4 bets and the confidence that might arise from perceiving access to a 'hot tip' or perceived 'inside information'.

²⁵¹ FA Closing at paragraph 516.

²⁵² Report at paragraph 239, Bundle F, page 214.

Bettor:

493. No link is identified between this bettor and the Player, this being the first of the 'notable bettors' (as described by The FA). In its written closing submissions, The FA assert that even though it has been unable to establish a link "*That does not mean that no such link exists*".²⁵³ However, as a Commission we must proceed on the basis of evidence. Therefore, this bettor, and the following individuals considered, are all bettors whom we must view as being people in Brazil whom, despite evident meticulous research, including on social media, no connection to the Player can be found yet who have bet on him to be carded in the RM's.

494. In considering these bettors we have in mind a question: namely whether this is consistent with the Player being involved in a spot-fix, or whether it is consistent with information circulating, without any particular control, arising from the perception of a 'hot tip' or perceived 'inside information'?

495. placed 4 bets across RM1 and RM2 for a total stake of £252.83, with a return of £2,278.97 and a net profit of £2,026.14. One account used was opened on the day of RM1 and the other had been dormant since September 2022. One of the bets was cashed out.

496. In circumstances where, as commented upon by Mr Paterson in his report²⁵⁴, this bettor did not bet on RM3 or RM4 and did not appear to place maximum bets, we do not consider the evidence of this bettor's data is of much weight in assisting us with our task. Certainly, his bets on the Player, as Mr Paterson asserts, 'stand out' but in our view the evidence does not support the view the Player, with whom he has no link, was engaged in a spot-fix.

Bettor:

497. Another notable bettor it is suggested, and appears likely, he may be related to the previous bettor discussed. He also bet on RM1 and RM2 only, with stakes of £181.66 giving a return of £2,034.09 and a net profit of £1,852.43.

²⁵³ At paragraph 517.

²⁵⁴ At paragraphs 241 and 242.

498. There is only evidence of this bettor having placed 4 bets, including the 2 bets on the Player to be carded, including doubles on RM2 for the Player to be booked and to be booked in . However, as commented by Mr Paterson, who again 'for reasons of timing'²⁵⁵ was not cross-examined on this account, the stakes do not appear to have been maximum stakes.²⁵⁶ which does not support the confidence level of someone who knows the outcome has been fixed.

499. Essentially for the same reasons as the previous bettor, we do not consider the data referable to this bettor assists us.

Bettor:

500. Another 'notable bettor,' he placed 2 bets on RM3 in the sums of £321.32 and £96.39, giving him a return of £931.81 and profit of £514.10. This bettor also placed a bet of £162.32 on the Player to have shots on target in the WHUFC v AZ Alkmaar game, which bet was unsuccessful.

501. The essential point of The FA's submission is that the bets placed on the Player to be carded were significantly above the average of his bets across his other football bets, which, with the bets on the Player, totalled 243.

502. Mr Paterson, who was 'for reasons of timing'²⁵⁷ not cross-examined about this bettor, noted that the bet of £321.32 was on the Player to 'score or be shown a card' which is a hedged bet, suggesting that the bettor is not someone who is certain of the outcome. Furthermore, the other bet on RM3 is noted by Mr Paterson as not appearing to be a maximum bet²⁵⁸.

503. These factors, allied to the failure to bet on the other 3 RM's leads the Commission to conclude this data provides no support to the suggestion the bettor bet with enhanced confidence arising from knowledge of a spot-fix.

²⁵⁵ FA's Written Closing paragraph 531.

²⁵⁶ Report at paragraph 244.

²⁵⁷ FA's Written Closing paragraph 535.

²⁵⁸ Report at paragraph 247.

Bettor:

504. Another 'notable bettor' it was suggested during the hearing an indirect link with the Player had been established, based on Mr Astley's 6th statement, where he gives evidence that it has been determined she is in a relationship with someone who's Instagram profile shows he follows [redacted] and [redacted]. This statement, produced after the hearing had begun, shows The FA were still working on the 'notable bettors' to establish links to the Player. In this instance the Commission considers the link to be remote.
505. The bettor placed 10 bets across RM2 and RM3 with total stakes of £1,158.79 with a return of £3,946.89 and a net profit of £2,788.10. Two of the 8 bets the bettor placed on RM2 were placed at half time, which clearly shows some confidence in the outcome.
506. Of those 8 bets, one was a double for the Player to be carded along with [redacted] to be carded in [redacted]; one was a treble on the same two players to be carded plus Marseilles to win (which they did not, so the bet was lost); 2 further doubles on the same two players to be carded or to score; one a single for the Player to be carded; and 3 doubles on the same two players to be carded or score.
507. On RM3, 2 bets were placed. One was a single on the Player to be carded, the stake being £209.30, and one on the Player to be carded or score, the stake being £627.61.
508. Again, Mr Paterson was not cross-examined on this bettor 'for timing reasons'.²⁵⁹ The Commission notes the criticisms of his report on this bettor but also notes that Mr Paterson accepted the "*size and success of the bets on [the Player] are somewhat suspicious*".²⁶⁰ whilst also identifying that the fact she has not wagered on RM1 and RM4 makes the bets less suspicious. Mr Paterson also draws our attention to the suggestion her bets are 'somewhat spontaneous'.²⁶¹, pointing out

²⁵⁹ FA Written Closings at paragraph 543.

²⁶⁰ Report, paragraph 253.

²⁶¹ Report, paragraph 251, Bundle F page 217.

that she wagered £1,112.47 across 9 bets on the Player's shots against AZ Alkmaar, losing £346.93 in the process.²⁶²

509. Considering all the information available to the Commission on this bettor, including the comments of The FA and the comments of Mr Paterson, we do not think the betting shows the absolute confidence of someone who knows the outcome is certain, nor that it supports the suggestion the Player was involved in a spot-fix.

Bettor:

510. Another notable bettor, this bettor placed 6 bets on RM4 for a total stake of £772.71, giving a return of £1,698.59 and a net profit of £925.88. The account was only opened four days before RM4.

511. In the Commission's view the evidence, which is very limited on this bettor, does not establish that she was aware of a spot-fix, not least as she only bet on one match. Whilst the stakes are clearly high there is simply no other information to provide context, such that the evidence is of little weight.

Bettor:

512. Another notable bettor, this bettor placed 9 bets across RM2 and RM3 for total stakes of £696.88 with a return of £1,839.14 and a net profit of £1,142.46. The bettor placed 4 bets on RM2, 3 of which were doubles, 2 for the Player to be carded and to be carded in , with one being for the same two players to be carded or to score. The bettor placed 5 bets on the Player to be carded in RM3.

513. The total waged on RM2 was 'just' £57.69, which compares to her first bet on her account in the sum of £392.22.²⁶³ This does not exhibit the confidence to be expected if she was aware the outcome was certain.

²⁶² See TA/157, Bundle C, page 898.

²⁶³ See TA/158.

514. It is accepted her bets on RM3 are much higher, but the bets do not appear to be maximum bets.²⁶⁴ and she did not bet on RM1 or RM4.

515. This was another bettor in respect of whom Mr Paterson was not cross-examined, 'for reasons of timing'.²⁶⁵ We note, as with all similar bettors, the criticisms of Mr Paterson proffered by The FA, but the high stakes and the fact the account does not show another 'player to be carded' bet does not, in our view, displace his conclusions.

516. We do not consider the evidence of the betting data on this bettor, taking into account all the circumstances, is consistent with a bettor who knew the outcome was certain, or that the evidence is supportive of the suggestion the Player was involved in a spot-fix.

Bettor:

517. The last individual bettor is another 'notable bettor' who placed 4 bets on RM4 and had 3 additional bets rejected. The bets were all placed within a relatively short period of each other.

518. Mr Paterson, who was not cross-examined on his report²⁶⁶ suggests the limited data available suggests that this bettor "*is likely a recreational, even naïve, gambler who doesn't understand the concept of value betting.*"²⁶⁷ He also observes that the bets placed do not appear to have been maximum bets.

519. Taking all the data of this bettor into account, including that he only bet on 1 of the RM's, we do not consider this is a bettor who was aware the outcome was fixed, or that the data supports the suggestion the Player was involved in a spot-fix.

The remaining bettors

520. We have considered all of data relating to the above-named individual bettors from the perspective of whether, on the balance of probabilities, we consider their

²⁶⁴ See report of Mr Paterson at paragraph 258, Bundle F, page 219.

²⁶⁵ FA Closing Submissions, paragraph 552.

²⁶⁶ FA Closing Submissions, paragraph 557.

²⁶⁷ Report at paragraph 261, Bundle F page 220.

data shows that they were in receipt of information, directly or indirectly, from the Player that he would be carded in any or all of the RM's. We should also comment that having discussed, in detail, 33 of the 253 bettors, that means that there are 220 bettors who placed bets on the Player to be carded across the 4 RM's in Brazil, 10 of whom are said to be 'device linked', but the other 210 of whom The FA has no evidence of any link, whether real or tenuous, with the Player and whom by not being identified as 'notable bettors' we must assume were not thought to have bet with such enhanced confidence to place them in that cohort.

521. This is a significant number of bettors who appear to offer no particular support for the bets having been placed because, as is alleged, the Player told a member or members of his family or friends that he was going to be carded on 4 separate occasions. Certainly, the fluctuating number of bets across the 4 RM's, namely 17, 249, 87 and 189 respectively, in the Commission's view is supportive of the explanation for the betting arising as a result of 'tips' or perceived 'inside information' circulating, to varying degrees, rather than the Player stating he would be carded in the RM's.

522. Even if, as The FA state, the Player could not control to whom such information was passed in Brazil, as we have already stated, we would expect in a spot-fix those involved to control the information. It defies logic for them to be loose with what would be precious information, even more so on an apparently significantly fluctuating basis from game-to-game.

Bob Scott evidence

523. Key for The FA's case is that we have to tie, albeit on a balance of probabilities, the betting data to the Player and his being involved in a spot-fix. We are invited to do so, evidentially, on a circumstantial basis and there are clearly aspects of the betting data which raise concerns: an example arises from the evidence of Bob Scott.

524. Mr Scott, who was an impressive witness, is a Fellow for the Institute of Actuaries. He gave evidence on Day 13 of the hearing. When he was being cross-examined, Mr Scott was asked what the probability was of the Player being booked in a match. Having identified that the exact figure would depend upon

the circumstances of the match, who the referee was, the conditions of the pitch and all sorts of things, he said it was roughly between 25 and 30%..²⁶⁸

525. He was then asked what the chances of a bettor being able to, out of the 42 games in a season, identify 2 games where the Player was booked in both. Mr Scott said the chances in the second game would be the same 25 to 30%, but the chance that both would be successful would be 8 or 9%.²⁶⁹.

526. We then proceeded to Mr Scott telling us the chances of a bettor selecting 3 games, where the Player was booked in each was between 2 and 3%.²⁷⁰ and for a bettor to select 4 games where the Player was carded would be less than 1%.²⁷¹.

527. The FA submit, in their closing submissions²⁷²:

“...it is these figures, in combination with the betting patterns which, submits The FA, demonstrates the Player has been guilty of corruption; of spot-fixing. A tip (hot or otherwise) cannot possibly explain the very, low chances of such a large number of suspicious bettors being able to identify the RM’s.”

528. Of course, as we have already stated, we are not with The FA on its assessment of the individual betting data. Equally, we are far from sure that it follows that low odds events do not arise from a ‘hot tip’ or perceived ‘inside information’, or that low odds do not occur. For example, the written closing submissions on behalf of the Player highlight that the bettor was successful with an accumulator bet, just four days before RM4, with odds of 671 to 1.

529. However, when considering this statistical evidence, the Commission was struck by the evidence of Mr Scott in his report²⁷³ when he said:

“Had [the Player] intentionally sought to obtain yellow cards, it would be reasonable to expect that his rate of receiving yellow cards over the period of the Relevant Matches would be higher than the rate observed

²⁶⁸ Transcript Day 13, page 99, lines 3-13.

²⁶⁹ Transcript Day 13, page 100, line 25.

²⁷⁰ Transcript Day 13, page 101, lines 7-8.

²⁷¹ Transcript Day 13, page 101, lines 23-24.

²⁷² At paragraph 281.

²⁷³ At paragraph 4.9, Bundle F page 233.

over the rest of his career. However, that is not borne out by the statistics.”

530. Mr Scott proceeds to consider the statistics and concludes “*There is therefore no observed increase in [the Player’s] rate of receiving yellow cards over the period of the Relevant Matches.*”²⁷⁴. As such, in the Commission’s view, on one view if the Player were involved in spot-fixing, it is quite possible, if not probable, that he would have also had to have been active to ensure that he was not booked in other matches, to keep his average bookings the same. Of course, to state this is speculative on our part.

531. However, what evidence we have is from the impressive Mr Scott. The Commission concludes that when considering this statistical evidence, whilst there were very low odds for correctly identifying bookings in 3 or 4 matches, which certainly raises suspicion, and all the bettors identified at least 1 match, the bridge to suggesting that, on the balance of probabilities, it is because the Player informed one or more of them that he would be carded in each of the RM’s as distinct from ‘hot tips’ or perceived ‘inside information’ happening to be correct, allied to the important point that his average for bookings was not altered, means that the bridge is one that the FA has, in our view, failed to cross.

Other matches

532. A similar point is that relied upon by The FA that none of the bettors placed bets on the Player to be carded, other than in the RM’s. In the FA’s written closing submissions, it is said²⁷⁵:

“What, however, is of considerable evidential significance, is, first that in no other fixture (including the five games in which he was cautioned in the 2022-23 season), other than the 4 RM’s was there any pattern of suspicious betting activity associated with those games. Second, the relevant bettors (apart from | – and those bets were unsuccessful) did not place bets on [the Player] to be carded on any other match outside the RM’s.”

²⁷⁴ Paragraph 4.10, Bundle F page 233.

²⁷⁵ At paragraph 36.

533. The Commission understands the basis of this submission to be an email from UEFA dated 7 January 2025, which states:

“We can confirm that none of the suspicious bettors shared with The FA have placed any other bets on Lucas Paqueta to be booked/carded in any other game during the 2022/23 season, aside from the [RM’s].”

534. Two points immediately arise: the first is that the email does not cover the 2023/2024 season, in which RM4 took place and, secondly the statement is demonstrably wrong in so far as we have evidence that [redacted] placed bets on the Player to be carded during the 2022/23 season.²⁷⁶ other than in the RM’s. As is evident from the above cited passage from The FA’s written closing that appears to be accepted, which leads us to question UEFA’s statement.

535. We need not detail in considering this information at this stage, how the email from UEFA came before the Commission and it appears from the email train exhibited in TA/222 (which was the full email train which had not been included in TA/68) that UEFA had confirmed in late 2023 that a number of individual operators had confirmed no other suspicious bets, but the Player suggests not *all* betting operators.²⁷⁷ The Player’s written closings also submit that we did not have before us all betting data regarding betting on the Player in all matches in all markets.²⁷⁸

536. On any view, the Commission is surprised that The FA needed to check with UEFA on this point in January 2025, some 6 months after the Player had been charged. Whether the point, in all the circumstances, is of the ‘*considerable evidential significance*’ suggested by The FA is questionable, but the Commission accepts the point is one, which heightens suspicion on the overall betting.

537. However, having regard to all the points we have already discussed on the granular detail of the bettors betting data and patterns, where we have concluded there was nothing, individually, to suggest that the bettors had received

²⁷⁶ For example: see C/1091 where a bet of £74.39 was placed on the Player to be carded, which bet was lost.

²⁷⁷ Closing Submissions at pages 196-197.

²⁷⁸ Closing Submissions at paragraph 144(d).

information from the Player that he was to be carded, we ask ourselves the question of whether the fact that none of the bettors are said to have placed bets on other matches for the Player to be carded changes our overall view? Whilst, as we say, suspicion is clearly raised by this point, the answer is no. Given our conclusion that the individual betting data is at least (if not more) consistent with perceived 'hot tips' or perceived 'inside information' as it is to a spot-fix, the lack of betting on other games may simply be because there was no such information swirling in Brazil in relation to other matches. We have not been persuaded by The FA that it can only be explained by reason of the Player having been involved in a spot-fix on the 4 RM's.

Brazilian Parliamentary Inquiry

538. In March 2024, the Parliamentary Investigation Committee on the Manipulation of Football Games and Sports betting was established in order to investigate allegations and suspicions relating to the manipulation of results in Brazilian football..²⁷⁹ The report has been referred to before us as the 'CPI' report. We were told:

*"The main purpose of the CPI was to gather information leading to possible criminal, civil and administrative repercussions to be further reviewed by the competent authorities."*²⁸⁰

539. Mr De Menezes informed us that:

*"On 1 October 2023, CPI invited
to testify on the facts that were made public on 29
September 2024 about his direct involvement in suspicious financial
operations concerning sports betting, in particular involving football
players and [the Player]. On 30 October 2024
appeared before the CPI to testify but remained in silence
under the protection of a habeas corpus order made by Brazilian
Federal Supreme Court."*²⁸¹

²⁷⁹ See statement of Caio Campello De Menezes, Bundle B at paragraph 12, page 224.

²⁸⁰ Caio Campello De Menezes, paragraph 13, Bundle B page 224.

²⁸¹ Statement at paragraph 17, Bundle B page 224.

540. This was the inquiry into _____ to which Christiane Tolentino referred in her evidence to us. Ultimately a 692-page draft report was produced, which was presented to us in the form of both the Portuguese original and a ‘Google – translated’ English version. These were appended to a statement of Mr Matthews, dated 24 February 2025.²⁸²

541. The report was finalised during the course of our hearing, on 19 March 2025, and the final version of the report was also produced to us in an untranslated and a google translated version, appended to the statement of Mr Matthews dated 21 March 2025..²⁸³

542. Mr De Menezes informed us that he was instructed to assist The FA in trying to obtain evidence from the CPI. It is not necessary to detail all the steps that were taken, which we were informed about and have taken into account. However, Mr De Menezes told us that on 31 March 2025 the Brazilian law firm who were his co-counsel requested a hearing from the Public Prosecutor’s Office of the State of Goias (“**MP-GO**”) and that on 23 April 2025, pursuant to an official letter from the MP-GO disclosure of evidence was authorised.

543. Mr De Menezes told us.²⁸⁴:

“Consequently, the MP-GO provided [an] Information Report... with its findings and conclusions regarding evidence of match-fixing regarding the yellow card received by [the Player] during a Premier League match in which he was playing for West Ham. The findings in the Information Report are based on information provided by Mr _____ during his plea-bargaining process, and included data extracted from his mobile phone, such as screenshots of bets placed on [the Player].

According to the Information Report shared with The FA by the MP-GO, _____ stated that he was aware of a statement by [the Player], prior to 12 March 2023, that he would be giving his _____ a ‘birthday present’ in the form of a

²⁸² Bundle B, page 215, with exhibits at Bundle C pages 1947 – 3350.

²⁸³ Bundle B, page 218, with exhibits at Bundle C pages 3351 – 4736.

²⁸⁴ Addendum Statement 2 at paragraphs 10 -11, Bundle B page 248.

yellow card during the football match between West Ham and Aston Villa Football Club on 12 March 2023 at the London Stadium.”

544. As an aside, and in the context of what has been said previously about the betting data, The FA’s working document does not appear to identify any bets placed by himself. In fact, the only evidence of having placed a bet on RM2 himself is said by the Player’s closing submissions to have been disclosed with Mr De Menezes’ Addendum statement: it was a losing triple bet worth £3.14.²⁸⁵, which does not suggest he had much confidence, if any, in the outcome of the Player being booked in RM2.

545. Mr De Menezes also said.²⁸⁶:

“The MP-GO also provided The FA with a media file containing a redacted version (in Portuguese) of a video statement by _____ given to the MP-GO on 11 July 2023... In his statement, _____ states that [the Player] received a yellow card as a birthday present for _____, _____. For ease of reference, the relevant _____ portion of the recorded statement is between the following time stamps...”

546. During the hearing we were shown the relevant portion of the video. The English version of the transcript provided states.²⁸⁷, as relevant:

“I don’t know the amounts, because according to _____, Lucas Paquetá didn’t make any money from doing it. He did it as a gift for his _____ birthday. _____ was going to place the bet and win some money, and Lucas Paquetá did it as a present to him.”

547. The Player’s written closing submissions compellingly point out that in so far as Mr De Menezes says there was a ‘statement’ from the Player that is plainly incorrect. The transcript does not suggest that _____, or his stated source _____ suggest the Player ‘stated’ that he would get booked in RM2 as a ‘birthday present’. The information report²⁸⁸ says the Player

²⁸⁵ Player’s Closing Submissions at paragraph 274: pages 168-9.

²⁸⁶ At paragraph 13 of his Addendum Statement, Bundle B, page 249.

²⁸⁷ Bundle C, page 5065.

²⁸⁸ Bundle C, page 5049.

‘announced’ he would get booked in RM2, which was the word used by The FA in its written closing.²⁸⁹ However, the transcript, as can be seen from the previous paragraph, does not use this word either.

548. As to the probative value of this evidence, we have regard to the fact it is double hearsay evidence, given by someone in a plea-bargain, whom has not been called before us. Mr De Menezes accepted²⁹⁰, in answer to a question from the Player’s solicitors, that [redacted] had informed the CPI that he did not know or talk to either [redacted] or [redacted].

549. Further, the double hearsay has to be considered in the context of the direct evidence we heard from [redacted], namely that [redacted] has no interest in betting as well as the evidence we have of the Player’s generosity to his family and the fact there is no evidence of [redacted] having his own betting account(s). In considering what weight to give the evidence, we conclude in all the circumstances, it should be accorded little weight.

550. Whilst The FA have been at pains, no doubt as a result of the CPI evidence, to establish links with [redacted] and up to 25 of the named bettors, that he was undoubtedly a part of the family and friendship group does not, in the Commission’s view, establish that he was using the accounts of others.

551. It is interesting to the Commission that in its written closing submissions, The FA states²⁹¹:

“The fact there is no positive evidence that [redacted] placed any bets in his own name does not, of course, mean he did not benefit financially from [redacted] indication that he would deliberately seek a card. [redacted] is well connected to the vast majority of the linked bettors and it is perfectly possible that they (or others) acted as a proxy for him”.

²⁸⁹ At paragraph 4.

²⁹⁰ Addendum Statement at paragraph 4, Bundle B page 229.

²⁹¹ At paragraph 4.

552. In the Commission's view this is not a committed statement on the part of The FA. Indeed, whilst we assume The FA is asking us to draw the inference that this occurred, this appears to be suggested rather shyly.

553. When we consider the totality of the evidence and ask ourselves: does this evidence unlock matters and establish that in this one game we have evidence of a conversation between [redacted] and the Player that the latter would be carded, which the former then acted upon to his financial benefit, possibly through use of the accounts of others (but none of his own), we conclude that the evidence presented by The FA falls significantly short of establishing such a case on the balance of probabilities (especially because of the little weight given to the evidence derived from the CPI report). This is so, we must add, notwithstanding that whilst we were originally told that [redacted] would give evidence before us, ultimately for reasons which are not altogether clear, he did not.

554. A point is also made that the plea-bargain video was made in July 2023, namely before The FA's investigation into the Player was public knowledge. This is unquestionably true, but as we have already stated if [redacted] was aware of the information at the time of RM2 he certainly did not show that, given he placed a single, losing, bet of £3.14 on RM2, as far as we are aware. In any event the validity of the timing point does not cause the Commission to materially change its assessment of the weight to be attached to this evidence.

555. Matters do not end there with the CPI report though. At paragraph 11 of the FA's written closing submissions, it is said that records before the CPI:

*"...evidence payments between [redacted] and [redacted]
[redacted] ...and provide an evidential basis, at the least of it, for a
concern about [redacted] and whether, he too, either directly
or as a proxy, was involved in the spot-fixing."*

556. However, in her statement, Christiane Tolentino, gave evidence that [redacted] agreed to sell his car to [redacted], who would pay in instalments. A copy

of the transfer document was before us.²⁹² This evidence was not challenged by The FA.

557. Turning to a wholly different aspect of the evidence and different strand of argument, it was said in The FA's closing submissions.²⁹³:

"The material which was considered by the CPI and which appears in its final report, is also supportive of The FA's case in a number of material respects. First, it establishes that the Player's [redacted] and [redacted] had a corrupt relationship with [redacted] – no witness could suggest a legitimate reason why they might send him money very shortly after having bet on the same player to be carded. Second, the payments [redacted] made to a notorious match – fixer further establishes his corruption, making it the more likely that this was a facet of his relationship with [the Player]."

558. As to these very serious allegations, we need do no more than record what was said in the Official Letter from the MP-GO, namely the Prosecutor's office as distinct from the Parliamentary Inquiry, which letter was exhibited to Mr De Menezes' statement.²⁹⁴:

"Finally, in relation to the person [redacted] it is informed that the investigation conducted from Operation Maximum Penalty did not produce any evidence that would indicate his participation in the practice of manipulation of results and/or events in sports matches, which impairs the analysis of the request in this regard."

559. We are not in a position to go behind that statement and make no attempt to do so. Furthermore, we note that when cross-examined the above statement was put to Mr De Menezes and he was asked.²⁹⁵:

"Q: So, as I understand it, what that means is there is no evidence suggesting any involvement of [redacted] in match fixing or spot

²⁹² Bundle J, page 510.

²⁹³ At paragraph 6(6).

²⁹⁴ Statement reference, paragraph 7, Bundle B at page 248; letter at C/5039.

²⁹⁵ Transcript Day 16, page 73, lines 12-18.

fixing and because of that you can't have any further – or The FA sorry, can't have any further information relating to him. Is that right?

A: That's right."

560. In so far as The FA's comments recited above also embrace (being the referred to), we have no evidence that any action was taken against him. We have already considered his individual betting patterns above and note that The FA's allegation against arising from the CPI report was the same as in respect of ²⁹⁶ which, as we have identified, is superseded by the MP-GO information.

561. Considering the CPI report and the documentation that was obtained flowing from its publication, the Commission found it of little assistance. In one respect the evidence relied upon could only be accorded little weight, and contradicted evidence we had heard, including by direct evidence, which we unhesitatingly prefer, and in the other respect it is, in our view, superseded by the statement from the MP-GO.

562. Before leaving this report, it highlights a more general issue we must address. The FA, in its submissions made a number of very serious allegations against individuals who were not called before us and over whom, in any respect, we have no jurisdiction. They effectively invited the Commission to draw inferences on those individuals to assist their case against the Player.

563. Again, perhaps surprisingly late in the day, Mr Matthews wrote to FIFA on the 7 April 2025 asking if they had any records of any investigations 'that FIFA has conducted or is currently conducting' relating to three named individuals. The answer, provided on the same day, was that having consulted with records and FIFA Disciplinary, the answer was 'no'. A similar email was sent to UEFA on the following day, namely 8 April 2025, and again the answer was negative.²⁹⁷

564. This is in addition to the email exhibited to Mr Matthews statement, which email is dated 13 March 2025.²⁹⁸ (just days before the Commission hearing began)

²⁹⁶ The FA's written closing at paragraph 143.

²⁹⁷ The emails are in DJM25 and DJM26 respectively and are referred to in Mr Matthews statement dated 11 April found at Bundle B, page 245.

²⁹⁸ C/4760.

from the which stated that they had no investigation into, nor had any disciplinary charged been brought against

565. Ultimately, we agree with the submission made on behalf of the Player.²⁹⁹, that in so far as The FA have sought to refer to third parties, the evidence of we consider to be of little weight and as to others the fact that the evidence from relevant authorities in Brazil and has confirmed there are no investigations or charges, supports the defence of the Player as opposed to The FA's own case.

Summary regarding betting data and patterns

566. Having considered the betting data of the identified bettors in detail, as well as the general points made in respect of that data, our clear view is that the betting data and patterns of those 'linked' to the Player, including some tenuous links, all of whom are based in Brazil and all of whom, save for successfully bet on the Player to be carded in one or more of the RM's, does not support a level of confidence which is explained, on the balance of probabilities, by the Player having passed information to one or more persons that he would be carded during the RM's.

567. The Commission does not shy away from the fact that elements of the betting data, and indeed an initial assessment of it as a whole, raise suspicions and the Commission is wholly understanding of why, when The FA first received the betting data, especially in view of what it was told by the IBIA and the betting operators, that raised a high level of suspicion, especially when allied to the Player's 'no comment' interviews (which we discuss in respect of the 'F Charges') and other matters such as that arising from the initial review of the phone data and the bettors refusal to engage with The FA.

568. We make no criticism of Mr Astley, when we observe that he meticulously presented the raw data in his first statement, which was commented upon by Mr Paterson in his report, but, inexplicably in the Commission's view, Mr Astley was then specifically asked not to "*make comments and/or engage in argument as to the inferences to be drawn from the betting patterns*" which resulted in Mr Astley

²⁹⁹ Closing Submissions at paragraph 278.

not specifically commenting on Mr Paterson's views about the individual bettor's data. The lack of an independent expert's assessment of the betting data and patterns on the part of The FA was a flaw, in the Commission's view, in the presentation of its case by The FA.

569. In the Commission's view, for all the reasons we have stated, when one considers the betting data in detail there are simply too many negatives for The FA to meet the standard of showing, on the balance of probabilities, that the Player was involved in a spot-fix.

570. This is our view whether the data is reviewed in its individual parts, or whether it is considered as a whole. Viewed as a whole, the data initially clearly raises suspicion: especially the number of bettors who successfully staked on the RM's, but not other matches, with many being linked, directly or indirectly (however tenuously) to the Player and the statistics presented by Mr Scott.

571. However, in the Commission's view, the whole cannot be viewed without consideration of the individual and, for the reasons we have stated, when that individual data forming the constituent elements of the whole is assessed it undermines the suspicions from an initial assessment of the whole. In the Commission's view we are driven to the conclusion the betting patterns may have emerged from a rather random passing of perceived 'hot tips' or perceived 'inside information' within Brazil as much as they may have emerged from a spot-fix, such that, on the balance of probabilities, the data does not prove The FA's case. Indeed, overall, the Commission is of the view it is the former 'hot tips' or perceived 'inside information' which is a more likely explanation for the data than a spot-fix.

THE PERFORMANCE ANALYSIS

572. In this section of our reasons, we will consider the Player's on-field performance in the RM's where the Player was booked:

- a. In RM1 for reckless play;
- b. In RM2 for reckless play;

c. In RM3 for a foul tackle; and

d. In RM4 for persistent infringements, following a handball.

573. An important limb of The FA's case against the Player in respect of the E5 charges was that he deliberately sought to be yellow carded during each of the Relevant Matches.³⁰⁰

574. As would be expected, given the level of football at which the Player participates, extensive amounts of video footage, statistics and data covering his on-field actions were available for analysis in order to establish whether or not the Player's actions in the RM's indicated that he was in fact 'deliberately' seeking to be yellow carded.

575. The Commission was provided with a number of written documents prior to the hearing and heard oral evidence from numerous witnesses during the hearing in relation to the Player's on-field actions.

576. We set out below an overview of the written and oral evidence presented to the Commission in respect of the Player's on-field actions. This is followed by the Commission's conclusions in relation to that evidence and how it informed the Commission's assessment of the E5 charges brought against the Player.

577. There was an extensive amount of footage, data and statistical evidence analysed within this area of the case and it would not be practical or helpful to delve into every aspect of the evidence and the analysis of it in this document. The following is an overview of the written and oral evidence presented to the Commission. If certain aspects of the analysis or evidence submitted are not covered in these reasons that does not mean that those aspects were not studied, absorbed, considered and understood by the members of the Commission.

³⁰⁰ See paragraph 54 of The FA's written closing submissions.

Written Evidence submitted by The FA in respect to the Player's on-field actions:

The FA's Opening Document dated 11 March 2025

578. The FA's written opening document states:

"Analysis of [the Player's] overall disciplinary history (since 28 May 2017) shows that he was cautioned more often than the average player in league matches in six out of seven seasons throughout the duration of his career. Given [the Player's] style of play and the positions he occupies, on occasions (as described in [the Player's] witness statement) it is accepted that he is a player who will attract cautions...

...What, however, is of considerable evidential significance is that in no other fixtures, other than the four RM's, was there any pattern of suspicious betting activity associated with [the Player] being carded.

*In the 2022-23 season, [the Player] made 41 appearances for WHUFC across all competitions and was cautioned in nine separate matches (including the three RM's – RM4 was the first game of the 2023-24 season...). [The Player] was also booked in WHUFC's fixtures against Tottenham Hotspur FC on 31 August 2022, Anderlecht on 13 October 2022, Everton FC on 21 January 2023, Manchester United FC on 1 March 23 and AZ Alkmaar on 11 May 2023 (the 'Non-Suspicious Matches'). However, and notably, there were no suspicious betting patterns on [the Player] to be carded associated with any of the Non-Suspicious Matches."*³⁰¹

579. The FA's general opening position, in respect of the Player's on-field actions was that the Player had "...sought those cautions by deploying a natural aspect of his game to the tackles which resulted in the bookings in RM1, 2 and 3 and handles the ball in RM4 having failed to be cautioned for his earlier transgressions"³⁰².

580. As part of its investigation, The FA instructed Stats Perform Integrity Services ('SPIS') to undertake a detailed analysis of the four (4) 'suspicious' RM's, the Player's playing record and the circumstances surrounding his bookings in each

³⁰¹ Paragraph 129-131 The FA's Opening (amended as of 11 March 2025).

³⁰² Paragraph 217 The FA's Opening (amended as of 11 March 2025).

of those fixtures. SPIS also analysed five (5) '*Non-Suspicious*' Matches in which the Player was yellow carded during the 2022-23 season.

581. Over the course of the case there has been a significant exchange of views between SPIS and the Player's experts (Tim Keech, Benjamin Patterson, Mark Clattenburg and Bob Scott) with each commenting and re-commenting on each other's various data heavy reports (and responses to those reports). The Commission cannot possibly deal with the minutiae of those exchanges in these reasons. We endeavour to reflect their written and oral evidence as is relevant to the issues.

SPIS Analysis of nine WHUFC Matches 2022-23

582. Stats Perform is a sports data and analytical company.³⁰³ SPIS is a division within Stats Perform whose role includes supporting clients and other stakeholders to identify and take action against match manipulation, particularly betting related match manipulation.³⁰⁴

583. Concerns regarding the Player receiving yellow cards in matches were raised with SPIS by The FA and other betting industry stakeholders.³⁰⁵ The FA requested that SPIS undertake an analysis of the Player's on-field actions.³⁰⁶

584. SPIS provided 12 reports to assist with The FA's investigation. These can be separated into Report A, which is an overview of the RM's, together with the Non-Suspicious Matches; Report B which is a composite report of the RM's; Report C, a document addressing the Player's Mrkt Insights report and Report D, a report into the Player's yellow card probability analysis and eight further reports (E-M) which analyse every fixture in which the Player was carded in 2022/23 football season.³⁰⁷

³⁰³ Paragraph 9 SPIS Statement – LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024.

³⁰⁴ Paragraph 15 SPIS Statement – LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024

³⁰⁵ Para 5 SPIS Statement – LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024.

³⁰⁶ Para 6 SPIS Statement – LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024.

³⁰⁷ The FA's Case Summary dated 23 May 2024 para 413.

585. Under the supervision of its Senior Performance Integrity Analyst, Jack Johnson³⁰⁸, SPIS analysts provided the FA with Performance Integrity Reports ('PIRs') for nine (9) football matches. The nine (9) matches were split into two (2) categories – the four (4) RM's and five (5) further '*non-suspicious*' matches.

586. According to SPIS, every individual 'PIR' incorporates betting market analysis, analysis of events on the pitch and gathered intelligence to provide an understanding from an integrity perspective.³⁰⁹ SPIS drew upon OPTA data when analysing the events on the pitch that involved the Player. OPTA is a further division of Stats Perform. Events such as 'tackles' and 'defensive duels' are defined in OPTA's event definition glossary.³¹⁰

587. Qualitative analysis of match footage from all nine (9) of the analysed matches was undertaken by SPIS analysts who reviewed match footage to identify unusual actions or on-field events deemed relevant to the integrity concerns over a match.

588. Following analysis of the betting markets, analysis of events on the pitch and further intelligence gathering, each of the nine analysed matches was allocated a grading of one (1) to five (5) that reflected where SPIS felt the match stood from an integrity perspective.

589. The SPIS Match Grading system is as follows:

1. *No suspicion – there are no indicators for integrity concerns around the match.*
2. *Low suspicion – relatively small, unexplained, betting market moves, performance integrity analysis and/or intelligence indicate low level integrity concerns around the match.*

³⁰⁸ Para 47 SPIS Statement - LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024.

³⁰⁹ Para 6 SPIS Statement – LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024.

³¹⁰ Para 38 SPIS Statement – LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024.

3. *Medium suspicion – moderate unexplained betting market moves, performance integrity analysis and/or intelligence indicate medium level integrity concerns around the match.*
4. *Strong suspicion – large unexplained betting market moves usually across multiple markets and outcomes, performance integrity analysis and/or intelligence, indicate strong integrity concerns around the match.*
5. *Very strong suspicion – an assessment of the available betting data, performance integrity analysis and intelligence indicates the integrity of the match is likely compromised.*

590. Each individual PIR contained a large analysis of data and, as stated above, it would be impracticable to comment on everything individually within these reasons. Whilst the Commission only reproduces below SPIS's PIR summaries for the four (4) RM's³¹¹ the Commission considered each of the PIR's for both the RM's and the 'Non-Suspicious' matches in all their individual detail.

SPIS Summaries for the Four Suspicious Relevant Matches and Match Gradings

RM1 – West Ham v Leicester City – 12th November 2022

"The FA informed SPIS that they had identified a number of bets placed on PAQUETÁ to be carded in West Ham v Leicester City, 12th November 2022 ('West Ham v Leicester City'). The bets were placed by bettors who subsequently placed bets on PAQUETÁ to be carded in other Suspicious Matches.

In the match PAQUETÁ committed four fouls (All match statistics referenced in this statement are as defined by Opta unless otherwise stated), contested eight defensive duels and attempted four tackles which was higher than his 2022/23 Premier League averages. He did not commit more than four fouls in a 2022/23 Premier League match.

PAQUETÁ committed four of West Ham's nine fouls, two more fouls than any other player in the match, and received one of West Ham's

³¹¹ Paras 73 -130 SPIS Statement – LP Analysis of 9 West Ham United Matches 2022-23 dated 2nd April 2024.

three yellow cards. In his 27 2022/23 Premier League appearances outside of this match, PAQUETÁ committed four fouls on four occasions, one of which was in the Suspicious Match against Aston Villa, 12th March 2023.

PAQUETÁ received a yellow card in the 60th minute following a late sliding challenge on SOUMARE. PAQUETÁ approached SOUMARE directly from behind and appeared to have a very low chance of winning the ball legitimately. Referee GILLET played an advantage, then PAQUETÁ fouled PRAET after the ball had been played. GILLET's decision to show a yellow card appears justified.

PAQUETÁ's actions prior to the yellow card increased the chances of him receiving a caution for persistent offences. GILLET played advantage after PAQUETÁ contacted SOUMARE in the 49th minute, then PAQUETÁ fouled SOUMARE and showed some signs of dissent in the 54th minute.

In a review of PAQUETA's 50 fouls in the 2022/23 Premier League season, SPIS identified five sliding challenges made by PAQUETÁ. Three of these challenges were made in two Suspicious Matches, this match and against Aston Villa, 12th March 2023. PAQUETÁ's sliding challenge on SOUMARE prior to PAQUETÁ receiving a yellow card in this match shares similarities with his sliding challenge on MCGINN against Aston Villa, 12th March 2023, which led to a caution.

Given the intelligence received regarding suspicious betting and that PAQUETA was subsequently booked to make the betting successful, the high number of offences committed by PAQUETA – including a sliding challenge which appeared unusual when compared to his challenges in other matches – and his significantly higher tackle, defensive duel and foul statistics, significant concerns are raised over the integrity of PAQUETA's performance in the match.

West Ham v Leicester City, 12th November 2022, has therefore been assigned a grading of '4' (**Strong Suspicion**) on SPIS' Integrity Grading Index. SPIS' grading may change if further intelligence or information on the match is received.

A betting integrity industry stakeholder informed SPIS that two of its members had reported concerning betting activity on PAQUETÁ to be booked in West Ham v Aston Villa, 12th March 2023 ('West Ham v Aston Villa'). The members witnessed an abnormally high turnover on the selection driven by multiple new customers and well-established customers betting placing [sic] stakes outside of their usual parameters.

In the match PAQUETÁ committed four fouls, contested seven Opta-defined defensive duels and attempted two tackles, which was more than his 2022/23 Premier League averages. He did not commit more than four fouls in a 2022/23 Premier League match.

PAQUETÁ committed four of West Ham's nine fouls in the match, two more fouls than any other player, and received the only yellow card of the match. In his 27 2022/23 Premier League appearances outside of this match PAQUETÁ committed four fouls on four occasions, one of which was against Leicester City, 12th November 2022.

PAQUETÁ received a yellow card in the 70th minute for his fourth foul of the match, a reckless, late and forceful tackle on MCGINN, in which PAQUETÁ did not contact the ball, and which was made very close to Referee KAVANAGH. West Ham had defensive cover ahead of the ball and PAQUETÁ's challenge did little to benefit his team and KAVANAGH's decision to show a yellow card appears correct.

PAQUETÁ also made a foul earlier in the match when he lunged in and flicked the leg of WATKINS which prevented a potentially dangerous counter-attack for Aston Villa. Although West Ham did have a numerical advantage beyond the ball and there was some sporting justification for committing a foul to stop the attack, PAQUETÁ appeared to make no attempt to win the ball and it is not uncommon for challenges such as this to be penalised with a yellow card.

The two sliding challenges made by PAQUETÁ in the match, one of which led to a yellow card, were two of five sliding challenges identified in SPIS's review of footage of PAQUETÁ's 50 fouls in the 2022/23 Premier League season.

PAQUETÁ made the challenge which led to the yellow card 28 seconds after he had been penalised for a late challenge on LUIZ. Opta data shows that PAQUETÁ had not made two fouls so close to each other before in a Premier League match.

PAQUETÁ's actions prior to the yellow card increased the chances of him receiving a caution for persistent offences. PAQUETÁ committed three fouls, and possibly delayed the restart of play, prior to his fourth foul which resulted in a caution.

Given the intelligence received regarding suspicious betting and that PAQUETÁ was subsequently booked to make the betting successful, PAQUETÁ's unusual actions by committing two fouls in rapid succession, his significantly higher tackle, defensive duel and foul statistics, and the nature of the foul that led to his yellow card, significant concerns are raised over the integrity of PAQUETÁ's performance in the match.

*West Ham v Aston Villa, played 12th March 2023, has there [sic] been assigned a grading of '4' (**Strong suspicion**) on SPIS's Integrity Grading Index. SPIS's grading may change if further intelligence or information on the match is received.*

RM3 - West Ham v Leeds United – 21st May 2023

A betting integrity industry stakeholder informed SPIS that three of its members had reported suspicious betting activity on PAQUETÁ to be booked in West Ham v Leeds United, 21st May 2023 ('West Ham v Leeds'). The three members reported multiple Brazilian customers, several new and several betting outside of their usual parameters, placing significant stakes on PAQUETÁ to receive a booking in the 'Player to be Carded' betting market.

In the match PAQUETÁ committed two fouls, contested six defensive duels and attempted four tackles. PAQUETÁ committed two of West Ham's six fouls and was the only West Ham player to receive a card in the match.

PAQUETÁ received a yellow card in the 65th minute for his second foul of the match, a late challenge and push in the back on

SUMMERVILLE, which prevented Leeds from beginning a counter-attack. Referee BANKES' decision to show a yellow card for this incident appears justified.

The foul that led to PAQUETÁ's yellow card was the third instance in a four-minute period where PAQUETÁ was involved in situations that drew referee BANKES' attention, which therefore increased the likelihood of PAQUETÁ receiving a caution for persistent offences. At 61:00 in the match PAQUETÁ sprinted back after losing possession and committed a clear foul that stopped a potential counter-attack. At 62:50 he risked a yellow card for his reaction to BANKES' decision to award a throw-in to Leeds. It is likely PAQUETÁ avoided a yellow card for dissent as he appeared frustrated and kicked the ball after the throw-in had been awarded to Leeds, but roughly towards where Leeds throw-in was to be taken.

Given the intelligence received regarding suspicious betting and that PAQUETÁ was subsequently booked to make the betting successful, and the nature of the booking received by PAQUETÁ significant concerns are raised over the integrity of his performance.

*West Ham v Leeds, played 21st May 2023, has therefore been assigned a grading of '4' (**Strong suspicion**) on SPIS' Integrity Grading Index. SPIS' grading may change if further intelligence or information on the match is received.*

RM4 - Bournemouth v West Ham – 12th August 2023

A betting integrity industry stakeholder informed SPIS that six of its members had reported suspicious betting from Brazilian customers, several new and several betting outside of their usual parameters, for PAQUETÁ to be booked in Bournemouth v West Ham, 12th August 2023 ('Bournemouth v West Ham').

In the match PAQUETÁ committed four fouls, contested 17 Opta-defined defensive duels and attempted eight Opta-defined tackles, which were higher than his 2022/23 Premier League averages. He did not contest more defensive duels or commit more fouls in a 2022/23 Premier League match.

PAQUETÁ committed four of West Ham's 14 fouls in the match, two more fouls than any other player, and received one of West Ham's four yellow cards. In his 28 2022/23 Premier League appearances PAQUETÁ committed four fouls in five matches, two of which were against Aston Villa, 12th March 2023, and Leicester City, 12th November 2022.

PAQUETÁ was booked in the 94th minute for his fourth foul of the match after he competed for a goal-kick clearance. Opta recorded the foul as a handball foul after PAQUETÁ jumped to compete for the ball, extending his arm above his head to contact the ball with his hand. Referee BANKES cautioned PAQUETÁ and motioned that his yellow card was for persistent offences.

PAQUETÁ was substituted very shortly afterwards. From the match footage, and the proximity of PAQUETÁ to where the substitution was being prepared, it appears likely that PAQUETÁ knew CORNET was preparing to be substituted on.

PAQUETÁ's actions prior to the yellow card increased the likelihood of him receiving a caution for persistent offences. He had committed three fouls and made one challenge where BANKES played an advantage prior to his fourth foul which resulted in a caution. PAQUETÁ risked a yellow card for fouling AARONS to prevent a promising attack at the beginning of the second-half, and also for a strong challenge on ROTHWELL where PAQUETÁ made no contact with the ball to concede his third foul of the match. SPIS also highlighted, at 60:50 in the match, PAQUETÁ ran from around 17 metres away to confront and push MEPHAM, again coming to the attention of BANKES.

Analysis of the footage of PAQUETÁ's previous 25 yellow cards, between his first match in European club football and prior to Bournemouth v West Ham, has identified no other times PAQUETÁ appeared to be carded for persistent offences. Opta recorded 8,195 fouls in the 2022/23 Premier League season, and of these 305 were recorded as handball fouls. SPIS found only nine (3%) of the handball fouls were committed with the player's hand clearly above their head.

Given the intelligence received regarding suspicious betting and that PAQUETÁ was subsequently booked to make the betting successful, PAQUETÁ's significantly higher tackle, defensive duel and foul statistics, and the unusual nature of the handball foul that led his yellow card, significant concerns are raised over the integrity of PAQUETÁ's performance in the match. The timing of the offence by PAQUETÁ, very shortly before being substituted and with his last touch of the ball in the match, also appears relevant.

*Bournemouth v West Ham, played 12th August 2023, has therefore been assigned a grading of '4' (**Strong suspicion**) on SPIS' Integrity Grading Index. SPIS' grading may change if further intelligence or information on the match is received."*

591. SPIS graded all four of the RM's that had suspicious betting data present in the background as a '4' ('Strong suspicion'). It graded all five of the matches in which the Player was carded but no suspicious betting data was present in the background as a '1' ('No suspicion').

592. The Player's solicitors collated a number of expert reports and witness statements that directly addressed or touched upon the Player's on-field actions and made comment on the SPIS PIR's.

The Player relied upon:

- a. A statement from himself dated 15 December 2023
- b. Two reports from MRKT Insights overseen by Mr Tim Keech ("TK"), together with an undated booking analysis prepared by MRKT Insights, which was provided to the FA in December 2023 at the same time as the statement referred to at paragraph 592a above:
 - i. The First MRKT Insights Report dated 13 December 2024; and
 - ii. The Second MRKT Insights Report dated 19 February 2025;
- c. Two reports from Expert in sports betting and analysis by Mr Benjamin Paterson dated 16 December 2024 and 19 February 2025;

- d. A report from former Premier League Referee, Mr Mark Clattenburg dated 16 December 2024;
- e. A Statement from the Player's Manager at WHUFC, Mr David Moyes dated 27 September 2024; and
- f. A report from Statistician, Mr Bob Scott dated 12 December 2024.

593. The written evidence of these witnesses/experts is summarised below.

Witness Statement of the Player

594. In his statement the Player makes '*comment on the footballing incidents*'.³¹² He talks about both his general style of play and his actions during the RM's. His statement is heavy with statistics and what follows is a summary of the main points made in his statement on the performance issue.

595. Regarding his general style of play, the Player states:

_____*"...in general, as a midfield player in the Premier League, it is likely that I will receive a yellow card from time to time."*³¹³

*I consider my playing style to be creative in attack but physical and, to a degree, confrontational in defence. I tend to be close to the top of my teams' statistics in physical defensive metrics such as tackles attempted, duels, and so on...This high number of defensive and/or confrontational actions means that it is likely that, on occasions, I will get my timing slightly wrong or make a bad challenge and receive a yellow card."*³¹⁴...

In my first full season playing for WHUFC (2022/23), I received a yellow card approximately once every 430 minutes or 4.8 games. This includes the cards I received in the AVFC Match, the LUFC Match and the LCFC Match... In my opinion, this is broadly consistent with my previous seasons in France and lower than the average 'rate' of yellow cards across my career. If I had not received a yellow card in each of

³¹² Section 2 para 13-36 Witness Statement of Lucas Tolentino Coelho de Lima dated 15 December 2023.

³¹³ Paragraph 13.

³¹⁴ Paragraph 14.

*the three relevant matches, my average for 2022/23 would have been one yellow per 688 minutes played – the lowest ratio, by far, of my entire career.*³¹⁵

*In other words, the rate at which I received yellow cards during the 2022/23 season, when three of the four matches under investigation were played, is consistent with my recent career and lower than my earlier career.*³¹⁶

*Although I was once again making large numbers of tackles during the 2022/23 season...I put the relatively low number of yellow cards received down to my increased strength and fitness since joining WHUFC, which has meant I am more often in a position to win the ball cleanly in the tackle situation.*³¹⁷

*The overarching point is that, although I am a player at risk of receiving yellow cards due to my role in the team and playing style, there was nothing unusual about... the yellow cards I received in the relevant matches or in any other match.*³¹⁸

596. In respect of his specific actions during the RM's the Player stated the following:

RM 1 – WHUFC v Leicester City FC (12 November 2022)

"The incident which led to me receiving a yellow card... involved an attempted tackle on... Soumaré... and a follow-up challenge on...Praet... We were losing 0-1 at the time and I was anxious to get the ball back so we could launch an attack – perhaps this meant I went into the challenge on Soumaré with more urgency than I might have done earlier in the match or if we were winning. I aimed to get the ball, but Soumaré was able to slip a pass to Praet as I made the tackle. This put Leicester in a position to attack and I quickly got to my feet to attempt a second challenge. Again, my only intention was to get the ball and put a stop to the attack, but I mis-timed the challenge, arriving a fraction of a second late and making contact with Praet. Having re-watched the footage, I do not think either challenge is unnecessarily

³¹⁵ Paragraph 18.

³¹⁶ Paragraph 19.

³¹⁷ Paragraph 20.

³¹⁸ Paragraph 22.

*aggressive, and I make many challenges like that over the course of a match – often successfully. I certainly did not deliberately attempt to get booked...*³¹⁹

RM 2 – WHUFC v Aston Villa FC (12 March 2023)

*The incident which led to me receiving a yellow card... involved an attempted tackle on John McGinn... I could see McGinn seeking to advance the ball into an attacking position, running into a space in the WHUFC half. I had an opportunity to make a tackle and, given the attacking position that Aston Villa were gaining, I felt it was an important tackle to make. McGinn took a slightly heavy touch and, in that moment, I felt that there was a realistic opportunity for me to get the ball. However, if I did not get the ball, as a secondary intention I felt that it was important that I put a stop to the attacking movement. Although that might be described as somewhat “cynical”, it is an important tactic often used to disrupt the opposition’s attacking momentum. Ultimately, I missed the ball by a small margin and made contact with McGinn. It was a strong challenge but not, in my opinion, unnecessarily strong or aggressive. However, given that I had committed another foul shortly beforehand and in light of the attacking position Aston Villa were gaining, I did not protest when the referee issued a yellow card. It is also possible that I felt that the foul given against me a few seconds earlier was harsh, so perhaps I over-committed to the second challenge trying to make amends...*³²⁰

RM 3 – WHUFC v Leeds United FC – (21 May 2023)

The incident... occurred in the 65th minute. At the point of the attempted challenge, Summerville... was about to launch a counter-attack from within the Leeds United half, with a number of WHUFC players located high up the pitch. Again, I was sure that I could get the ball when making this challenge. I felt it was an important challenge because I know Summerville is a very fast player and a quick break in those circumstances would provide Leeds United with a good chance of scoring. However, with his speed, he was able to get to the ball a

³¹⁹ Paragraphs 24-26.

³²⁰ Paragraphs 27-29.

*fraction of a second ahead of me and I made contact with him. This was a relatively low-impact challenge – I stayed on my feet and narrowly mis-timed my attempt to get the ball. However, I had prevented the opportunity of a counter-attack and the referee issued a yellow card...*³²¹

RM 4 – AFC Bournemouth v WHUFC (12 August 2023)

*The incident...occurred in the 94th minute. A long ball was played forward and I made a challenge for the header... This resulted in contact... which knocks both of us off balance. In the process, the ball made contact with my hand. I am not quite sure what prompted the referee to issue a yellow card in this instance. It could be that the ball hit my hand, or potentially an accumulation of fouls (since I had committed three other fouls during the AFCB Match). I don't think my action was overly strong or aggressive – it was an ordinary aerial duel – and I certainly did not handle the ball deliberately. I also note that this incident took place in the 94th minute of the AFCB Match.*³²²

MRKT Insights Report(s) – overseen by Mr Tim Keech

597. The Player's solicitors instructed MRKT Insights to undertake analysis of the Player's on-field actions in light of the SPIS's reports. The MRKT Reports contained large amounts of data, statistical analysis, charts, tables and multiple links to footage. The following is an overview of the MRKT Reports.
598. MRKT Insight is a data science and research company operating primarily in the football industry. Tim Keech, who oversaw the creation of the report, is an economics graduate with 20 years of experience in management consultancy and statistical analysis.³²³
599. The 'Executive Summary' of the MRKT Report states the following:

"2.1. This report reviews (a) the on-pitch actions made by Lucas Paquetá (LP) and (b) various relevant statistics such as yellow cards,

³²¹ Paragraphs 31-33.

³²² Paragraphs 34-36.

³²³ Par 1.1 -1.4 MRKT Insights: Investigation & Research – Lucas Paqueta 13 Dec 2024

fouls and duels (and related statistics). This review demonstrates the following in relation to the... [RM's].

2.1.1. Style of Play (Data) – based on the data, [the Player's] behaviours and actions in the RM's are not inconsistent with his behaviours and actions in his career more generally... Further, across the relevant period, [the Player] is booked less frequently than the data suggests he might have been, which is inconsistent with him deliberately obtaining a yellow card on four occasions.

2.1.2. Style of Play (Footage) – our review of [the Player's] match footage demonstrates that [the Player] has been involved in similar challenges and incidents to those leading to his yellow cards in the [RM's] on numerous occasions. Again, therefore, his behaviours and actions in the [RM's] are consistent with his playing style and not “out of the ordinary”.

2.1.3. Yellow Card Actions – there are a number of ways in which [the Player] could have sought to obtain a yellow card which would have been within his control, such as kicking the ball away, dissent, or an extreme challenge. The yellow cards awarded to [the Player] in the [RM's] are not in any of these “controlled” scenarios, but in dynamic scenarios where [the Player] would have less control over the outcome.

2.1.4. Statistical Improbability – if The FA's case that [the Player] deliberately obtained yellow cards in each of the RM's is correct, [it] follows that he would have received only two “organic” yellow cards across the relevant period. The probability of [the Player] receiving exactly two yellow cards in the 2022/23 Premier League season was only 1.61%. This suggests that if the allegedly suspicious yellow cards in that season were removed from [the Player's] total, his season would have been a statistical outlier.

2.1.5. Comment on the SPIS Analysis – the analysis conducted by SPIS on each of the [RM's] is flawed in relation to both the timing and location of allegedly suspicious yellow cards. The analysis also does not reveal anything about [the Player's] on-pitch behaviour which is

not seen in other matches, suggesting that the determining factor in SPIS' grading of the [RM's] is the presence of certain betting patterns.

*2.1.6. **Substitution Record** – [the Player's] substitution record demonstrates that he was the most substituted [WHUFC] player during the 2022/23 season, with him being substituted on average during the 79th minute. If he had deliberately sought to obtain a yellow card as part of a spot-fixing operation, it is unlikely that he would have waited until stoppage time to do so."*

600. Incorporating various data representations, the MRKT Reports include the following observations:

Data Capture

"3.1. When companies such as Opta or Wyscout gather data on games they record actions such as passes, shots, and tackles...This data is called event data.

*3.2. Event data captures very useful information but does not capture everything...it does not capture key information that informs you
— whether the tackle was a potential yellow card incident. —*

Fouls and Duels

"3.6. There is a strong positive relationship between the number of duels a player contests and the number of fouls a player commits...

3.8. Similarly, there is also a strong positive correlation between the number of fouls a player commits and the number of yellow cards he receives...

3.11. Looking at [the Player] specifically, the data show that he is a very active and aggressive footballer, frequently involved in defensive duels resulting in him fouling opponents and receiving yellow cards...

3.12. This is illustrated by [the Player's] career data, and Premier League data, in defensive duels per 90 and fouls per 90. When compared to other Premier League attacking midfielders, [the Player] is 59% above league average in defensive duels, and 69% above average for quantity of fouls...

3.14. *If [the Player] were deliberately seeking a yellow card in these matches...one would have expected to see a higher-than-expected number of duels in the [RM's]. However, this is not the case.*

3.15. *In relation to fouls... [the Player] has committed at least three fouls or aggressive actions...in a third of his Premier League matches (21 out of 63 matches). The four [RM's] ... are not unusual or outliers.*

3.16. *Again, if [the Player] were deliberately seeking a yellow card in these matches, one would have expected to see a higher-than-expected number of fouls and aggressive actions. This is, again, not the case...*

3.17. *To summarise, [the Player's] style of play and attitude on the pitch has remained consistent across the two full seasons that he has played in the Premier League for [WHUFC]. This includes the [RM's], which do not represent statistical outliers or anomalies with respect to the number of duels contested and fouls committed."*

Yellow Card Rate

_____ *"3.21. If [the Player] had obtained a yellow card deliberately on four occasions, one would have expected to see these four cards added to the "background" rate, with a consequent increase in the frequency with which he was booked. However, that is not the case. Indeed, if the cards under investigation are removed from the dataset, [the Player] would have received a card every 1086 minutes during the 2022/23 season. That would be very unexpected and represent a significant outlier as compared to the rest of his career..."*

Style of Play (Footage)

"4.1 MRKT, through extensive video work, have identified a number of fouls that share some similarities to the incidents that led to [the Player's] alleged suspicious cautions in the [RM's]. In our view, this demonstrates that [the Player's] actions and behaviours during the [RM's] were consistent with his playing style and not "out of the ordinary".

4.14... [the Player] has regularly given away multiple fouls in quick succession. There is therefore nothing unusual or suspicious in this.

4.32... The challenges in which he has been cautioned in allegedly suspicious circumstances are, therefore, well within the range of [the Player's] regular behaviour on a football pitch."

The Player's Yellow Card Actions

"5.1. In each of the [RM's], [the Player] receives a yellow card following a dynamic challenge situation where he does not control all of the outcomes – the movement of the ball, speed and reaction of the opposition player will necessarily have had an effect on how each challenge played out and, therefore, on whether a yellow card was awarded...

5.3. In particular, we consider that delaying the restart by kicking the ball away, dissent, and extreme challenges are all capable of resulting in a yellow card without the influence of external factors."

MRKT comments on the SPIS analysis

Location and timing of yellow cards

"7.1. SPIS has referred to its database of suspicious card activities that are used as a comparative dataset to the yellow cards received by [the Player]³²⁴. These are referenced in the individual SPIS match reports that each show a timeline of fouls, and a location plotted on an overhead football pitch view diagram. These data are then used to suggest that the yellow cards awarded to [the Player] were consistent with the timing and location on the pitch of the majority of the suspicious yellow cards in SPIS' database.

7.6. ...by comparing the time plots on the graph with the times of the [Player's] cards under investigation, we can see that 4 of the 16 items on the plot are the [Player's] cards. This is not a valid method of calculating an average, since the inclusion of the data under

³²⁴ The comparative dataset comprised 16 yellow cards from the SPIS database, 4 of which were the yellow cards allocated to LP in the RM's.

investigation naturally skews the average towards that data (especially where the sample size is small).

7.7. Therefore, the dataset is only actually 12 cards, which is too small a sample size to be confident of the significance of the information gathered...”

Confirmation bias

“7.3. ...the analysis conducted by SPIS on the [RM’s], and the consequent grading applied, appears to be based solely on the existence of betting data and not on anything unique or unusual about his on-field activities.

7.19. This leads us to conclude that the determining factor in SPIS awarding each of the [RM’s] a “grading” of 4 (“strong suspicion”) is influenced primarily by its knowledge of the relevant betting data. Put differently, there is nothing in [the Player’s] on-pitch behaviour alone which leads us to conclude that his actions in the [RM’s] were suspicious.”

Mr Benjamin Paterson

601. The Player’s solicitors instructed Mr Benjamin Paterson to submit an ‘*Expert Report*’ as part of his defence. Paragraphs 66-96 of Mr Paterson’s Report dated 16th December 2024, make comment on the SPIS analysis of the Player’s on-field performance and actions. We have already commented on the challenges made to Mr Paterson’s expertise and do so below in respect of his expertise on performance analysis (as to which also see paragraph 142 above).
602. Mr Paterson states that he has been working in the field of sports betting integrity for approximately 15 years, prior to which he worked in other roles within the betting industry. He makes a number of general observations in respect to the SPIS analysis and states, *inter alia*:

“In my opinion, the fact that the [RM’s] were analysed only after SPIS was alerted to allegedly “suspicious” betting activity means that its analysis is significantly undermined by confirmation bias (i.e. where

evidence is interpreted in a manner which confirms existing beliefs or theories, to the exclusion of any conflicting or inconsistent data)”³²⁵.

“Therefore, due to the fact that each of the analyses conducted by SPIS (both in relation to the [RM’s] and in relation to the other matches in which [the Player] was booked) were done in the knowledge that allegedly suspicious betting patterns existed (or did not exist), it is not possible for SPIS to say that any one of [the Player’s] actions is inherently suspicious. SPIS’ analysis of [the Player’s] footballing behaviour therefore adds little to the betting patterns”³²⁶

“...some of the data presented by SPIS and relied upon by The FA as increasing the level of suspicion around this match are based on small sample sizes and therefore have weak statistical value. In particular, SPIS suggests that 81% of suspicious cards analysed since 2018 were received between the 54th and 86th minute. This is relied upon by The FA as support for its case. However, this statistic is based on only 16 data points (four of which appear to be the cards received by [the Player] in the [RM’s]. Its statistical value is therefore limited”³²⁷.

603. Mr Paterson addresses in detail SPIS’s analysis of the Player’s data for each of the four RM’s and the five Non-Suspicious matches. He is critical of SPIS for its negative interpretations of the data in respect to the Player’s fouls, tackles, defensive duels and caution rate which to his mind were ‘not out of the ordinary’ and for SPIS not having included and/or considered data sets or other factors which, to his mind, would have lowered the level of suspicion surrounding [the Player’s] conduct, all of which go to Mr Paterson’s overarching point which was that the SPIS PIR’s were all at risk of confirmation bias.

604. In respect of SPIS’s analysis of the five ‘Non-Suspicious’ matches Mr Paterson states that:

“These analyses display further evidence of... confirmation bias at play...”³²⁸

³²⁵ Para 68 Expert Report of Benjamin Paterson dated 16th December 2024.

³²⁶ Para 69 Expert Report of Benjamin Paterson dated 16th December 2024.

³²⁷ Paras 76 and 77 Expert Report of Benjamin Paterson dated 16th December 2024.

³²⁸ Para 96 Expert Report of Benjamin Paterson dated 16th December 2024

605. He gave a number of examples where he says that confirmation bias had affected SPIS's analysis:

"a. [In the fixture v Tottenham] [the Player] committed one foul, attempted two defensive duels and one tackle. Whilst these numbers are lower than his averages, [the Player] only played 23 minutes. If those numbers are normalised per 90 minutes, it shows [the Player] would have committed four fouls, attempted four tackles, and contested eight duels. Those numbers are similar to some of the statistics in the [RM's] which SPIS deems to be suspicious (in particular [RM2]).

b. SPIS describes [the Player's] actions in that game as "forcefully kicked the back of ROYAL's leg after he was dispossessed, knocking his opponent to the floor. PAQUETÁ's challenge did not benefit his team..." yet SPIS does not consider this action to be suspicious. This can be contrasted with its comments on [RM2], where it considers [the Player's] conduct in making "an avoidable foul... that does not benefit his team" to be suspicious.

c. SPIS describes [the Player's] attempted challenge on Dominic Calvert-Lewin in [WHUFC's] match against Everton on 21 January 2023 as "a sliding challenge" and states that he "misses the ball and lightly contacts CALVERT-LEWIN's back foot as he is running, causing him to stumble". This is similar to SPIS' description of [the Player's] challenge in [RM2], which it describes as "PAQUETÁ sprints back towards MCGINN and attempts to tackle with a forceful sliding challenge from behind, missing the ball and contacting MCGINN's foot". Yet SPIS deems only one of those tackles to be suspicious – again, it seems the betting data is determinative.

d. In [WHUFC's] home match against Anderlecht, [the Player] committed two fouls (pro rata rate of four fouls in 90 minutes) in the 45 minutes he was on the field and received a yellow card. In this match, [the Player] waved an imaginary yellow card towards the referee when Jared Bowen was fouled. This is an act of dissent and an offence frequently punished by a yellow card. It is also something which (unlike a tackle situation) is entirely within a player's control. Despite this,

SPIS does not deem the match to be suspicious in the absence of suspicious betting data.

*e. In [WHUFC's] home match against AZ Alkmaar, SPIS acknowledges that [the Player] handles the ball in an aerial duel. In my opinion, [the Player] enters the duel with raised arms in a similar fashion to the incident in [RM4], but SPIS does not consider the match against AZ Alkmaar to be suspicious or describe [the Player's] actions as "unusual". This is despite the fact that, as SPIS acknowledges, [the Player] then protests directly to the referee (and in a much more forceful manner than the incidents SPIS describes as potential dissent in the [RM's]. Again, it appears that the betting data is determinative."*³²⁹

Mark Clattenburg

606. Mr Clattenburg, an experienced³³⁰, now retired, professional referee, produced an expert report at the request of the Player's solicitors in respect of the Player's on-field actions.³³¹

607. He states, *inter alia*:

*"This report... comments on how PAQUETÁ's actions would have appeared to the referees without any influence of allegations of suspicious betting, and whether PAQUETÁ's actions themselves suggest any suspicious behaviour or intent to receive a yellow card"*³³²

608. At paragraphs 10-14 of his Report Mr Clattenburg set out the 'Laws of the Game' in respect to a player being cautioned and how, to his mind, those laws ought to be interpreted by referees.

609. He turned his attention to the four (4) RM's and opined on all of SPIS's 'key match events'³³³. He states that, from a refereeing perspective, whilst he agrees with

³²⁹ See Paragraphs 96a –e of Benjamin Paterson Expert Report dated 16th December 2024.

³³⁰ See Para 1 (a) – (f) - Expert Report of Mark Clattenburg dated 16 December 2024.

³³¹ Expert Report of Mark Clattenburg dated 16 December 2024.

³³² Para 9 Expert Report of Mark Clattenburg dated 16 December 2024.

³³³ Paragraphs 15-38 Expert Report of Mark Clattenburg dated 16 December 2024.

some of the refereeing decisions and some of the SPIS analysis, he holds significantly differing views on many of the ‘key match events’.

RM1 - West Ham United v Leicester City (12 November 2022)

The second key match event - 54th minute.

“I disagree with SPIS’s conclusion... that “PAQUETÁ may have risked a yellow card for raising his arm in dissent”. On the contrary, I consider that it would have been inappropriate and excessive to issue a yellow card in these circumstances.”³³⁴

The third key match event - 59th minute.

“I note that the Caution Misconduct Report Form for this match, completed by referee... indicates that the yellow card was issued for Reckless Play...In my opinion, I consider PAQUETÁ was unfortunate to receive a yellow card...In my opinion, no disciplinary sanction was needed or appropriate.”³³⁵

The cautioned event(s) in RM1 (The Commission noted that it remained unclear for which of the two actions the Player was in fact cautioned).

“I disagree with SPIS’s conclusion...that “the initial sliding challenge on SOUMARÉ appeared likely to be categorised as reckless, and therefore likely to be considered worthy of a yellow card by GILLETT”. As explained above, I would categorise that particular challenge as careless.”³³⁶

“I strongly disagree with SPIS’s conclusion (p434) that “the subsequent blocking foul on PRAET and the two preceding Events made it highly likely PAQUETÁ would receive a caution for this Event”. I am not entirely sure what grounds such a conclusion is based on. It is certainly not “highly likely” that PAQUETÁ would have been cautioned for this event. As explained above, I do not consider that a disciplinary sanction was needed or appropriate.”³³⁷

³³⁴ Paragraph 18d Expert Report of Mark Clattenburg dated 16 December 2024

³³⁵ Paragraph 19b-c Expert Report of Mark Clattenburg dated 16 December 2024

³³⁶ Paragraph 19d.

³³⁷ Paragraph 19e.

"In summary, I consider that:

- a. PAQUETÁ was unfortunate to receive a yellow card in this match;*
- b. PAQUETÁ's behaviour does not appear to me (nor, in my opinion, would it have appeared to GILLET or any other suitably qualified referee on the field of play) to be the behaviour of somebody deliberately intending to receive a caution;*
- c. PAQUETÁ's actions would not have appeared out of the ordinary to the referee (nor, in my opinion to any other suitably qualified referee on the field of play); each challenge is comfortably within the sphere of things that happen multiple times every match, both individually and when taken in conjunction with each other"*³³⁸

RM2 - West Ham United v Aston Villa (12 March 2023)

The first key match event - 43rd minute

"I note SPIS's conclusion that "PAQUETÁ's challenge does not appear to be an attempt to win the ball". I disagree with this conclusion. In my view, PAQUETÁ's challenge does appear to be the final attempt in a series of attempts to win the ball in a tough duel between two high quality players.

The referee in these circumstances, in his judgement, needs to take into account if the challenge is reckless, stopping a promising attack or persistently infringing the laws of the game. The challenge in the opinion of the referee is of a careless nature (as opposed to reckless), does not stop a promising attack, nor does it constitute persistent infringement. Therefore, the referee does not issue a yellow card...

I note SPIS's conclusion that the challenge "does prevent what may have been a promising attack and therefore could have risked a caution". I disagree with this conclusion. As explained above, the situation was not a promising attack. Therefore, PAQUETÁ did not risk

³³⁸ Paragraph 20-c.

a caution with his actions, and any caution from any referee would have been inappropriate and excessive sanction.”³³⁹

The second key match event - 43rd minute.

“I note SPIS’s description of PAQUETÁ as “placing his foot in the line of the ball and its likely intended target”, and as “pushing” BUENDIA. I do not agree with either of those characteristics....

d. I note SPIS’s conclusion that “PAQUETÁ’s actions appeared deliberately intended to delay the restart of play and therefore could be seen as a cautionable offence”. I strongly disagree with this conclusion. As explained above, my view is that PAQUETÁ’s actions (i) did not delay the restart of play (if anything, this was caused by AGUERD), and (ii) were not intended to delay the restart of play (instead being intended to react to his opponent’s behaviour).”³⁴⁰

The fourth key match event - 70th minute.

“PAQUETÁ sprints back towards Aston Villa’s John McGinn (MCGINN) and attempts to tackle with a forceful sliding challenge from behind, missing the ball and contacting MCGINN’s foot.

In my opinion, this caution was received by PAQUETÁ in the act of playing football and supporting his team in defending his team’s goal. I cannot see anything in his actions that looks deliberate in terms of even committing a foul, let alone receiving a yellow card.”³⁴¹

Summarising RM2 Mr Clattenburg says:

“PAQUETÁ’s actions would not have appeared out of the ordinary to the referee (nor, in my opinion to any other suitably qualified referee on the field of play); each challenge is comfortably within the sphere of things that happen multiple times every match, both individually and when taken in conjunction with each other”³⁴²

³³⁹ Paragraph 22.

³⁴⁰ Paragraph 23.

³⁴¹ Paragraph 25.

³⁴² Paragraph 26c.

RM3 - West Ham United v Leeds United (21 May 2023)

The second key match event takes place in the 63rd minute.

"I note SPIS's assertions that the ball was kicked "in a frustrated manner". I am unclear as to the relevance of SPIS's assertion that "kicking the ball in this manner often results in a yellow card for dissent" and that PAQUETÁ "avoids a likely yellow card". This suggests that the situation has been assessed from the starting point that it was dissent and should have been a yellow but for the fact that PAQUETÁ kicked the ball in the direction of the throw in. This is not the way that a referee would have assessed the situation. First and foremost, PAQUETÁ kicks the ball back towards the player waiting to take a free kick. It is not an act that starts as dissent, but is mitigated down. It is simply not dissent in the first place. Separately, although kicking the ball away to delay the restart of play often results in a yellow card for dissent, in this instance PAQUETÁ kicks the ball in the direction of the throw-in, as already noted.

Therefore, in my opinion, the behaviour meets the criteria of normal behaviour. PAQUETÁ does not delay the restart of play and his level of frustration does not meet the threshold of dissent for a caution. No disciplinary sanction was needed or appropriate. In my opinion, the circumstances forming this "Event" are in fact of such little significance that they would not be deemed a key event in a match official's analysis (post-match) of a football match. I would view there as being nothing worthy of discussion".³⁴³

The third key match event - 65th minute.

"In my opinion, I consider that PAQUETÁ was unfortunate to receive a yellow card. In my view, the challenge meets the criteria of a careless foul (as opposed to reckless)... In my opinion, no disciplinary sanction was needed or appropriate.

I strongly disagree with SPIS's conclusion that "the yellow card appears justified". If it is in relation to the suggestion that the challenge "stopped a promising attack", it is my professional view that the

³⁴³ Paragraph 29.

distance from goal meant that this challenge should not have been deemed to meet this threshold. If it is in relation to the number of “involvements” that PAQUETÁ had with BANKES in the previous few minutes, this is not sustainable. His previous “involvements” were innocent and run-of-the-mill. In fact, as explained above, one of the so-called “involvements” is of very little significance and would not be deemed worthy of consideration by a professional referee”³⁴⁴

Summarising RM3 Mr Clattenburg states:

“a. PAQUETÁ was unfortunate to receive a yellow card in this match;

b. PAQUETÁ’s behaviour does not appear to me (nor, in my opinion, would it have appeared to BANKES or any other suitably qualified referee on the field of play) to be the behaviour of somebody deliberately intending to receive a caution;

c. PAQUETÁ’s actions would not have appeared out of the ordinary to the referee (nor, in my opinion to any other suitably qualified referee on the field of play); each challenge or incident is comfortably within the sphere of things that happen multiple times every match, both individually and when taken in conjunction with each other.”³⁴⁵

RM4 - AFC Bournemouth v West Ham United (12 August 2023)

The second key match event - 47th minute.

“I note SPIS’s description of PAQUETÁ as “pulling at” AARONS’ shoulder, but I do not think that such a conclusion, suggesting a positive pulling action, is appropriate.

I note SPIS’s conclusions that “there was low defensive cover between AARONS and the penalty area if PAQUETÁ had not stopped AARONS’ progress” and that “given the low defensive cover PAQUETÁ may have risked a yellow card for the challenge”. I disagree with these conclusions. First, it is not correct to say there was low defensive cover. At the moment that AARONS falls to ground, Bournemouth have three defenders behind the ball (against two

³⁴⁴ Paragraph 30.

³⁴⁵ Paragraph 31.

attackers including AARONS), [with] a further player, Tomas Soucek – number 28 – arriving comfortably. Secondly, it is not correct to say PAQUETÁ may have risked a yellow card. In addition to the sufficient defensive cover, AARONS is not taking the ball towards goal, instead running parallel to the touchline. A yellow card issued by any referee in these circumstances would have been inappropriate and excessive.”³⁴⁶

The third key match event - 59th minute.

“I note SPIS’s conclusions that “PAQUETÁ risked a caution for persistent offences” and that “PAQUETÁ risked a caution for stopping a promising attack”. I disagree with these conclusions entirely. First, it is not correct to say that there was a risk of persistent offences for the reasons set out above in the context of the match. Secondly, it is plainly incorrect to state that the foul could have been deemed to be stopping a promising attack. If this conclusion is reached because of the location of the foul on the pitch, it is an inappropriate basis for the conclusion. Not every foul on the edge of the box stops a promising attack, and in this case there was plenty of defensive cover behind the ball, with the ball moving away from goal. More obviously, AARONS loses control of the ball altogether and kicks it into a space where multiple West Ham defenders could have gathered the ball. There is no promising attack to be stopped. A yellow card issued by any referee in these circumstances would have been inappropriate and excessive, and the foul did not risk a yellow card.”³⁴⁷

The fourth key match event - 74th minute.

“I note SPIS’s conclusion that “it is SPIS’s view that a yellow card would have been justified for this event due to the force of the challenge and an accumulation of persistent offences”. As a referee, I do not think a yellow card would have been justified at all, and I support BANKES’ decision not to issue one. The force of the challenge was not significant (and, in and of itself, “force” of a challenge is not grounds for issuing a yellow card). The test is reckless or careless, and

³⁴⁶ Paragraph 34.

³⁴⁷ Paragraph 39d.

*my view (as well as that of BANKES) is that the challenge was careless. As regards the persistent infringement, PAQUETÁ had begun to run the risk of persistently infringing the laws of the game, but as many of the fouls were some time between each other, and there are a high number of fouls from PAQUETÁ's team, I can confidently say that a referee would not automatically think it necessary to caution PAQUETÁ in this case".*³⁴⁸

The fifth key match event - 93rd minute

*"SPIS forms the conclusion that "the action by PAQUETÁ appeared deliberate and intended, and the award of a card for the offence appeared justified". It therefore seems as though SPIS is suggesting that a yellow card for this handball offence was "justified" on the basis that it "appeared deliberate". I disagree with that conclusion. A foul is only ever given for a handball if it is deliberate in the first place. That, in itself, is not grounds for a yellow card. In my view, the handball itself would not have resulted in a yellow card (given that the player was not seeking to deliberately gain an advantage)."*³⁴⁹

David Moyes

610. David Moyes is a highly respected professional football manager and ex-player. He has managed for over 25 years. In that time, he has managed for *"something like 1,000 games for some of the world's biggest clubs including Everton FC, Manchester United FC, Real Sociedad, [WHUFC] and Sunderland FC."*³⁵⁰ During his second tenure at WHUFC (June 2024) he managed the Player. Mr Moyes was the manager of WHUFC for each of the RM's. His overall view of the Player's conduct was, *"I have re-watched the yellow card incidents closely and, based on my own footballing experience and knowledge of [the Player], consider them to be entirely within the normal range of actions for this player"*³⁵¹.

611. Mr Moyes describes the Player's 'playing style':

³⁴⁸ Paragraph 36d.

³⁴⁹ Paragraph 37b.

³⁵⁰ Para 1 Statement of David Moyes dated 27 September 2024

³⁵¹ Para 4 Statement of David Moyes dated 27 September 2024

*“The word I would use to describe [the Player’s] playing style is maverick... he plays in a high risk, high reward way and he does, therefore, have a tendency to give the ball away... Defensively, [the Player] does not have quite the same level of ability. However, he is a physical specimen and would work extremely hard in defence... he would work hard to get it back, but sometimes he could make a poor choice or be a little rash....”*³⁵²

612. In terms of the Player’s position on the pitch Mr Moyes says:

*“When he started...we saw him purely as an attacking midfielder in the number 10 role. As time moved on, I felt that we could utilise his creative talent, as well as maximise the talents of the rest of the squad, by playing him in a slightly deeper number 8 role or on the left-hand side. This did, however, require him to do more defending, which was not his natural game.”*³⁵³

613. Before turning to his analysis of each of the RM’s, it is notable that Mr Moyes gave the Commission some background information in respect of the possibility of the Player being transferred from WHUFC to Manchester City FC. He said:

*“By the date of the AFCB Match, talks between WHUFC and MCFC were very advanced and it had become clear that the deal would likely be done. At the time, I would speak to [the Player] on a daily basis... [the Player] was also worried about the risk of injury and, during one of our discussions, asked me if he could be left out of the upcoming fixture. I don’t remember much about the exact words used or the exact date on which the conversation took place. It would have been before I picked the team, so likely on 10 or 11 August 2023... I persuaded him to play on the basis that, if the game was going well (or even if it was going badly and we were unlikely to recover from a two or three goal deficit), I would substitute him early to help minimise the risk of injury.”*³⁵⁴ [Our underlining for emphasis].

614. In respect of the RM’s he made the following observations:

³⁵² Para 8 and 9 Statement of David Moyes dated 27 September 2024

³⁵³ Para 11 Statement of David Moyes dated 27 September 2024, Bundle F page 57.

³⁵⁴ Para 27-32 Statement of David Moyes dated 27 September 2024, Bundle F page 60.

“[RM1]

He first mistimes a sliding challenge...before colliding heavily with a second Leicester player, for which he was rightly booked. My immediate reaction on watching this footage was “that’s just Lucas Paquetá” – it exactly reflects what I know about his game, his attitude, and his abilities as a player... Consistent with what I have said above about his tackle technique and selection... he gets on the wrong side for the first tackle and makes a poor decision, then is a little late in following up in the second challenge. This kind of defensive work... is not his natural game and he can, as I say above, get it wrong. In my view, there is nothing unusual or suspicious about these challenges. To the contrary, I would say they are entirely typical of [the Player].”³⁵⁵

“[RM2]

... That first challenge... is also typical of [the Player] ... When he loses the ball, he works hard to get it back, but his ability to be patient and wait for the right time to “stick his leg in” lets him down. This was a rash challenge but one which I would not consider to be unexpected from [the Player]. There is also nothing unusual in [the Player’s] challenge just before he is booked... I noticed that the opposition player was... another Brazilian. In keeping with [the Player’s] mentality, I expect that he was attempting to show... he was the dominant Brazilian... and he entered the tackle with additional physicality. This, combined with [the Player’s] poor timing, leads the referee to award a foul. [The Player’s] tackle which leads to a yellow card immediately follows this sequence of play. [The Player] would have been frustrated by giving away a foul in the previous play and, seeing John McGinn running into space, [the Player] makes a rash challenge. Once again, I do not see anything unusual about this. It is entirely consistent with the way [the Player] plays the game, particularly his frustration when something hasn’t quite gone his way... certainly nothing in the tackle would lead me to believe it was suspicious.”³⁵⁶

³⁵⁵ Para 13-16.

³⁵⁶ Paragraph 17-22.

“[RM3]

*The first foul is very similar to the two discussed above – [the Player] gets the wrong side but is keen to show that he is working hard for the team. He chases hard and gets tangled up with the LUFC player as that player slows. It’s a poor challenge but typical of [the Player] – full of effort and industry, but he makes the wrong choice defensively. I still see nothing that would give me pause for thought or that I would describe as suspicious. The same goes for the subsequent challenge on... Summerville for which a yellow card is awarded. In this case, [the Player’s] timing is only very slightly late, and I would say that this was an important challenge for [the Player] to attempt given that LUFC are on the break, with one of their quicker players. In some ways, as a manager, I would be pleased that [the Player] was able to break up and disrupt that play (although obviously I would be frustrated at the yellow card). Once again, I don’t see anything in this other than a forward-minded player working hard to help out defensively and getting it slightly wrong”.*³⁵⁷

“[RM4]

The first three fouls are... indicative of an attacking player working hard defensively, but getting his timing or technique wrong. For the first and second fouls, [the Player] comes from a few yards away and is slightly late to the challenge – this indicates that he made a conscious effort to make up ground and got his timing wrong. This was typical of [the Player] in the slightly deeper role... The third challenge is more of a physical block. [The Player] is obviously caught in a situation where he was not expecting to have to make a tackle, and he makes the wrong choice of tackle technique, trying to use his physicality and his hip where he might have been better to direct the attacking player away from goal, rather than trying to regain possession. There is nothing unusual or suspicious in this – it is not unexpected for [the Player]. The yellow card...where the ball appears to come into contact with [the Player’s] hand. I have a number of comments on this:

³⁵⁷ Paragraph 23-26.

a. First...He had a great confidence in his ability and would not shy away from a centre half in this situation.

b. Secondly, from a technique / physiological perspective, it is impossible to generate any significant height in a jump without using one's arms. A player will also elevate their arms to help manipulate their positioning (and that of the opposition) in order to gain the best chance of winning the ball. The footage shows [the Player] using his arms in precisely this way. However... the AFCB player is stronger... and his body positioning pushes [the Player] off balance. It is in that context that the ball makes contact with [the Player's] arm.

c. Thirdly, I understand that The FA alleges that the player who would shortly replace him "was at the touchline and within [the Player's] eyeline" and that, therefore, [the Player] "was likely...to have been aware of his impending substitution". I do not agree – I did not communicate with [the Player] prior to the challenge in question and his focus and attention would have been on the game.

I see nothing in this challenge which indicates that [the Player] was deliberately seeking to get booked...

... we had a more disrupted build up to the start of the season than usual, meaning... players were half a yard off the pace... and was not surprised to see, a certain amount of "scrappiness" in some players, [the Player] included.³⁵⁸

615. In conclusion Mr Moyes said:

"...Re-watching this footage, even in the knowledge that LP is facing allegations about bets having been placed on him to get a yellow card in the [RM's], I do not see anything other than [the Player] playing like [the Player]. If he had deliberately tried to get booked, I would have expected to see him do something silly or out of character like show serious dissent, throw the ball away from an opposition free kick, or pull another player's shirt in order to prevent a break. But he does not do any of those things in the [RM's] – each yellow card is given in a dynamic tackle situation where [the Player] is working hard to recover

³⁵⁸ Paragraphs 27-37.

the ball, consistent with his style, technique, temperament and role within the team.”

Mr Bob Scott

616. Mr Bob Scott submitted an Expert Report dated 12 December 2024 on behalf of the Player (**‘the Scott Report’**). He is the Fellow of the Institute of Actuaries whom we commented upon previously at paragraphs 523 – 531 and he has practised as an actuary for more than 35 years.³⁵⁹

617. He was instructed to consider and comment on two statistics put forward by SPIS being:

- a. The probability of the Player receiving a card in each of the RM's as approximately 0.61% and the FA's position that this relatively low probability is indicative of suspicious action; and
- b. Data suggesting that the most common time for offences relating to suspicious cards to be committed is between the 54th and 86th minutes of a _____ fixture and The FA's observation that in three of the RM's, the Player was carded during this period.

618. Mr Scott posed the question *“Is the calculation (of 0.61%) presented correctly by the FA?”*.

619. His answer was as follows: *“No. The stated probability of 0.61% does not relate to the bets that were actually placed.”*

620. He explained: *“It is misleading to compare the odds at which bets were placed with a headline probability of 0.61% as no individuals placed a bet that was consistent with such a probability – this probability refers to the chance of winning an accumulator bet, placed before all four [RM's] for [the Player] be booked in all [RM's]. Only three bettors placed bets on all [RM's] and these were placed as multiple single bets for [the Player] to receive a yellow card in each match rather than a single bet on [the Player] receiving a yellow card in all [RM's].”³⁶⁰*

³⁵⁹ Para 3.1 Expert Report of Mr Bob Scott.

³⁶⁰ Para 4.8 Expert report of Mr Bob Scott.

621. In respect to the 0.61% figure put forward by SPIS, he posed the question *“Does the calculation prove (or is it indicative of) any misconduct?”*.

622. His answer was as follows: *“No. The number of cards that [the Player] received in the [RM’s] was in line with the rest of his career in the Premier League.”*

623. He explained: *“Had [the Player] intentionally sought to obtain yellow cards, it would be reasonable to expect that his rate of receiving yellow cards over the period of the [RM’s] would be higher than the rate observed over the rest of his career. However, that is not borne out by the statistics. Using the SPIS rate of [the Player] receiving yellow cards period to the first of the [RM’s], [the Player] would have been expected to have received 3.1 cards over Analysed Period 1 (which contained three of the [RM’s], compared to 3 cards actually being received. Similarly, for Analysed Period 2 the expected number of cards is 5.45 compared to 5 actually received. There is therefore no observed increase in [the Player’s] rate of receiving yellow cards over the period of the [RM’s].”*³⁶¹

624. He stated: *“Apparent low-probability events occur frequently in football”*.

625. He elaborated: *“An “event” with 0.61% probability could be interpreted as being so unlikely that it was indicative of misconduct. However, low probability events, particularly where we specify events occurring in multiple matches, occur frequently in football and are not seen as evidence of misconduct. Nor do they generate any suspicion of misconduct.”*³⁶²

626. He illustrated the above with three examples of events that occurred but would have had very low probability percentages based on a similar method to that used by SPIS.

- Marc Cucurella of Chelsea received 5 yellow cards in the 2024-25 season up to 6 October 2024 - 0.057%.
- Mo Salah scored in all 7 of Liverpool FC’s Premier League matches played between 20 October 2024 and 4 December 2024 - 0.68%.

³⁶¹ Para 4.9-4.10 Expert report of Mr Bob Scott.

³⁶² Para 4.11 Expert report of Mr Bob Scott.

- Manchester City FC lost 4 successive Premier League matches between 2 November 2024 and 1 December 2024 – 0.02%³⁶³.

627. He posed the question: *“Is the calculation appropriate in the circumstances?”*.

628. His answer was as follows: *“No. In addition to the shortcomings highlighted above SPIS’s methodology is flawed and could produce illogical results”*.

629. Mr Scott presented a set of calculations that he claimed: *“demonstrate[s] that the method used [by SPIS] to calculate these probabilities is theoretically incorrect.”*³⁶⁴

630. In respect to the SPIS claim that 93% of suspicious cards are committed between the 54th and 86th minute of matches he posed the question: *“Is the calculation presented correctly by the FA?”*

631. His answer was as follows: *“No. The statistic[s] tells us nothing about the likelihood of the yellow cards received by [the Player] arising from suspicious play.”*

632. He explained: *“In the FA’s case summary, the fact that 93% (or 81%) of suspicious cards were for offences that occurred between the 54th and 86th minutes gives no information about the chances of one of [the Player’s] cards arising from suspicious play. To assess that probability, it would be necessary to divide the number of suspicious yellow cards received in all Premier League matches during the 54th and 86th minutes by the total number of yellow cards received in all Premier League matches during the 54th and 86th minutes. Given that there were 1,400 yellow cards in the 2022/23 Premier League season alone, I expect that calculation would give a materially smaller probability than 93% or 81%.”*³⁶⁵

633. He posed the question: *“Does the calculation prove (or is it indicative of) any misconduct?”*.

³⁶³ Para 4.11.1-4.11.3 Expert report of Bob Scott.

³⁶⁴ Para 4.18 Expert report of Bob Scott.

³⁶⁵ Para 5.10-5.11 Expert Report of Bob Scott.

634. His answer was as follows: *“No. The calculation being performed is not appropriate for indicating misconduct; it is logically incorrect and is also distorted by inclusion of [the Player’s] cards”.*

635. He posed the question *“Is it appropriate in the circumstances?”*

636. His answer: *“No. As well as being logically incorrect, the statistic appears to be based on limited data and with no objective justification given for the chosen time period. A range of probabilities could be generated using very similar approaches and the data from the SPIS report to paint a very different picture from the one set out in the FA’s case summary.”*

637. In his summary, Mr Scott stated: *“I conclude that the statistics presented by the FA are neither appropriate in the circumstances nor do they prove (or indicate) any misconduct. Furthermore, in my opinion, there are technical and logical flaws in the way that the statistics have been calculated and presented.”*³⁶⁶

SPIS Response to LP’s Expert Reports and Witness Statements

638. Having considered the statements from the Player, his instructed experts and the defence witnesses, Jack Johnson, on behalf of SPIS, responded with a further statement..³⁶⁷ - *SPIS Statement - Response to Lucas PAQUETÁ Expert Witness Statement - February 2025.*

SPIS Response to Mr Paterson’s Report

639. Mr Johnson stated that SPIS does not proactively monitor football player performances for potential betting integrity issues. Monitoring of every Premier League player in order to potentially alert The FA to potential suspicious performance is, according to Mr Johnson not feasible..³⁶⁸

640. Mr Johnson stated that SPIS conducts objective analysis for all its clients, displaying pie charts showing the percentage of graded matches 1-5. It said it often assigns ‘No suspicion’, or ‘Low suspicion’ gradings. He revealed that SPIS

³⁶⁶ Para 6.1 Expert Report of Bob Scott.

³⁶⁷ SPIS ‘Response to Lucas PAQUETÁ Expert Witness Statement (Jack Johnson) - dated February 2025’ – Bundle B pages 139-163.

³⁶⁸ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 8.

has completed PIRs for The FA on 21 matches, with 67% of those matches being graded as a '1' ('No suspicion'). From SPIS' experience and data collected over nine years of analysing English football. Premier League matches in particular, generally have lower betting integrity related risk than matches in other countries and leagues.³⁶⁹ More widely, he said, it has completed PIRs for other clients on 140 matches, with 19% of those matches being graded as a '1' ('No suspicion').³⁷⁰

641. Responding to Mr Paterson's criticism Mr Johnson stated that SPIS does not solely rely on foul, tackle and defensive dual numbers when assigning a grading to a match. He reiterated that the PIRs incorporate performance integrity analysis, betting market analysis, and intelligence to provide a detailed understanding of a match from an integrity perspective. SPIS' performance integrity analysis includes quantitative analysis of Opta data, and qualitative analysis of match footage from SPIS analysts.³⁷¹

642. In conclusion he maintained that the SPIS analysis of the Analysed Matches was conducted thoroughly and objectively, using its stated methodology consistently across all Analysed Matches. SPIS maintained its gradings of '4' ('Strong suspicion') for all four RM's.³⁷²

SPIS Response to Mr Keech /MRKT Insight Report

643. Mr Johnson gave 'feedback' on Mr Keech's Statement section: 3. Style of Play (Data) and responded to Mr Keech's observation: *"if a player (as The FA suggests) deliberately got four yellow cards in a single season, that would stand out against his usual "background" rate"* by stating that he considered this to be conjecture. He noted that no evidence of this was provided by Mr Keech. Mr Johnson was unaware of any data or similar cases to support this conjecture and does not support the assertion.³⁷³

644. Mr Johnson gave 'feedback' on Mr Keech's Statement section: 4. Style of Play (Footage). Mr Keech had used video analysis to draw parallels between the fouls

³⁶⁹ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 15.

³⁷⁰ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 16.

³⁷¹ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 18.

³⁷² Response statement of Jack Johnson (SPIS) - February 2025, paragraph 24.

³⁷³ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 27.

that led to the Player's bookings in the RM's, and actions by the Player in other matches, to reach the conclusion that his actions in the RM's were consistent with his playing style and not '*out of the ordinary*'. In SPIS' view, many of the examples provided for comparison with challenges in the RM's were misleading. Mr Johnson then set out a number of examples..³⁷⁴

645. For RM4 it was SPIS' view that the match footage showed the Player committing a handball foul. Mr Keech had described the incident as '*causing a foul connected to an aerial duel*' omitting reference to a handball foul. Events selected by Mr Keech for comparison analysis had not featured any instances of the Player committing a handball foul and therefore, according to Mr Johnson, they were not suitable comparisons with his actions in RM4..³⁷⁵

646. Mr Johnson made the point that even if it were accepted that the Player had regularly committed '*similar fouls*' to his fouls in the RM's, it should be noted that an extraordinary or unprecedented event is not needed for a player to intentionally be booked. A player's actions to be deliberately booked could be very similar to his actions in '*regular*' matches and would be less likely to draw attention.

647. Mr Keech had stated that "*two quick fouls is something that is a pattern that repeats in [the Player's] career, as is illustrated in the foul data over his time at [WHUFC]*". SPIS did not agree that Mr Keech's foul data demonstrated a pattern of the Player regularly committing two fouls in quick succession..³⁷⁶ Mr Keech had used fouls within three minutes of each other as a measure of '*quick succession*'. In SPIS's view two fouls in three minutes did not constitute '*quick succession*', particularly when addressing the unusual nature of the Player's two fouls within 28 seconds in RM2. SPIS believe that two fouls within one minute would be a fairer measure. There were only three examples of this occurring across 59 matches, which SPIS did not believe to be '*regular*' or '*a pattern*'..³⁷⁷

648. In response to Mr Keech's criticism that SPIS' one-sided analysis of the Player's performances in the RM's had led to increased suspicions over his performance

³⁷⁴ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 28.

³⁷⁵ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 33.

³⁷⁶ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 36.

³⁷⁷ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 37.

and contributed to the grading assigned to each match, Mr Johnson simply reverted to SPIS's default position, being that it uses three forms of analysis to form a holistic view of a match from an integrity perspective: (1) Betting Market Analysis, (2) Intelligence Gathering and (3) Analysis and Performance Analysis.

649. In conclusion, Mr Johnson stated that SPIS found Mr Keech's attempts to normalise the Player's actions in the RM's "*unconvincing*". It said that the comparative analysis presented by him was demonstrably flawed and relied on inaccurate and misleading comparisons. Furthermore, Mr Johnson said that Mr Keech's methodology for identifying "*similar challenges*" was superficial and disregarded crucial factors, ultimately obscuring rather than clarifying the Player's playing style.³⁷⁸

SPIS Response Mr Clattenburg's Statement

650. SPIS engaged in a detailed analysis of all the incidents on which Mr Clattenburg disagreed with their opinions, concluding that while Mr Clattenburg had offered different interpretations of key match incidents, SPIS stood by its own assessments, particularly in respect to the reckless nature of the Player's challenges and the justification for the cautions issued. Additionally, Mr Johnson emphasised that PIR's relating to betting integrity concerns are distinct from referee's post-match reports, and the absence of referee-raised suspicions does not negate suspicions regarding the Suspicious Matches.

SPIS Response to Mr Scott's Report

651. Mr Johnson responded to Mr Scott's statement recited at paragraph 620 above by stating that SPIS's analysis determined the approximate probability of the Player being booked in four specific matches, i.e. given how often the Player receives cards, what is the chance that if four of his matches were randomly sampled that he would have been booked in all four? This probability was not directly linked to any one specific bet placed and provides a benchmark for understanding the statistical likelihood of his cards in the suspicious matches being predicted by bettors.³⁷⁹

³⁷⁸ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 66.

³⁷⁹ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 94.

652. Mr Scott had also stated that *“low probability events, particularly where we specify events occurring in multiple matches, occur frequently in football without being seen as evidence of misconduct or even generating any suspicion of misconduct”*³⁸⁰. SPIS agreed that low probability events happen frequently in football without being seen as evidence of misconduct but observed that if no suspicious betting patterns were observed on those low probability events, then it is unlikely that suspicions would be raised.
653. In conclusion, Mr Johnson maintained that the SPIS probability analysis and 0.61% figure provided a reasonable benchmark for assessing the probability of the Player receiving yellow cards in the Suspicious Matches. The fundamental statistical approach remained valid using a dataset of over 11,000 minutes played.³⁸¹

THE ORAL EVIDENCE AT THE HEARING

654. In respect of the Player’s on-field actions, the Commission heard oral evidence from a number of witnesses. The following are summaries and extracts from that oral evidence that the Commission considered most relevant to its considerations. The Commission considered each, and every aspect of the oral evidence presented to it. If any aspect is not specifically referred to in these reasons this does not mean that the Commission did not give it the consideration it merited.

A. Mr Benjamin Patterson

655. As previously identified when considering the betting data, the Commission heard oral evidence from Mr Paterson. This included his being questioned on performance analysis.
656. The issue of his ‘*expertise*’ in performance integrity analysis was explored by leading Counsel for both parties. He conceded that, whilst he had some experience in this area, he was not an ‘*expert*’ as such.

³⁸⁰ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 95.

³⁸¹ Response statement of Jack Johnson (SPIS) - February 2025, paragraph 105.

A: *"Yes, I can't lean to a qualification perhaps in that area...I can't really qualify and quantify to the same degree as Opta or SPIS have done, I have to acknowledge that, but certainly in, I guess, less formal way I have reviewed match footage from suspicious matches for hundreds of games."*³⁸²

A: *"I don't claim to be -- I don't believe I've claimed anywhere to be an expert in performance analysis, but what I have got is experience in reviewing footage of suspicious matches."*³⁸³

657. Notwithstanding The FA's questioning in respect to his expertise, Mr Paterson maintained his position throughout in respect to confirmation bias within the SPIS Report.

A: *"... It was only the betting points which seems to have led to the suspicious ratings that SPIS have given, not the actual actions themselves."*

Q: *SPIS have made no secret at all, indeed, it was in the statements you had seen, that their PIA work, so performance integrity analysis, started, certainly in this case, after they had been told there was unusual or suspicious betting. They've made no secret about that. It's looking, as I've been asking you, it's looking collectively at the material which is available."*

A: *Yes, but to collectively look at that material and to rate, under a performance analysis report, that a match is suspicious really because of the betting is just duplicating the betting alerts rather than actually labelling the performance itself as suspicious. So that, in my mind, is exactly confirmation bias."*³⁸⁴

A: *No, I understand using the betting reports as a trigger to run the analysis on those games, I fully understand that. As I mentioned, they don't have the resources to review every single game. What I questioned, that if they were asked to look at those games, with the absence - asked to look at those games and identify anything within*

³⁸² Transcript Day 8, page 44, line 25 to page 45, line 21.

³⁸³ Transcript Day 10, page 53, line 23 to page 54, line 2.

³⁸⁴ Transcript Day 10, page 59, lines 10-25.

those games, in the absence of knowing that betting, that they would determine that [the Player's] actions on the field were indeed suspicious. I don't think they would have drawn those conclusions.

Q: *So that's essentially your criticism, is it, of them?*

A: *Yes, and I think that's evidenced as well by some of the actions in additional matches that they have looked at subsequently where [the Player] didn't get carded, there are similar activities or similar level of action points in those other matches where he wasn't - where the betting didn't - the betting reports weren't there, that they have given a - the lowest level of concern to. I think one of the games is even a case of [the Player] asking for a yellow card for a player which, as I'm sure you're all aware, is typically something which results in a yellow card, yet they did not seem to deem that as a suspicious action. It was only the betting report which seemed to be the distinguishing factor between giving a match a level rating of 1 or a level rating of 4.*

Q: *Again, just so we're clear, you're not an expert in performance integrity analysis?*

A: *I've explained my level of experience.*"³⁸⁵

658. In summary, Mr Paterson accepted that he was not an 'expert' in the field of performance integrity analytics but felt that he had sufficient experience to make comment and criticisms. He maintained his primary criticism of SPIS which was that its analysis of the Player's on-field actions and the subsequent match gradings allocated to the four RM's were contaminated by confirmation bias.

B. Mr David Moyes

659. The Commission heard oral evidence from Mr Moyes on 28 March 2025. He was shown a video montage of the 'key match events' for each of the RM's. The following are extracts from his oral evidence that the Commission considered most relevant to its considerations.

³⁸⁵ Transcript Day 10, page 60, line 15 to page 61, line 20.

660. Mr Moyes explained that in his view the Player was not as adept in defence as he was in attack and that, in the position that he was most often deployed, he would often find himself on *'the wrong side of the player'*.³⁸⁶

*"probably what we saw...was that his defensive side was not as good as his attacking side."*³⁸⁷

"Without the ball, he worked incredibly hard...but in doing that quite often he would also be the wrong side of a player, he wouldn't be maybe be in the right position... So, from that point of view, if you're the wrong side of the ball, I think you're always going to have the liability probably. And if you play higher up the pitch, you tend to find that the game is the other side of you...being an attacking player, which he has done most of the time, would mean that most of the time he's going back towards his own goal which means in turning chasing or reacting to probably ball-loss situations".³⁸⁸

661. There was a revealing exchange, in respect to his views on the capabilities of *'analysts'* to comment on football action, when Mr Laidlaw for The FA asked him to view footage of RM1 (events 1,2 and 3). He was handed the SPIS PIR for RM1:

"A: And whose words are these?"

Q: This is a company called SPIS who are performance integrity analysts, and they've looked at all these games, and in respect of the four - what we call the four relevant matches, this being the first one, they've done a whole series of pieces of work and analysis around the game, both in respect of what you can see on the screen using Opta statistics, all that sort of thing, but the purpose of showing what you've got there, if you wouldn't mind just taking it up for me -

A: Am I allowed to ask a question?"

Q: Yes, I'm sure you are.

³⁸⁶ Transcript Day 10, page 114, line 1.

³⁸⁷ Transcript Day 10, page 110, lines 19-21.

³⁸⁸ Transcript day 10, page 113, line 23 – page 114, line 12.

A: Are you sure that these people are specialists in football decision-making?

THE CHAIR. That will be a matter for the Commission to determine.

A: Yes, okay, sorry, I just wanted to say that, because I don't see any point in me reading something if it's from people who are only analysts and have no football experience.

...

Q: All right. All I wanted to do, just glance at the document I've shown you, I think you can see three events there, can you?

A: I can, but again, it's an analyst who has written this –

Q: Mr Moyes, I'll tell you what, I'm going to take it away from you.

A: Please do.

Q: I've tried to help you.

— A: Let's talk through the clips. This is my world now”³⁸⁹ —

662. Mr Moyes was taken through all of the key events in each of the RM's by Mr Laidlaw. At times, he appeared slightly confused as to what was being asked of him and somewhat abrasive in his responses to Mr Laidlaw but his opinions in respect to all of the Player's on-field actions in all the RM's were encapsulated in this exchange in respect to RM1:

“Q: ...but the point is this: a card chased [?] or, in your opinion, just part of the features of the game that you've described to us, both in writing and orally here today?

A: Well, I think of all the challenges nearly every single one of them looks similar. All from the wrong side, all from behind, probably I hope the way I've put it not a great tackler, trying to show that he's working for the team, trying to show that he can fit into our culture, which is to get back into all the duties. Bad timed tackles, which we've said he's

³⁸⁹ Transcript Day 10, page 118, line 13 to page 120 line 9.

not so good at the defensive side of it and I think from what you have shown me at the moment that is evident.

Q: So, part of his natural game? Part of the normal features of his ordinary game?

A: Yes, it could be part of his style because he quite often gets either in the wrong position or wants to show - he's a really strong boy and a tough boy who would want to show his physicality as well, yes.

Q: And if I put the FA's suggestion which is that he is exploiting the natural game you've described, in other words, chasing a card through that element of exploitation, what's your reaction to that? That's what the Commission will want to hear.

A: I don't actually understand chasing a card. I've never heard that expression in football.

Q: Well, shall I reframe that, then? I don't want you to stumble over that, please.

——— *A: Okay.* ———

Q: Deliberately seeking a card.

A: Well, I stood on the touchline and at no time did I think he was ever deliberately seeking a card, ever.

Q: No. And you've made that clear. That applies to all four games, doesn't it?

*A: Yes.*³⁹⁰

663. In respect of the Player's impending transfer to MCFC prior to RM4, Mr Moyes and Mr Laidlaw had the following exchange:

"Q: Yes, the probability was that he was going to leave you, and there was then a debate about whether he should play or not with, as is

³⁹⁰ Transcript Day 10, page130, line14 to page 131, line 23.

obvious, opposing views being explained. He, understandably, wanting to avoid, presumably, an injury –

A: Yes.

Q: - which might jeopardise the move. You, understandably, with a player you were going to lose wanted to put out the strongest team at the start of the season, but by the 10th or the 11th, whichever it was, he would have known that he was playing, is that right?

A: Probably - yes, look, he was the star player, he wouldn't really need to be told too much, he would be expecting to play probably.

Q: Of course. But what was the date that he was told that he would be playing? Because there was a debate beforehand, wasn't there, about whether he would play or not, and you think it's the 10th or the 11th?

A: I would have said - I mean, we would nearly always pick the team on the Friday, for example, the day before the game.

Q: Right. Well, we can work out what date the Friday was, thank you”³⁹¹

664. To summarise Mr Moyes' oral evidence, he appeared to disagree with The FA's suggestions that the Player was deliberately getting himself involved in multiple confrontational actions in order to draw himself to the attention of the referee(s) so as to surreptitiously 'chase a [yellow] card'. His opinion appeared to be that many of the 'key events' were in fact non-events, that is to say actions that were so common in nature that the referee(s) would likely have thought nothing of them and as a whole, across all the RM's, having viewed all of the Player's actions, it was not possible to say that the Player was deliberately seeking to attract the attention of the referee(s) and therefore it was not possible to say that he was 'chasing a card' in any of the four RM's.

665. Mr Moyes expressed the opinion that 'analysts' were not well positioned to comment on the dynamics of the individual challenges/incidents/events that were caught on video. To his mind, 'analysts' who had not played or managed at

³⁹¹ Transcript Day 10, page 135, line 22 to page 136, line 19.

professional level were less equipped than himself to opine on the Player's on-field actions.

C. Mr Mark Clattenburg

666. Mr Clattenburg gave oral evidence on 28th March 2025, remotely by video link.

667. In his cross-examination of Mr Clattenburg, Mr Laidlaw initially explored the laws of the game, their application and the subjectivity of refereeing:

Q: "Each decision a referee makes is obviously one made by an individual.

A: Correct.

Q: And these are subjective decisions of course, aren't they?

A: Yes, very much so.

Q: They will each depend upon the individual referee's subjective interpretation of the rule and then its application to the particular act as _____ he or she sees it? _____

*A: Correct, and also we have to take into account also not just the referee but also the match, the temperature of the match, there is a lot of criterias, for example, a derby match, many different criterias come in, but it can also depend on what's happened 5, 10 minutes previously, so there is a lot of factors going to decision-making of a referee at the top level."*³⁹²

"Q: Yes, and two referees - and I think you agree with this - shown the same incident might arrive at different decisions?

A: Correct, yes.

Q: Both may fall within the range of decisions reasonably open to an official, and the Premier League certainly recognise that referees retain a discretion?

³⁹² Transcript Day 10, page 153, line 23 to page 154, line 18.

A: Correct, yes.”³⁹³

668. In respect of the four RM's he confirmed that he disagreed with two of the four decisions to caution the Player (RM1 and RM3) but agreed with The FA that those decisions fell within normal refereeing parameters.

“Q: But you're not suggesting, are you, that their performance fell outside the range of decisions reasonably open to them to make, are you?”

*A: No, I'm just stating that from my professional judgment I wouldn't have made them decisions.”*³⁹⁴

669. Mr Laidlaw asked him about the least 'risky' way of seeking a caution...

“Q: Do you agree the less risky way to seek a yellow card would be to exploit a natural aspect of the game?”

*A: Yes, that would be normal. For example, if a player really wanted a deliberate yellow card, it would be mainly for kicking the ball away — because it's, you know, a factual decision or delaying the restart. A shirt-pulling is still very subjective, but a tackle is also very subjective, so, for example, a tackle itself might not be a yellow card every single time.”*³⁹⁵

670. In his written statement, in respect of each of the RM's, he had made the point that none of the match referees had submitted a report stating that the Player's behaviour had been suspicious. Mr Laidlaw explored this with him, and he agreed that, as SPIS had put it *“referees would not be expected to be skilled in analysing player performances for betting integrity purposes.”*

671. Turning specifically to RM1, Mr Clattenburg was taken to the three key events identified by SPIS in the 49th, 54th minute and 59th minute. The FA's position was that the Player was creating a scenario whereby he was *“bound to be cautioned”*. He disagreed.

³⁹³ Transcript Day 10, page 155, lines 6-13.

³⁹⁴ Transcript Day 10, page 156, line 22 to page 157, line 7.

³⁹⁵ Transcript Day 10, page 161, lines 5-13.

"Q: My suggestion is that he was bound to be cautioned. You can't, as a professional player, in those 10 minutes, be involved in those three events without being cautioned.

A: Myself after refereeing 350 professional football matches and understanding back in 2022 and previous years how referees manage football matches, and how referees in the Premier League work, I wasn't - I was surprised, certainly, that the yellow card was given on how referees manage football matches...

Q: Right. Are you suggesting that the referee in the Leicester game was wrong, or are you only saying: I wouldn't have cautioned in those circumstances?

*A: Like we talked about earlier, that every referee is different, every match is different, and the referee has chose [sic] to issue a yellow card for a reckless challenge. I don't believe this met the criteria of a reckless challenge, and I certainly wouldn't have cautioned for a reckless challenge for this."*³⁹⁶

672. Mr Laidlaw suggested there was an 'obvious similarity' between the cautioned challenge in RM1 and the cautioned challenge in RM2, but Mr Clattenburg did not agree:

"Q: ...I suggest, there's an obvious similarity with the nature of the foul in the Leicester game...and I'm just wondering on the FA's behalf why you draw the distinction in two tackles which are broadly similar.

*A: In your opinion, they're similar; in my professional opinion, they're not similar...I use the word "forceful", and there was a degree of speed made in the challenge and, therefore, it then goes from what we as referees deem from careless, which is just a foul only, which then meets the criteria of a reckless challenge by the use of speed, force and certainly where he clearly misses the ball and connects on a foot with that speed, it would certainly meet the criteria of reckless."*³⁹⁷

³⁹⁶ Transcript day 10, page 165 line 8 – page 167 line 13.

³⁹⁷ Transcript Day 10, page 167, line 14 to page 168, line 21.

673. Mr Laidlaw explored Mr Clattenburg's opinion on whether the Player could be said to have been 'deliberately' seeking a yellow card...

"Q: ... you write... "Paquetá's behaviour does not appear to me (nor, in my opinion, would it have appeared to Gillett [the referee] or any other suitably qualified referee on the field of play) to be the behaviour of somebody deliberately intending to receive a caution." Can I ask you this, please, I mean, that is the view that you've obviously reached, but do you have any experience or expertise in identifying corrupt footballers?

A: ...we sometimes can say it in a report that this player has sought a yellow card, in our professional opinion it was deliberate, but it's very difficult for a referee to find out what's in the head of a football player, because we don't know what is deliberate...

Q: Well, that's the very point I was going to move to...that nobody can say what was in the player's head apart from him, can they?

*A: Only the player can decide or know what's in his head at that time, the referee can only deal with what's in front of him within the laws of the game."*³⁹⁸

674. In respect RM2, he confirmed that the Player's caution was merited but that nothing in his general play suggested to him that he had deliberately sought to be carded:

"A: I believe that watching the full match this player's actions were normal and consistent with other football players within the Premier League there, just run-of-the-mill, routine challenges, routine fouls, that would be dealt with in a usual way.

Q: But on this occasion, you agree to book Paquetá was correct?

*A: Yes, I do, for -- because of the nature of the challenge, I believe it reached the criteria of a reckless challenge."*³⁹⁹

³⁹⁸ Transcript Day 10, page 168, line 25 to page 170, line 6.

³⁹⁹ Transcript Day 10, page 170, line 20 to page 171, line 4.

675. In respect to RM3, he confirmed that in his opinion not one of the 'key events' merited a caution:

"Q: ... Your conclusions are almost precisely the same as they are for relevant match number 1, are they not?"

A: Yes, I deem that the challenges made were in a careless manner, there was no speed... So therefore, each of the individual challenges I came to the conclusion that not one of the challenges were worthy of a yellow card...

A: And you put it in this way, that Paquetá was unfortunate to receive a yellow card?

A: That's correct.

Q: So, you would not have made the decision that the referee, Mr Bankes, made?

A: I wouldn't have made that decision, no.

Q: But you're not disagreeing that that decision was out of the range of decisions reasonably open to him?

A: Like I said, the referee was in the - it's his mindset, it's his decisions on the field of play..."⁴⁰⁰

676. In respect to the 'handball' cautioned in RM4, he agreed that the Referee's decision to caution was a valid one in the sense that it was 'understandable':

"Q: And here you agree that the referee was correct to award...Mr Paquetá a yellow card for persistent offending?"

A: I said that it was understandable because we have different factors of the game, so late in the match, the referee can choose if he decided not to issue a yellow card because of the lateness of the game, that's management of the referee, but I can understand why the referee

⁴⁰⁰ Transcript Day 10, page 171, line 18 to page 172, line 15.

chose that action because of other things that had happened before it."⁴⁰¹

"Q: So, you are not saying you necessarily agree, but you understand the decision he reached. Is that - am I putting it more accurately now?

*A: Yes, that's correct"*⁴⁰²

677. In summary, Mr Clattenburg gave clear oral evidence as to how he personally, in his capacity as a referee, would have dealt with the individual events in each RM. He acknowledged that there is a range of decisions that a referee may make in respect to any given event and disagreeing with another referee's decision does not automatically make that decision incorrect and that opinions on individual events may differ from person to person due to the subjective nature of assessing complex, multi-faceted, dynamic challenges involving two players. However, he gave coherent and reasoned opinions as to the areas where he disagreed with The FA's positions on individual events and more generally, he maintained his stance that no individual event or series of events he had viewed across the four RM's had made him suspicious that the Player was attempting to deliberately get himself cautioned, either overtly or by stealth.

D. Mr Jack Johnson of Sports Performance Integrity Services ('SPIS')

678. The Commission heard oral evidence in person from Mr Johnson on 31 March 2025 and 1 April 2025.

679. Mr De Marco initially questioned the independence of Mr Johnson in respect of the production of the SPIS Reports, highlighting the fact that SPIS had a pre-existing relationship with The FA and had not taken into consideration anything submitted by the Player's legal team in the drafting of its reports or PIR's:

"Q: Your role, as I understand it, started about a year before these proceedings even began when you were assisting the FA's betting investigation, weren't you?

A: Yes.

⁴⁰¹ Transcript Day 10, page 173, line 18 to page 174, line 2.

⁴⁰² Transcript Day 10, page 174, lines 7-10.

Q: So, you were part of the whole pre-charge investigation, and you were producing reports for Mr Astley who was the FA investigator at the time; yes?

A: Yes, correct.

Q: And you were doing that as part of your role as SPIS's - SPIS, as I understand it, is an integrity partner of the FA?

A: Correct.

Q: And what does that mean, an integrity partner of the FA?

A: It means that they're a customer of ours and we provide them with integrity services.

Q: And so, you've quite rightly said they're a customer. What's the commercial relationship?

A: I wouldn't - that wouldn't be my area. I don't know the exact workings of our commercial relationship.

Q: I assume being the FA they are a good customer of SPIS?

A: Yes, the client relationship between customers wouldn't really be my area so I'm not sure on that.⁴⁰³

“...Q. So you've been involved in the investigation for approximately a year before charge; yes?

A. Yes.

Q. And in that time you obviously were not looking at anything from the Player's side or the Player's evidence because the Player hadn't yet been charged?

A. What do you mean by looking at something from the Player's side?

Q. Well, you weren't asking the Player questions or asking anything about the Player's style to the Player, you were just looking at what the FA had asked you to look at, weren't you?

A. Yes, it's correct that I haven't asked any questions of the Player.”⁴⁰⁴

680. Mr De Marco then explored with Mr Johnson the method by which the SPIS reports were produced. He accepted, as he had done during his evidence in chief, that other analysts were tasked with collating and comparing data and he had oversight of and sign-off for the final reports. He could not say which of the three Performance Integrity Team (PIT) analysts under him had compiled which report... *“I can't remember which analyst would have done which report.”*⁴⁰⁵ Mr De Marco made the point that none of the PIT analysts whose initial opinions were integrated into the final PIR's and who graded the matches⁴⁰⁶ were called before the Commission. He stated that all of the analysis and opinions within the PIR's were also held by him.⁴⁰⁷

681. He was asked if he had any professional football experience and he confirmed that he did not.⁴⁰⁸ He later confirmed that none of the Analysts at SPIS had any professional football playing or coaching experience.⁴⁰⁹

682. He was asked if he felt his expertise and opinions on the Player's playing abilities and actions were as valid as those of David Moyes. He agreed that Mr Moyes was *“well placed to comment on the Player's playing ability”* but, stated that Mr Moyes was *“not necessarily”* better placed than himself to comment, stating:

“He's the football manager of a team who has a lot of different things to consider and think about when he's managing the team. His focus is not going to be on analysing individual players. Yes, that's something that I have a lot of experience in, in analysing individual player actions. Of course, David Moyes has a lot more experience and knowledge of

⁴⁰⁴ Transcript Day 11, page 19, lines 5-18.

⁴⁰⁵ Transcript Day 11, page 26, lines 22-23.

⁴⁰⁶ Transcript Day 11, page 29, line 1 Jack Johnson – *“Yes, they will assign a preliminary grading to the match”*.

⁴⁰⁷ Transcript Day 11, page 29, lines 14-24.

⁴⁰⁸ Transcript Day 11, page 30, lines 21-24.

⁴⁰⁹ Transcript Day 12 page 71, lines 17-22.

football than me in some areas, but I wouldn't necessarily agree with the statement that he made."⁴¹⁰

683. He accepted that incorporating information from Mr Moyes regarding the Player's style of play and his opinions on the 'key events' in each of the RM's would have been useful for the purposes of independent analysis.⁴¹¹

684. The questioning then moved on to the suggestion of confirmation bias that had been levelled at SPIS by Mr Keech and Mr Paterson. He did not accept this criticism:

Q: "And his point is this, isn't it: when assessing the issue of whether the Player's performance is suspicious or not, you have included within that suspicion the fact that you are told there is suspicious betting on him to get a card, haven't you?"

A: Yes, we have.

Q: So rather than assessing performance on its own to see if the Player's actions were in any way unusual or appear to be deliberately seeking a yellow card, you start by taking into account the fact that people have placed a bet on him to receive a card in then assessing the performance?"

A: Yes, and we detail this quite a lot in our statements and very transparent about that, that is our process, we start by defining the integrity concerns on the match and then conduct the analysis within that framework.

Q: And it must logically follow from that that the assessment made may be different if you did not start from the basis of taking into account suspicious betting?"

A: I mean, it would just be a very different report, I'm not sure I'd say the assessment would be different, it would be just be a very different task.

⁴¹⁰ Transcript Day 11, page 33, line 9 to page 34 line 2.

⁴¹¹ Transcript Day 11, page 36, lines 2-7.

Q: And so, Mr Paterson's confirmation bias argument is essentially that your performance analysis in these various reports adds nothing of value because it does not actually consider Mr Paquetá's performance as unusual or suspicious in itself, but only in the context of suspicious betting and he's right about that, isn't he?

A: I don't think so, no."⁴¹²

"...Q: And so, you're starting from that assumption based on the FA telling you it's suspicious and that's what leads to your assessment of a grade 4 strong suspicion case?

A: These are all factors that we considered grading including the intelligence received around the betting and the fact that the Player was carded, those are all factors.

Q: And that's exactly what Mr Paterson means by confirmation bias?

A: I don't really see the link to be honest."⁴¹³

685. There then followed a lengthy cross-examination by Mr de Marco in respect of the three key events that had been identified by SPIS as contributing to its suspicions in respect to the integrity of RM1. The Commission considered this sequence of questions and answers relevant to the accusation of 'confirmation bias' levelled at SPIS.

686. Mr Johnson conceded that there was nothing inherently suspicious about Event 1:

"Q: Okay. And there's nothing at all suspicious about it, is there?

*A: This event in isolation, no, I don't think so".*⁴¹⁴

687. He then conceded that there was nothing inherently suspicious about Event 2:

⁴¹² Transcript Day 11, page 57, line 22 to page 59, line 2.

⁴¹³ Transcript Day 11, page 60, line 22 to page 61, line 6.

⁴¹⁴ Transcript Day 11, page 72, lines 10-12.

“Q: ...If you were looking at this in isolation, it would be very hard to make a case that Paquetá was deliberately seeking a yellow card for event 2, wouldn't it?”

*A: If the only thing you were analysing was event 2, then, yes.”*⁴¹⁵

688. In respect of Event 3, the cautioned event, he conceded that there had not been a ‘bad’ tackle (as there had been in *The FA v Isaac*); it was unclear for which of the two challenges the Referee had given the yellow card; and Mr Clattenburg, who felt that the booking was “*unfortunate*”, was in a better position to opine on the merits of the refereeing decision than he was:

“Q: Well, look at the description of it [the bad tackle in The FA v Isaac]. Do any of the challenges in this case, in the four PIRs, come anywhere near that description in your professional opinion?”

*A: No, I don't think to that description. Again, to give a proper opinion on the similarities I'd have to see the clip again, but based on that description, then, no, that's fair to say.”*⁴¹⁶

“...Q: And would you, again, without any disrespect to you, would you agree with me that he [Mark Clattenburg] has more expertise in the exercise of a referee's discretion in awarding cards than you do?”

*A: Yes.”*⁴¹⁷

689. In respect of Event 3, he said that he disagreed with Mr Moyes’ assessment that there was nothing suspicious about the event and that it had been entirely typical of the Player’s play on the basis that he had performed a ‘*sliding*’ challenge. However, he subsequently conceded the following in respect to ‘*sliding*’ challenges:

Q: “Yes, so just answer me this: if you saw a match where Mr Paquetá made a sliding challenge and you didn't have any information about betting, would you assume that because he's made a sliding challenge and he's also made one in two other matches which are not suspicious,

⁴¹⁵ Transcript Day 11, page 73 lines 16-21.

⁴¹⁶ Transcript Day 11, page 79 line 23 to page 80, line 4.

⁴¹⁷ Transcript Day 11, page 82 lines 17-21.

would you assume that there's something suspicious about him making a sliding challenge?

A: No, I wouldn't."⁴¹⁸

690. Later in his cross-examination he was shown a number of sliding tackles that the Player had performed in matches that were not deemed 'suspicious':

"Q: And... none of the sliding challenges we've seen in any of these matches that you have deemed particularly suspicious are materially more significant or serious than those, are they?

A: No.

Q: No. And none of those are deemed suspicious?

A: No.

Q: No. So, there's nothing about the sliding challenges which you said were unusual, there's nothing about the sliding challenges in these matches which are in themselves suspicious.

A: Yes, if you were to completely remove all context and simply have that - show that one clip, yes, shorn of any context, then no, I don't think it's inherently suspicious."⁴¹⁹

691. He agreed that there is a range of decisions reasonably open to an official:

"Q: ... this is the way Mr Laidlaw, counsel for the FA, put it, and he was talking about the difference in opinion: "Both [opinions] may fall within the range of decisions reasonably open to an official, and the Premier League certainly recognise that referees retain a discretion?" And the answer, this was Mr Clattenburg being questioned, he agreed with that. Would you agree with that too?

A: Yes, I think that's fair."⁴²⁰

⁴¹⁸ Transcript Day 11, page 81, line 24 to page 82, line 6.

⁴¹⁹ Transcript Day 12, page 7, line 23 to page 8, line 13.

⁴²⁰ Transcript Day 12, page 3, line 20 to page 4, line 5.

692. He was asked about *'hedging his bets'* with his *'generic'* response to the MRKT report which had highlighted the Player performing similar fouls in matches outside of the four RM's. Mr Johnson had written, in accordance with The FA's stated position:

*"...an extraordinary or unprecedented event is not needed for a player to internationally be booked. A player's actions to be intentionally booked may be very similar to his actions in 'regular' matches and would be less likely to draw attention."*⁴²¹

693. He said in cross-examination on the point and in response to the suggestion he was saying even if there is nothing suspicious about the play, that is because the player is hiding what he is doing in his normal style of play:⁴²²:

"Sort of. I mean, I think the point is as it reads there: a player who was seeking to intentionally receive a yellow card doesn't necessarily need to do something extraordinary, unprecedented or outside of their usual game in order to receive that card, especially a player who regularly receives cards anyway."

694. Mr De Marco pointed out to Mr Johnson what he perceived as the apparent shift in position from the drafting of the PIR's and the response to the MRKT Report:

*Q: "So, we've gone from some PIRs...which seem to suggest that some of these events are unusual or suspicious. You've then seen Mr Keech's response, and you've said: well, okay, even if they're not suspicious in themselves, he might be disguising what he's doing in his normal style of play."*⁴²³

695. He opined that he considered two of the four cautioned offences (RM1 and RM2) to have been more likely to attract a yellow card than the other two (RM3 and RM4) and therefore more *'suspicious'* in nature. Mr De Marco pointed out that all of the Matches had been graded as a 4 by SPIS:

⁴²¹ Transcript Day 12, page 9, lines 1-5.

⁴²² Transcript Day 12, page 9, line 22 to page 10, line 2

⁴²³ Transcript Day 12, page 10, lines 4-8.

“Q: ... And is, by the way, that distinction reflected in any way at all in your grading of those matches?”

A: Yes.

Q: They're all graded the same?

A: Overall, we considered all factors and reached the same grading for all of them, but that doesn't mean that we considered each yellow card to be the same event or the same level of suspicion.

Q: But you only have five grades, and you have graded each match 4, so you've decided they're all equally highly suspicious, despite the fact you're now saying two are materially more suspicious than the others; isn't that rather odd?

A: No, I don't think so. We have five grades, but there can still be differences between them, within those gradings. We weighed up all of the available information, and felt that the most appropriate grading for all the matches was a 4.”⁴²⁴

696. In the light of the accepted evidence that the Player is a footballer who makes a lot of challenges and in the process commits lots of foul by mistake, Mr Johnson was asked about what appeared to be the contradictory position that The FA and SPIS had seemingly adopted:

“Q: ...What again I just don't understand is if - because... no footballer is perfect - if with this particular player, he's not good enough, or not perfect enough, so that he does commit a lot of these types of fouls, I don't understand how under this case theory he's perfect enough to intentionally commit a yellow card and hide it to make it look like a mistake. I mean, that seems more difficult than making the tackle in the first place. Do you follow? It's a very, very complex, sophisticated thing, isn't it?”

A: No, I wouldn't say so. I mean, we've seen the clips and I think it's quite clear how a player in one instance could see an opportunity to

⁴²⁴ Transcript day 12, page 14 lines 5-22.

make a particular tackle which isn't outside of the realms of their usual play but get there slightly late, catch the player, ensure they get –

Q: So, you're running in and you're deliberately getting there slightly late?

A: It's a possibility."⁴²⁵

697. He was not prepared to accept that the match gradings were based on the betting data alone but did make the following concession in terms of looking at the on-field actions of the Player in isolation:

"Q: Sure, okay. But here, in this case, there's nothing inherently suspicious about any of his actions. It's only because of the betting data that you've graded them 4?

A: It's not only because of the betting data, but I think it's fair to say that if we take inherently suspicious to mean, okay, show somebody this clip in complete isolation from all context, then I think, yes, it would be hard to attach suspicion to the isolated event without context."⁴²⁶

698. During his second day of evidence Mr De Marco, utilising slides from the MRKT Report, took him through extensive cross-examination that highlighted what the Player believed were deficiencies and data omissions in the SPIS analysis undertaken for each PIR. Beyond the alleged weaknesses in the SPIS analysis it was suggested by Mr De Marco that he was not adhering to the fundamental principles expected of an *'independent'* expert. He did not accept this, although he did concede that certain metrics and/or variances in statistical calculations, albeit generated by Wyscout as opposed to Opta, that would have favoured the Player's case, did not form part of the PIR's:

"Q: I mean, do you understand the fundamental principle is that you're not here to try and argue the case for the FA. If there's a point in the Player's favour, you ought to be accepting it. Do you understand that?

A: Yes, of course.

⁴²⁵ Transcript day 12, page 19 line 9 – page 20 line 3.

⁴²⁶ Transcript Day 12, page 21 lines 8-16.

Q: *Because that's not what you're doing in your evidence.*

A: *Yes, I disagree with that*".⁴²⁷

699. An interesting exchange occurred on the subject of the Player's 'expected yellow cards' in the 2022/23 season. Mr De Marco pointed out to Mr Johnson that MRKT Insight had calculated this to be 6.55 in that particular season. The Player had in fact received five yellow cards in that season, deducting the three yellow cards he was accused by The FA of obtaining deliberately, meaning that he would have had only two yellow cards for that season, which would be significantly below what would be expected on the probabilities. Whilst he accepted this, he was keen to put forward further data that to his mind, undermined the point.

"Q: I'm sure there are many examples, but we're dealing with probabilities here, and in this particular season, in the Premier League, one expects him to get six cards. If you take away the three suspicious, he would only have two. That is a significant difference, it's significantly below what would be expected on probabilities.

_____ A: Based solely on number of fouls, yes, but like I say we've got a real world example that we can flick back one season to see him actually getting well below that, so there's loads of different reasons why a player could get more or less cards than the foul data would expect.

Q: Well, that's fair, but I think it's also fair to say that just about on every occasion, Mr Johnson, you look for an example against the Player, and all this analysis that's in favour of the Player never finds its way into any of your performance reports, does it?

A: *No, I don't think that's correct.*"⁴²⁸

The emphasis in cross-examination was then shifted to the data that was in the PIRs and he conceded that in isolation there was nothing inherently suspicious about the Player's 'adjusted tackles' data.

⁴²⁷ Transcript Day 12, page 53, lines 2-8.

⁴²⁸ Transcript Day 12, page 39, line 14 to page 40, line 6.

"Q. ... I'm saying if the Commission looks at that data set, there is nothing suspicious about the four matches, based on that data set, yes?"

*A. Again, if they looked at one column of data in one statistic, then, no, obviously you can't attach suspicion to that one column of data".*⁴²⁹

700. He appeared initially to concede that, looked at in isolation, there was also nothing inherently suspicious in the Player's 'defensive duels' data but he then made the comment:

*"...I think there's quite a clear pattern in the suspicious matches of much higher and sometimes unusually higher defensive involvement than usual."*⁴³⁰

701. Following further exploration by Mr De Marco, the Commission were unpersuaded by Mr Johnson's stance. Indeed, the Commission noted this exchange led to Mr De Marco again challenging Mr Johnson's independence in giving his evidence.

702. On the subject of the 'number of fouls committed' data, he stated that this was a relevant metric when measuring the suspicion attached to each RM. When it was pointed out to him that in RM3 the Player had only committed two fouls he responded: *"yes, I think it would be fair to say that we considered the performance in the Leeds match to be less suspicious than the others"*.⁴³¹ Mr De Marco subsequently observed that this difference was not reflected in the PIR's, as all of the RM's had been graded as 4 with no distinction made between RM3 and the other three RM's.

703. He was asked about the data in the PIR's that related to the timing of the Player's bookings and said he took 'ownership' of this part of the analysis and stated that he thought it was relevant to the PIR's. Mr De Marco put it to him that *"It's a completely flawed statistical analysis, isn't it?"* to which he responded *"No, I wouldn't say that. Like I say, it's -- this is the data set that we have, this is all of the matches that we've looked at, and we're presenting them very transparently*

⁴²⁹ Transcript Day 12, page 48, lines 16-21.

⁴³⁰ Transcript Day 12, page 50, lines 17-23.

⁴³¹ Transcript Day 12, page 55, lines 13-15.

here as the data we have, here are where the suspicious cards that we have recorded occur and here is when they occur. Yes, we felt that it was relevant.” At the time of saying this, he was obviously unaware that The FA had abandoned this element of the PIR’s.⁴³² Ultimately, after some further questions from Mr De Marco, referring to evidence from Mr Scott, he conceded that there was no relevance or weight to the evidence in respect of the Player’s bookings.

704. He was taken to the SPIS descriptions of individual events which it was suggested were unduly slanted against the Player and he was asked if, as an independent expert, incorporating the Player’s accounts and explanations for his actions would have potentially benefited the PIR’s. He accepted that it potentially would have:

“Q: Okay. I just wonder, if you were here as an expert witness as opposed to part of the prosecution and investigation team, do you agree with me that your expert evidence would include an assessment of the Player’s account of what he was doing, you’d take that into account in producing your evidence on performance, what he said he was doing, is that fair?”

A: If I was asked to look at it, then I would have done, but I wasn’t. I mean, it wouldn’t typically be - it’s not something that we have ever included in our performance reports before, it’s not something we typically would do, it’s clearly not something we outline as part of our process. Like I say, if we had been asked to look at it, then I’m sure we would have done.

Q: All of those things are true, Mr Johnson, because you’ve never been called to be an expert before; you’ve rather been part of the investigation.

⁴³² At para 222 and 223 of The FA’s Opening The FA state “Three times within the case summary, the FA stated that SPIS’s data suggested the most common time for offences resulting in suspicious cards to be committed was between the 54th and 86th minute of the match with 93% of such offences occurring during that period. [Mr Scott] was also asked whether that calculation was correctly presented by The FA, and he said it was not...Again, The FA accepts the correction and that figure will not be repeated in the hearing”.

A: Yes, well, we produced lots of these performance reports before as part of our process, but, yes, obviously it's true that I haven't been called as an expert before."⁴³³

705. He was taken through the three events of RM3. He had previously said that he thought the Player's actions in this fixture were less suspicious than RM1 and RM2. He conceded that in isolation events 1 and 2 were not inherently suspicious. He stated that the cautioned event 3 was *"not one of the more clear ones"* and appeared to accept that this particular event was wide open to subjective interpretations as to why the referee decided to issue the yellow card (even though it was reported by the referee as having been for a 'Foul Tackle'). He was reminded that Mr Clattenburg had strongly disagreed with SPIS' analysis that *"the yellow card appears justified"* on the basis that it could equally have been given for persistent infringing and/or stopping a promising counterattack. He said that he disagreed with Mr Clattenburg's opinions on the matter. He was then asked: *"Do you have a better knowledge of what professional referees deem as worthy of consideration in relation to this matter than Mr Clattenburg has?"* He answered *"No, I don't."*

706. Ultimately, in respect of RM3 he accepted that, absent the betting data, there was very little, if anything, suspicious about the Player's actions in RM3: *"Yes, if you take out the betting data, if there's no betting concerns on a match, then, yes, it's unlikely that this one would be considered suspicious."*⁴³⁴

707. He was then taken to RM4 and to each of the five events that had occurred up to the 73rd minute of the game. He was largely in agreement that none of the five events were 'obviously' cautionable offences although in respect to events 4 and 5 he felt that a caution could have been justified for recklessness or persistent infringement. He accepted that with the score at 1-0 there would normally be an intensification of action in the final twenty or so minutes. He accepted that he was unaware that the Player was WHUFC's most substituted player and that this

⁴³³ Transcript Day 12, page 79, line 22 to page 80, line 17.

⁴³⁴ Transcript Day 12, page 101, lines 15-17.

would have been “*potentially*” relevant to the PIR and that “*perhaps it was something that we could have included*”.⁴³⁵

708. He said that it was a “*very fair observation*” that, as Mr Keech had put it in his report, “*If he had deliberately sought to obtain a yellow card as part of a spot-fixing operation, it is unlikely that he would have waited until stoppage time to do so.*”

709. Asked whether if he had known that the Player had asked not to play in RM4 he would have included that in the PIR and if it would have been relevant to the match grading? He replied, “*Yes, it would be a piece of intelligence that I think we would consider if we had that information.*”

710. He agreed that other items of ‘*intelligence*’, had he known about them, such as the Player’s salary, his generosity to his family, the scale and size of the bets placed on RM4 by those connected to him would potentially have been incorporated into the PIR for this match:

“*Yes, like I say, the first two of those, if that was intelligence that our intelligence department had received, then that would go through our usual process of analysing intelligence and be included in the reports if we felt it was relevant, and contribute to our grading, and the same as the betting analysis, we don’t typically conduct analysis of kind of account level betting in terms of, yes, specific accounts and amounts, amounts staked, we normally focus on the kind of movements in the overall global betting patterns. So, yes, that would have - have to be a decision that would be taken within the team as to whether we would expand our kind of betting analysis to include more detailed account level analysis.*”⁴³⁶

711. He also accepted that the fact that Mr Moyes had told the Player he would substitute him if at all possible, would have been a further piece of ‘*intelligence*’ that would, had it been known to SPIS, have been incorporated into the PIR and would have been relevant to the level of suspicion attached to the fixture.

⁴³⁵ Transcript Day 12, page 115, lines 22-23.

⁴³⁶ Transcript Day 12, page 120, lines 12-25.

712. He accepted that there were no attempts by the Player to get a yellow card between the 73rd minute and the 93rd Minute of RM4.

713. Mr De Marco took him to the video of the cautioned handball in the 93rd minute. In the SPIS report it was stated that the Player's arm was "*unusually high*" and that "*The action [of] Paquetá appeared deliberate and intended, and the award of a card for the offence appeared justified*". However, Mr Johnson made a number of comments that undermined these positions. In respect of the height of the Player's arm he conceded the following:

*"I absolutely acknowledge it's very difficult to see so obviously we're just trying to - making our best judgment based on that zoomed-in image..."*⁴³⁷

*"It's hard to say whether it's pointed vertically up or at that angle, it's almost impossible to tell from the footage..."*⁴³⁸

*"Yes, it's very hard for me to see what the left arm is doing from this angle, and from this distance, without having it to frame by frame myself..."*⁴³⁹

714. In respect to how '*deliberate*' the Player's actions were:

Q: "*You actually think it's more likely that he was deliberately trying to handle the ball, do you, more likely, is that what you think, genuinely?*"

A: *I don't know. I think it's very tricky to say..."*⁴⁴⁰

715. Mr De Marco subsequently pointed out that the Match Referee did not give the decision for a deliberate handball but for persistent offences:

Q: "*And that's actually what happened here: he gets a yellow card for a persistent offence. You're quite right he points to parts of the pitch, but we've also seen the referee's report?*"

A: Yes.

⁴³⁷ Transcript Day 12, page 131, lines 10-12.

⁴³⁸ Transcript Day 12, page 131, lines 21-23.

⁴³⁹ Transcript Day 12, page 133, lines 6-8.

⁴⁴⁰ Transcript Day 12, page 134, lines 16-19.

Q: And it says it's a yellow card for a persistent offence, not for a deliberate handball?

A: Yes.

Q: Yes. So, the referee doesn't think it's a deliberate handball either?

A: Yes, potentially, based on the fact that he's given it for persistent offences.”⁴⁴¹

716. He agreed that it was very difficult to reach a conclusive view on the ‘handball’ incident:

“Q: Okay, on any view, it's very difficult to reach a conclusion –

A: Yes.

Q: - about whether this is a deliberate handball or not, isn't it, on any view?

A: Yes, I think that's fair.”⁴⁴²

717. Mr De Marco raised with him the statistic of 0.61% that had been proposed in the SPIS Report to represent the probability that a bettor would successfully bet on four occasions that the Player would be yellow carded.⁴⁴³ He agreed⁴⁴⁴ with Mr Scott who had commented in his report that: “...An 'event' with 0.61% probability could be interpreted as being so unlikely that it was indicative of misconduct. However, low probability events, particularly where we specify” events occurring in multiple matches, occur frequently in football and are not seen as evidence of misconduct.”:

⁴⁴¹ Transcript Day 12, page 139, lines 14-25.

⁴⁴² Transcript, Day 12, page 140, lines 10 -15.

⁴⁴³ The FA at para 220 and 221 of its Opening had stated “SPIS, using OPTA data had calculated the probability of LP receiving a card in each of the RM's as approx. 0.61% and that figure appeared twice in the Case Summary at para 56 and 94. As Mr. Scott (“BS”) said, implicit from the use of that figure, The FA had implied that a low probability of that sort was indicative of “suspicious action”. BS was asked by the Player's lawyers whether that figure had been correctly presented by The FA, and he has said that it was not...He also expressed the view that the calculation could not prove (or be indicative) of misconduct. The FA accept the correction and that figure will not be relied upon in the hearing.”

⁴⁴⁴ Transcript day 12, page 147 lines 5-8.

"Q: So that's the criticism of the statistic. It's not that it's a wrong calculation; it's that it's meaningless in that no gambler in this case took a risk with any bet that is reflected by this statistic, did they?"

*A: Yes, again, I haven't looked at that in detail, and again, that's not we were trying to suggest here ... We were answering the question that given the percentage chance of the Player getting booked in a match, what was the chance that, if you were to randomly sample four matches, that he would have been carded in each of those four matches."*⁴⁴⁵

718. Having been taken through some other examples of low probability events having occurred (Mark Cucurella receiving 5 yellow cards at a probability of 0.075%, Mo Salah scoring seven consecutive matches at a probability of 0.68% and MCFC losing four games in a row at a probability of 0.02%) he agreed that low probability events actually occurring is not inherently a cause for suspicion:

"Q: So, you agree with Mr Scott that the fact that this is low probability in and of itself is not suspicious?"

*A: Yes, correct. I think, yes, you can see from the examples there that, yes, there are other occasions where obviously players receive four or five yellow cards during a certain period, yes."*⁴⁴⁶

*"A: ...yes, I don't think we are trying to say anywhere that there's anything inherently suspicious in a player receiving four yellow cards in the absence of any betting patterns, no."*⁴⁴⁷

719. During re-examination by Mr Laidlaw, he stated that nothing in the statements of Mr Paterson, Mr Clattenburg, Mr Scott or Mr Keech had caused him to change his mind about anything in the SPIS PIR's. He confirmed that he had not been provided with statements from the Player or Mr Moyes but, if he had had them, he would have tried to integrate their information into the PIR's. He stated that there '*absolutely*' were differences in the expertise that he and Mr Moyes possessed:

⁴⁴⁵ Transcript Day 12, page 147, lines 5-16

⁴⁴⁶ Transcript Day 12, page 150, lines 4-9.

⁴⁴⁷ Transcript Day 12, page 150, lines 20-23.

*“Yes, I mean, my expertise, which we've gone over in this hearing, is, you know, I have five years of experience specifically analysing video footage of player actions and data of footballers for a leading football consultancy, and then the second half of my career has been spent applying that to integrity analysis specifically and I also have knowledge of betting markets and wider integrity issues and, yes, very specifically performance analysis and video analysis and data analysis within the integrity context. Yes, I guess everyone here kind of - you probably don't need me to explain what a football manager's role is, but what I've just described there really wouldn't typically be the same as what a football manager's role is.”*⁴⁴⁸

720. He was asked about who had initially alerted SPIS to the fact that there had been suspicious betting on the RM's. He confirmed that for RM1 it had been The FA but for two of the others it had been the IBIA. He confirmed that in this case SPIS did not see any of the 'granular [betting] data'⁴⁴⁹. He denied that he and his analysts had been affected by any 'confirmation bias'. He re-iterated that in his view the best approach was, as SPIS had done, to consider the Player's actions in the light of the betting data alerts and gathered intelligence rather than as Mr De Marco had done in cross-examination, look at each event in isolation which he described as *“completely inappropriate and would never really lead to any useful insights”*⁴⁵⁰. He said nothing that had arisen during his cross-examination had caused him to change his mind in respect of how SPIS had summarised the four RM's in its executive summary.

721. The Commission asked him about the limitations of statistical analysis, and he said this:

“No, I think I agree with that around the Opta data, it's performance event data which is clearly not telling the full story of a match. I think football statistics aren't there at the moment. We can't tell the whole story of a game just based on data, even if we had better tracking data in these, so metrics analysing the player's off-ball performance, even

⁴⁴⁸ Transcript Day 12, page 157, line 23 to page 158, line 12.

⁴⁴⁹ Transcript Day 12, page 160, lines 3-7.

⁴⁵⁰ Transcript Day 12, page 170, lines 10-11.

if we have that I think it's difficult to tell the full story of a match just using data, so there definitely is limitations with event data."⁴⁵¹

722. When asked about how much weight the Commission should give to his 'expert analyst' evidence as opposed to that of an experienced 'football' person such as Mr Moyes, he said:

*"Obviously it would be nonsense of me to sit here and say that I have more experience in football than him and obviously I would put a lot of weight on his experience and his opinions, but I think we just both have very different experiences and very different ways of analysing football, which are probably both helpful in this case."*⁴⁵²

723. Lastly, the Commission asked him to explain why a match grading of 4 referenced "Large unexplained betting market moves usually across multiple markets and outcomes..." when it appeared that SPIS had only received alerts that suspicious betting had taken place. His response was:

"A: maybe I can clarify in terms of the gradings when we talk about large unexplained betting market moves and moderate moves, this is when we are talking about analysing global betting patterns, so in matches where we have data on how all of the global betting operators have priced their games and how that has moved in play and pre-match and then us analysing those patterns, that's not something that we've done here, we didn't have that data, and, yes, that's -- this part isn't massively relevant to the analysis that we provided.

Q: ... So when we see the relatively small, moderate and large explained [relating to betting market moves as part of the SPIS match grading index] that's not actually going to assist is greatly in this case?

A: No, that would be a different form of analysis that we would undertake where he have access to global betting patterns.

Q: Okay.

⁴⁵¹ Transcript Day 12, page 175, line 19 to page 176, line 3.

⁴⁵² Transcript Day 12, page 177, line 23 to page 178, line 4.

A: In this case the betting information comes under the intelligence umbrella.

Q: So, would it be, therefore, fair to say that your grading of 4, strong suspicion, is largely, not exclusively, but largely based on the performance analysis and the other factors that we see in the PIRs?

A: Yes.”⁴⁵³

724. Mr Johnson, in distinguishing the approach to a Match Grade 5 from a Match Grade 4 for the Commission made the following comments:

*“So, where that [detailed betting data] information is available, we typically would. I guess it's available here, that's the important thing, we didn't have that information available to us, we didn't collect it at the time, and we don't have account level information, so what we have analysed here is the performance analysis and the intelligence. If it was available, then these are our kind of - this is our usual approach, these are our gradings that we typically apply and where available we do analyse betting data. Yes, global betting patterns is something that we often analyse and then would include that analysis in our overall reporting.”*⁴⁵⁴ [Our underlining for emphasis].

E. Mr Tim Keech of MRKT Insights ('MRKT') Oral Evidence

725. Mr Keech gave his oral evidence in person on 2 April 2025.

726. He confirmed he had compiled three reports on behalf of the Player:

- First report, post-charge - dated 13 December 2024;
- Reply report dated - 19 February 2025; and
- Joint Experts report with Mr Johnson dated 18 February 2025.

⁴⁵³ Transcript Day 12, page 179, line 20 to page 180, line 20.

⁴⁵⁴ Transcript Day 12, page 181, lines 10-21.

727. He agreed with Mr Laidlaw that there was ‘*considerable distance*’ between his views and those of Mr Johnson in respect to the points and relevance which the Commission had to determine.
728. It was, however, common ground between Mr Keech and Mr Johnson that the free kicks which led to the Player’s cautions in all four suspicious matches were valid decisions with potential for the referee to give yellow cards.
729. Mr Clattenburg had said that he would not have given yellow cards in RM1 and RM3. Notwithstanding these clear disagreements, Mr Keech felt that Mr Clattenburg’s views still remained within a reasonable range of views and were legitimate positions to take.
730. He stated that his expertise lay more in the analysis of football than analysis of betting. Mr Laidlaw accepted that questions around the betting data fell outside the expertise that he professed to hold.⁴⁵⁵ He also stated that he had not previously been involved in the analysis of spot-fixing.⁴⁵⁶
731. Notwithstanding his admitted lack of expertise in the field of betting, MRKT had, in its reports, put forward the proposition that sophisticated gamblers may have looked at the Player as having been a good bet for various reasons attached to his playing statistics. For example, the Player and WHUFC generally received below the normal level of cautions per fouls committed.
732. SPIS had disagreed with MRKT that the Player had received below the normal level of yellow cards for the number of fouls he commits, stating that “*The trendline... would indicate that he received approximately the right number of yellow cards for his foul numbers*”. Mr Keech explained the MRKT graph to the Commission:

“If you have look at the graph, you have a red spot that’s on the trend line and you have a yellow spot which is below the trend line. The yellow spot below the trend line shows with the three cards removed from the series. So, we’re saying that if you look at the [Player], he is in the bottom right-hand corner of the graph with the yellow spot, that

⁴⁵⁵ Transcript Day 13, page 17, lines 24-25.

⁴⁵⁶ Transcript Day 13, page 15, lines 17-18.

*was him without the three additional yellow cards that he is alleged to have received. So, without those yellow cards -- without those yellow cards, he would be there. With those yellow cards, he would be on the trend line. If you look at a player like Conor Gallagher, who's on the top right-hand corner of the graph, he's receiving approximately twice as many yellow cards per foul as [the Player]."*⁴⁵⁷

733. SPIS had also disagreed with the proposition in respect to WHUFC stating that:

*"Opta data shows that over the course of David Moyes' most recent tenure as manager ...[WHUFC] consistently committed fewer fouls and received [fewer] cautions than almost all other Premier League teams. It is SPIS's view that [it is unlikely] that [WHUFC's] fouls committed and yellow card statistics would have been ... used to determine [and they quote] 'a potential value angle for future betting' for [WHUFC] players to be carded, as the MI Report suggests."*⁴⁵⁸

734. Mr Keech countered SPIS's position stating:

*"So I agree [WHUFC] gave relatively few fouls away... and they receive relatively few yellow cards. However, if you look at the trend line, much as in the previous graph, they're below the trend line which could indicate that for the number of fouls they commit, they receive relatively few yellow cards."*⁴⁵⁹

He went on:

*"[WHUFC] when they lose possession of the ball, tend to retreat into a defensive block...The front players, which includes [the Player], their role is to disrupt the opposition build-up by trying to win the ball back high up the pitch. Many of the tactics we see [the Player] doing is where an opposition attacker is running towards the defence before it's organised, and **his job is to foul the player** to prevent an attack on a disorganised defence. So I think there's reasons why again, a sophisticated gambler may look at this and say of the players [WHUFC] have who is likely to receive yellow cards which a referee*

⁴⁵⁷ Transcript Day 13, page 19, line 15 to page 20, line 4.

⁴⁵⁸ Transcript Day 13, page 21, lines 2-13.

⁴⁵⁹ Transcript Day 13 page 22, lines 1-5.

may regard as cynical because they've prevented an attack against a disorganised defence."⁴⁶⁰

Prompted by Mr Laidlaw, Mr Keech expanded on his phrase **"his job is to foul the player..."**:

*"I mean ideally dispossess and cause a counterattacking situation, but if a foul is required to prevent a goal scoring opportunity... I think most football managers would accept that as, for want of a phrase, taking one for the team, receiving a card to prevent a goal scoring opportunity against you. That would be something I think would be a legitimate footballing decision for a manager to be happy for a player to foul in those situations"*⁴⁶¹ [Our emboldening and underlining for emphasis].

735. In respect of the cautioned decision in RM4, MRKT had stated that it had been an 'aerial duel' during which the Player's arm had moved across or struck the face of his opponent. SPIS disagreed with this description. Mr Keech said *"I think we concede it's likely the handball was the reason for the free kick being given. We maintain our view that the actual incident is an aerial duel, so there's two players challenging for the ball. We maintain that both players jump with their arms as most footballers do, all footballers do, and there was an entanglement of the limbs"*⁴⁶²

736. MRKT had been criticised by SPIS for including in its reports what SPIS considered to be irrelevant points, stating that: *"Some findings of the MI Report appear of limited relevance in analysing PAQUETÁ'S play in the Suspicious Matches."*⁴⁶³ One of those points was MRKT *"identify[ing] PAQUETÁ'S direct opponents and suggesting it was likely those players would be fouled at least once in the [RM's] is one example, as any [WHUFC] player could have fouled those players."*⁴⁶⁴ Mr Keech maintained that this was a relevant point to be considered, *"In those cases, you would look at and say they're more likely to be in duel situations, so I do think it's relevant who the opposition player was"*.

⁴⁶⁰ Transcript Day 13, page 22, lines 10-25.

⁴⁶¹ Transcript day 13, page 23 lines 4-16.

⁴⁶² Transcript day 13, page 25 lines 15-22.

⁴⁶³ Transcript day 13, page 26 lines 21-23.

⁴⁶⁴ Transcript day 13, page 27 lines 2-5.

737. Another MRKT point challenged on the basis of its relevance by SPIS was that Brazilian footballers tend to commit high numbers of fouls. Mr Keech responded, *"It's almost part of the culture in Brazilian football to disrupt opposition build-up attacks, and the data was to demonstrate that in the leagues that [the Player] had played in, there were a high volume of similar fouls."*
738. He confirmed that he had not seen the betting data and that he had been instructed by the Player's solicitors to focus on the Player's on-field performance(s). The following exchange encapsulated the problem faced by the Commission in terms of answering the question as to which party had taken the better approach to the analysis of the Player's actions:

Q: *"Is it Level who have instructed you only to focus on performance?"*

A: Yes.

Q: *Right. Can I ask you this question, then, and it's the question I'll come to right at the end: do you not agree that to express a view -- and I don't mean this in an insulting way -- of real value you've got to look at the whole picture which is betting patterns together with performance?*

A: *I think betting patterns together with performance risks confirmation bias. You see before you watch the video, these are the clips, this is the type of action we're looking for. Our view is we should look holistically at the player's playing style, look at what they do, their underlying behaviour in games, and see if there was deviations from those typical performances in the reference games. That's the view that was taken for our reports as we looked at what does the player typically do, what has he done over his career, pre-reference period, during reference period and post-reference period. Is there deviation during the periods of the specific matches or the period -- the reference period. So that's our idea, that we look at that, that gives us a clear understanding of what the baseline for the [Player] is and whether there are any deviations from that. If we introduce the idea that betting was - on those four matches was specifically - was done, then we*

would have to - I think we would risk confirmation bias just looking for what we wanted to see in those matches.”⁴⁶⁵

739. He then explained what MRKT had written in respect to the underlying rate of cautions the Player had incurred which countered The FA’s position that the Player was covering up his deliberate attempts to get booked by utilising his normal play – an important observation in the view of the Commission:

“I think what I would say is we’ve looked before, during and after. So, we’ve looked at the reference period - before the reference period which is where all the figures for the calculations come, where we’re talking about a yellow card for the sake of simplicity, or say every four games, was the pattern leading up to the reference period. During the reference period, he received cards roughly in level with that ratio, and post the reference period, he’s received cards roughly in that ratio. So, the reference period, when he’s received those additional yellow cards, the alleged additional yellow cards, my expectation would be that the rate would either increase during that period, because there are additional yellow cards, or he would have to modify his behaviour in every game in order to ensure that he was below the trend line for the reference period. Now, that’s purely speculative and supposition, I’m sure you’ll say, but that’s just my idea as the trend line never really moves. Even during the period where he was alleged to be receiving additional yellow cards, you would expect there to be a higher number of cards during that period relative to the baseline. But my impression was that that wasn’t the case during those periods, so the idea a player could disguise them is something I accept, but in that case I would expect there to be additional cards rather than just maintaining the before, during and after levels throughout these periods.”⁴⁶⁶

740. He was asked about his expertise, and he accepted that he had no experience of looking at performance data with an eye to integrity and that this was the first time he had been asked to opine on a case where integrity was an issue.

⁴⁶⁵ Transcript Day 13, page 32, line 15 to page 33, line 19.

⁴⁶⁶ Transcript Day 13, page 35, line 23 to page 37, line 1.

741. He was taken through a long list of factors that highlighted that *"no challenge or event will ever be precisely the same"*⁴⁶⁷ to make the point that MRKT having identified challenges made outside the RM's that are similar to the challenges made by the Player in the RM's had limited value and that as Mr Laidlaw put it, *"The best that can be done, I'm going to suggest - and this is what our submission on behalf of the FA will be - is to identify as SPIS have, the general nature of the tackles or the challenges"*. Mr Laidlaw used the example of a 'sliding tackle' causing a foul as being an example of the 'general nature' of a tackle. Mr Keech responded by explaining that Opta will not record sliding tackles that do not result in a foul and therefore Opta's (and therefore SPIS's) perception of the 'general nature' of sliding tackles performed by the Player will not give a true picture of the reality:

*"[SPIS] would say these weren't yellow card fouls, sliding tackles, therefore they're not relevant. We're saying they are relevant because they show the typical patterns of behaviour of the player in those phases of the game."*⁴⁶⁸

*"So, the player is prone to running from behind and making a challenge, they will only record it in the event that a foul was committed through a sliding tackle, whilst we would say he's tried it ten times, twice he's actually slid and fouled, twice he's slid and missed. Occasionally he's won the ball and won the tackle and play has continued... So, the general point I'm making is, yes, having a set criteria about what a sliding challenge is a relevant approach, and that's the approach [SPIS] use. I would say our approach looks at those dynamic factors you mentioned at the beginning of your question where you're taking into account the various factors around play."*⁴⁶⁹

742. In respect of RM1, Mr Laidlaw asked Mr Keech whether he agreed that it was *"inevitable"* that the Player would be booked after he had committed the double challenge seen in key event 3 (as described by SPIS). He accepted that it was *'likely'* and would not be unjustified but could not say that it was *'inevitable'*.

⁴⁶⁷ Transcript day 13, page 41, lines 15-16.

⁴⁶⁸ Transcript day 13, page 44, lines 20-24.

⁴⁶⁹ Transcript Day 13, page 44, line 24 to page 45 line 14.

743. In its report MRKT had compiled footage from 16 matches (from a total of 59 2022-23 / 2023-24 Premier League Fixtures) during which the Player had made double challenges in quick succession to show that it was not unusual for the Player to make two (or even three challenges) in quick succession as he had done in RM1 (within 28 seconds). Mr Laidlaw made the point that in none of those clips did the Player make a 'sliding tackle' as he had done in RM1 but when observing his actions in a match against Tottenham, Mr Laidlaw appeared to accept Mr Keech's point regarding the Player making multiple challenges in quick succession:

"A: ... so the difference between a process that SPIS would have undertaken for that and the process we've undertaken is SPIS will have logged a singular event of a foul and then whether that foul is given for the second of those duels or the third of those duels will be unclear, so I think what we're trying to say is by viewing video in addition to pure data you get a bit more context around the typical actions of a player. That was the point I wanted to make, sorry.

*Q: No, I see the point. It's effectively three physical duels all in very quick succession, all within a second or so, of each other."*⁴⁷⁰

744. Responding to the compilation of the 16 'double challenge' matches by MRKT, SPIS had pointed out that in its opinion fouls committed 3 minutes apart ought not to be considered as having been in quick succession and a 1 minute gap would be a better measure (5 'double challenge' matches fell within 1 minute) particularly as the double challenges in RM 2 had taken place within 28 seconds – Mr Keech was asked if this was fair?

"Q: ...is that fair comment, do you believe?

A: I address this again in the third response report where I indicate that no player in the Premier League has fouled twice within three minutes more than [the Player], and only one player has fouled twice more than within one minute than [the Player] in the last two full seasons of the Premier League. So, we regard being the number one and number two fouler as being a feature and pattern of his game.

⁴⁷⁰ Transcript Day 13, page 55 lines 13-25.

Q: Right. So, in part you take the point –

A: We took the point that we addressed –

Q: - but you maintain it for the reasons you've set out. I follow.

A: Yes.”⁴⁷¹

745. Mr Keech was taken through numerous clips that MRKT had identified as being similar to those found in the footage of the RM's. The FA's point was that very few of the multi-challenges were relevant in either features or timing. He accepted that no two events are ever going to be identical but stressed that MRKT had been looking for “*similarity in terms of underlying behaviour*”.

“Q: As detailed above, in SPIS's view, the examples of 'similar challenges' provided in Section 4 of [your] Statement are misleading and do not demonstrate that PAQUETÁ'S actions in the Suspicious Matches were consistent with his playing style and not out of the ordinary...”

*—A: ... Our comment remains we're looking at underlying behaviours likely to have been present in the Player's game.”*⁴⁷²

746. Notwithstanding the line of questioning referred to above, Mr Laidlaw put the FA's case as it had been expressed by Mr Johnson “*“Even if it were accepted that PAQUETÁ had regularly committed 'similar fouls' to his fouls in the [RM's] in other matches, then it should be considered that an extraordinary or unprecedented event is not needed for a player to be intentionally booked. A player's actions to be intentionally booked may be very similar to his actions in 'regular' matches and would be less likely to draw attention.” That is the Football Association's case. The Commission will decide whether there is force to it...*”⁴⁷³

747. Mr Keech responded: “*...as I said earlier in my evidence, if a player was performing their normal actions during the game and was able to conceal the fact that these were purposefully gaining yellow cards, my expectation would there be an uptake in the amount of yellow cards above the base level, as in, if he's*

⁴⁷¹ Transcript Day 13, page 66, lines 6-20.

⁴⁷² Transcript Day 13, page 80, lines 3-25.

⁴⁷³ Transcript Day13, page 81, lines 14-23.

*performing additional actions with a view to receiving yellow cards, that should appear that more fouls were being - more fouls were being conceded, more yellow cards were being issued to the Player during that reference period. That's the opinion we came to during our evidence."*⁴⁷⁴

748. Mr Keech ended the cross-examination, "*...there's nothing -- individual matches, there are fouls that could lead to yellow cards, but taken as a whole during the reference period and before reference period it wasn't atypical of a Lucas Paquetá performance*".⁴⁷⁵

749. Mr Keech was re-examined and Mr De Marco summarised the Player's position in this exchange:

"Q: ... what is the value - we've spent a few days here - what is the value of any of this performance evidence to this Commission?

A: Very little, I have to say, because as soon as - every game the player receives a yellow card during the course of their career, if there are external bets placed on that event happening, to me that would imply an automatic assumption of guilt within the Stats Perform Integrity Services' grading system".⁴⁷⁶

750. He agreed with Mr De Marco that the best and only way to approach this strand of The FA's case (the Player's performances during the RM's) was to simply watch what he had done (with certain base line statistics and rates in mind but not the betting alerts) and to make an assessment as to whether or not his actions fell outside his normal patterns of play so as to assess if he was acting in any way deliberately to receive cautions in any of the four RM's.

F. Mr Bob Scott

751. Mr Scott gave oral evidence in person on 2 April 2025.

752. He confirmed that he had produced one report, dated 12 December 2024 and that he contributed to a joint Expert report with Mr Johnson of SPIS.

⁴⁷⁴ Transcript Day 13, page 82, lines 3-14.

⁴⁷⁵ Transcript Day 13, page 83, lines 6-10.

⁴⁷⁶ Transcript Day 13, page 85, lines 15-23.

753. SPIS had calculated the probability of an individual being able to predict that the Player would receive a card in each of the four relevant matches as 0.61%.
754. Mr Scott and Mr Johnson disagreed on the nature of the bet that would give rise to the 0.61% figure.
755. Mr Scott said that would be the probability of success for a single accumulator:
*"It would be a bet that would say that the Player would get a yellow card in the first match, and in the second match, and in the third match and in the fourth match, and a bet placed before the first match."*⁴⁷⁷
756. It was common ground between the parties that there was no evidence that any of the bettors ever placed an accumulator of that sort.
757. However, The FA's point was that the people who bet four times, appeared able to avoid the balance of the games in which the Player played for [WHUFC] and the 0.61% was applicable to those bettors.
758. Mr Scott said *"So, the individual bet has a chance of 25 to 30%. If you say what is the chance that the person has been successful in all four bets, you compound that up, and you will get something less than 1%."*
759. In re-examination Mr Scott qualified the above. *"...the fact that someone has a relatively low chance of winning a bet or the fact that an event or combination of events has a low probability ascribed to it doesn't mean that that event or combination of events should arouse suspicion, and in my report I gave some examples of events that have happened recently which have low probabilities and which would, in no way, arouse suspicion."*⁴⁷⁸

G. Mr Lucas Paquetá

760. The Player gave oral evidence to the Commission on 8 May 2025. The following is a summary of the evidence he gave in respect to his on-field actions in the RM's.

⁴⁷⁷ Transcript Day 13, page 97, lines 2-5.

⁴⁷⁸ Transcript Day 13, page 102, lines 11-18.

761. In his evidence in chief, the Player was asked to tell the Commission how he felt about the allegations.

*"Well, I feel totally devastated for what I have been going through. It's been two years that I have been living a nightmare. Myself and my family, we are suffering a lot. I have fought a lot to be in the position that I am. I hope that I will recover my dignity as a man, as well as a football player, if only for examples for people who follow me, as well as for my family. That's all."*⁴⁷⁹

762. In respect of RM1, the cautioned tackle, the Player said: *"Every time I go to do a tackle, I try to put my feet on the ball. My game is a physical game and not always I am able to achieve, to get success, to reach the tackle"*.⁴⁸⁰

763. It was suggested in cross-examination that this was a perfect example of the Player exploiting a natural aspect of his game - throwing himself into a series of tackles knowing that would result in a yellow card. He responded. *"No, once again, this is my style of game. This style of game is not done or created in a matter of years, but since my age of eight years old. As I see the football, and as I have - as a thing that I have to tackle, but as every football player, not always we are successful in a tackle position."*⁴⁸¹

764. The exploitation of his natural game was the theme of the FA's questioning. Regarding RM2's cautioned challenge the Player said: *"That was not, that was never my intention to be punished with a yellow card. I always try to do my job to recover the ball within the pitch, but it is not just success all the time. This is as well my main characteristic as a footballer, an athlete in football"*.⁴⁸²

765. Having been shown the montage for RM3 culminating in his caution the Player said: *"No, again, once again, I tried to recover the ball. In my point of view this is a normal touch. This was an important action to my team. All I thought was I needed to recover this ball."*⁴⁸³

⁴⁷⁹ Transcript Day 16, page 5, lines 8-15.

⁴⁸⁰ Transcript, Day 16, page 118, lines 4-7.

⁴⁸¹ Transcript, Day 16 page 118, lines 13-18.

⁴⁸² Transcript, Day 16, page 119, lines 17-22.

⁴⁸³ Transcript, Day 16, page 120, lines 4-7.

766. In respect of the challenge which resulted in the booking in RM4 he said *"In no moment I knew I was going to be replaced. I tried to go and to dispute the ball. I had already gone into fight with my opponent to get the ball, and this is necessary to use your argument in a sort of dispute as such. In my point of view, whoever says the opposite is they clearly don't know about football."*⁴⁸⁴

Closing Submissions on behalf of The FA

767. The FA said this in its written closing submissions:

*"Whilst, as all those who gave evidence about [the Player's] performance (Mr. Johnson for The FA and Messrs. Paterson, Keech, Moyes and Clattenburg for the Player) appear to accept, this area of evidence is of limited import because by exploiting a natural aspect of his game it is quite impossible from the footage alone (the ("SPIS montages")) to come to any firm view whether the Player was deliberately seeking a caution, Mr. Johnson was the only witness to consider the Player's performance in the context both of the intelligence, the betting patterns and Opta's statistics. Whilst that as an approach was roundly criticised on the basis it ran the risk of confirmation bias, he was the only witness with real expertise in this area of the case and with the experience to undertake an exercise of the sort the [Commission] must also conduct. In other words, to look at the evidence in the round and not at its different parts in isolation. The [Commission] is perfectly entitled, with its collective knowledge of football to come to its own conclusion about what the SPISs montages show. Do they show, as The FA argue they plainly do, [the Player] was deliberately seeking cards in the four RMs? What they certainly do show (and contrary to the opinion Mr. Clattenburg alone has expressed) is that each of these offences clearly merited a caution. That in itself is consistent with The FA's contention that the cautions were deliberately sought".*⁴⁸⁵

⁴⁸⁴ Transcript Day 16, page 123, lines 1–7.

⁴⁸⁵ FA Written Closings para 6(7).

Closing Submissions on behalf of the Player

768. With The FA's position being that [the Player's] performance was within his normal style of play, the Player's position was that no wrongdoing can possibly be established by the evidence put before the Commission. At its highest the evidence can only be seen as *'equivocal'* and cannot be said to strengthen The FA's overall case. An area of the case that The FA itself described as *'of limited import'*, it was suggested on behalf of the Player simply falls away.⁴⁸⁶

The Commission's conclusion in respect to the Player's performance in the four RM's

769. In its closing submissions the FA said, *"The FA's position is that it is impossible to make a reliable assessment of [the Player's] conduct in each of the RM's without reference to the betting patterns (along with the reports of the betting operators and the IBIA)"*⁴⁸⁷. The Commission does not accept this submission. An assessment of the Player's conduct can and should be made without reference to the betting patterns.

770. The FA said in its closing submissions *"This [The FA's position] is consistent with the approach SPIS took to the case, but that does not mean that they did not guard against the dangers of confirmation bias, as they were accused. And the pie charts that [Mr Johnson] took the [Commission] to establish beyond any shadow of a doubt that that is not the case here"*.⁴⁸⁸ The Commission does not accept this, and we do not consider the pie charts to have established that confirmation bias had not affected the drafting of the PIR's. On the contrary, the Commission felt that *'confirmation bias'* had played a part to the extent that something [the Player's on-field actions] that was, on the face of it, not suspicious was presented to the Commission as being strongly suspicious.

771. Having read and heard all the evidence the Commission agreed with the Player's submission that *"The nature of the Player's conduct in the Relevant Matches provides no support to The FA's case."*

⁴⁸⁶ Para 173 Written Closing Submissions on behalf of Mr Paqueta.

⁴⁸⁷ The FA's Closing Submissions P63 para 1.

⁴⁸⁸ The FA's Closing Submissions P63 para 2.

SPIS PIR Reports and Jack Johnson

Independence of Mr Johnson

772. The Commission did not consider Mr Johnson to be independent from The FA. He was clearly involved in the investigation period leading up to the Player being charged and a pre-existing relationship existed between The FA and SPIS.

Expertise of Mr Johnson

773. Whilst the Commission consider Mr Johnson to be an expert in statistical integrity analysis, it did not consider him to be an expert in the assessment of footballing action in the same way for example Mr Moyes or Mr Clattenburg can claim to be.

Confirmation Bias in the SPIS PIR's

774. The risk of confirmation bias in the SPIS PIR's was pointed out to The FA by Mr Patterson, Mr Keech and Mr Clattenburg and the Commission agreed that the analysis from SPIS and Mr Johnson had been affected by confirmation bias.

775. As is apparent from the foregoing paragraphs from the oral evidence of Mr Johnson a significant number of concessions were made by him in cross-examination which, in the view of the Commission undermined The FA's and SPIS's position in respect to the suspicion that can be attached to the Player's on-field conduct.

776. The Commission felt that a good example of the confirmation bias being exposed is observed from the cross-examination of Mr Johnson in respect of RM1 (see paras 686-689 above):

- (a) SPIS had identified 3 key events for RM1.
- (b) Mr Johnson conceded that there was nothing inherently suspicious about Event 1;
- (c) He then conceded that there was nothing inherently suspicious about Event 2;
- (d) He accepted that Event 3 was not a 'bad' tackle;

(e) He then conceded in respect to the '*sliding tackle*' relevant to Event 3:

"... if you were to completely remove all context and simply have that - show that one clip, yes, shorn of any context, then no, I don't think it's inherently suspicious."

(f) Three separate events, none of which, according to him were in isolation '*suspicious*' - but RM1 was given the match grading of 4 ('Strong Suspicion').

(g) In the view of the Commission, this clearly shows that it was the background '*context*' (i.e. betting data alerts and intelligence) and not the Player's actual performance that was influencing the SPIS analysis and its match grading.

(h) Furthermore, with regard to the background '*context*' Mr Johnson stated that SPIS had not looked into the betting data at '*account*' or '*granular*' level and that it was in fact looked at as part of the gathered '*intelligence*'.

777. The same point can be made in respect to RM3, with Mr Johnson ultimately accepting during cross-examination that, absent the betting data, there was very little if anything suspicious about the Player's on-field actions: "*Yes, if you take out the betting data, if there's no betting concerns on a match, then, yes, it's unlikely that this one would be considered suspicious.*"⁴⁸⁹ Yet, this match was also given a grading of 4 ('Strong Suspicion').

778. The SPIS methodology appears to be further undermined by Mr Johnson's admission that SPIS did not analyse the betting data at 'account level' or at 'granular level' because this was not made available to it. He appeared to be saying that the only information SPIS had in respect to the 'betting data' was that alerts had been raised and that this information had been categorised as 'Intelligence'.

779. It was also clear to the Commission that there were numerous points of data and various pieces of intelligence put forward by the Player's experts and witnesses that would have acted in favour of the Player had they been incorporated into the SPIS PIR's. Whilst the Commission acknowledged that SPIS did not have access

⁴⁸⁹ Transcript Day 12, page 101, lines 15-17.

to Wyscout data, the Commission felt that the omission of data that could possibly be looked at in favour of the Player's position⁴⁹⁰ was an indication that the PIR's were not reliably painting a full and balanced picture of the underlying statistical background applicable to the Player's conduct and was a further indication of SPIS's lack of independence and that their match gradings were tainted by confirmation bias.

780. The Commission felt that there was significant relevance and weight to the evidence put forward by both Mr Keech and Mr Scott in respect of the background rate of yellow cards received by the Player. This data was dismissed by SPIS and omitted from the PIR's. The Commission, however, believed this data to be relevant. Mr Keech said:

*"If [the Player] had obtained a yellow card deliberately on four occasions, one would have expected to see these four cards added to the "background" rate, with a consequent increase in the frequency with which he was booked. However, that is not the case. Indeed, if the cards under investigation are removed from the dataset, [the Player] would have received a card every 1086 minutes during the 2022/23 season. That would be very unexpected and represent a significant outlier as compared to the rest of his career".*⁴⁹¹

Whilst Mr Scott wrote:

*"Had [the Player] intentionally sought to obtain yellow cards, it would be reasonable to expect that his rate of receiving yellow cards over the period of the [RM's] would be higher than the rate observed over the rest of his career. However, that is not borne out by the statistics."*⁴⁹²

781. The Commission felt that the initial inclusion of location and timing data derived from a very small number of cautions (16), including the four (4) issued to the

⁴⁹⁰ Examples of Wyscout generated data points, highlighted by Mr De Marco in his cross questioning of Mr Johnson, that were not included in SPIS's Opta based PIR's included:

The Player was in the top 1% of Attackers for fouls committed;

The Player was in the top 5% for defensive duels;

The Player engaged in 59% more defensive duels than the average PL attacking midfielder;

The Player committed 69% more fouls than the average PL Attacking midfielder;

The Player was 91.5% more likely to be booked than the average midfielder.

⁴⁹¹ Report, paragraph 3.21, Bundle F page 283.

⁴⁹² Scott Report para 4.9.

Player in the RM's, was a clear indication of SPIS looking for statistical evidence to fit The FA's case. In fact, Mr Johnson continued to promote this data set in his oral evidence, clearly unaware that The FA had actually abandoned these elements of evidence. (see footnote 432 & 443)

782. The Commission noted the inherent limitations when relying on 'event data' to fully describe a challenge or tackle. The Commission agreed with Mr Keech who had written:

*"Event data captures very useful information but does not capture everything...it does not capture key information that informs you whether the tackle was a potential yellow card incident."*⁴⁹³

783. This point was effectively accepted by Mr Johnson in response to a question from the Commission, when he said the following:

*"No, I think I agree with that around the Opta data, it's performance event data which is clearly not telling the full story of a match. I think football statistics aren't there at the moment. We can't tell the whole story of a game just based on data, even if we had better tracking data in these, so metrics analysing the player's off-ball performance, even if we have that I think it's difficult to tell the full story of a match just using data, so there definitely is limitations with event data."*⁴⁹⁴

784. The FA's position appeared to the Commission as being somewhat contradictory – on the one hand expressing the view that the Player was playing within the parameters of his normal style and then on the other hand suggesting that he was 'chasing a card' or 'seeking the attention of the Referee' or committing multiple actions whereby he was 'bound to be cautioned'. In its written closing submissions, The FA appeared to go a little further, even suggesting that the Player had "thrown himself unnecessarily into tackles that he would otherwise have avoided or that he had deliberately handled the ball when there was otherwise no good reason to have done so".⁴⁹⁵

⁴⁹³ Report, paragraph 3.2, Bundle F page 277.

⁴⁹⁴ Transcript Day 12, page 175, line 19 to page 176, line 3.

⁴⁹⁵ FA Closing Submissions Page 62, paragraph 260.

785. The FA had accepted from the outset that the Player was more likely than other players to be carded “*Analysis of [the Player’s] overall disciplinary history (since 28 May 2017) shows that he was cautioned more often than the average player in league matches in six out of seven seasons throughout the duration of his career. Given [the Player’s] style of play and the positions he occupies, on occasions (as described in [the Player’s]’s witness statement) it is accepted that he is a player who will attract cautions.*”⁴⁹⁶

Opinions on each key event

786. The Commission noted the subjective nature of assessing football actions and in particular dynamic challenges made at Premier League speed and intensity and noted the various differences in opinion expressed by the witnesses in relation to the footage that they were shown and asked to comment upon. This highlights the inherent difficulty of placing too much emphasis on the opinion or decision of one person in respect to any of the Player’s actions when, for example, there can be a range of legitimate views.

787. Notwithstanding the above, in respect to watching the collated footage and opining upon it, the Commission felt that the opinions of Mr Moyes and Mr Clattenburg, given their extensive experiences at the top level of football, carried significantly more weight than that of Mr Johnson who, as far as the Commission was aware, had never played, managed, coached or refereed at professional level in any capacity, as was the case for the other SPIS analysts who had contributed to the PIR’s.

788. Whilst Mr Moyes was abrasive towards Mr Laidlaw during his cross-examination, his evidence and analysis of the Player’s actions, coming from an individual who has played, managed and coached at the top level of English football for many years and who signed the Player and managed him for a significant period of time, watching him in matches and training sessions on a daily basis, carried, to the mind of the Commission, significant weight. Mr Johnson effectively acknowledged that he did not have anywhere near the footballing credentials of Mr Moyes:

⁴⁹⁶ FA Opening Submissions, page 46, paragraph 129.

*“Obviously it would be nonsense of me to sit here and say that I have more experience in football than him and obviously I would put a lot of weight on his experience and his opinions, but I think we just both have very different experiences and very different ways of analysing football, which are probably both helpful in this case.”*⁴⁹⁷

789. Equally, it was clear that Mr Johnson did not have the same expertise or experience as Mr Clattenburg when it came to assessing the various refereeing decisions relevant to the RM’s. He accepted this stating *“No, I don’t”* to the question *“Do you have a better knowledge of what professional referees deem as worthy of consideration in relation to this matter than Mr Clattenburg has?”*⁴⁹⁸

Mr Patterson’s Evidence

790. As with his evidence regarding his knowledge of the Brazilian market and the IBIA, which we considered when addressing the betting patterns (at paragraphs 133-177), the Commission felt that Mr Paterson had overstated his status as an expert on player performance. Notwithstanding this, he had some experience in analysing footage and to the mind of the Commission Mr Paterson, regardless of his diminished expert status, he still made some valid points, in particular, the unchallenged, evidence that the Player had shown restraint in the final 20 minutes of RM4 and his observations in respect to the issue of confirmation bias.

Mr Keech/MRKT Insight Evidence

791. Mr Keech presented as a reliable witness. He did not profess to be an expert in betting integrity, only an expert in the field of football performance analytics. The Commission found his observation in respect to the Player’s background rate for yellow cards recited at paragraph 780 above to be a compelling one.

Mr Bob Scott

792. The Commission found Mr Scott to be a convincing witness both in his written and oral evidence. His criticisms of SPIS’s approach to the analysis of probabilities undermined The FA’s position and indicated to the Commission that

⁴⁹⁷ Transcript Day 12, page 177, line 23 to page 178, line 4.

⁴⁹⁸ Transcript Day 12, page 95, lines 17-20.

the SPIS analysts were initially actively looking for statistical evidence that would back up The FA's case, highlighting the issue of their 'independence' in the matter.

793. Given that from the outset The FA had accepted that the Player is "*a player who will attract cautions*",⁴⁹⁹ the Commission failed to see how The FA could possibly advance its case by claiming that there was something strongly suspicious in his conduct whilst simultaneously accepting that he was playing 'normally'. Not only did this approach to the Player's on-field performances fail to bolster The FA's case, but evidence also emerged through the analysis of his conduct in the four RM's strengthened the overall case of the Player.
794. For example, in RM4 there is strong evidence to suggest that the Player was not looking to deliberately get booked to make bets successful. Firstly, he asked Mr Moyes not to play in the fixture; secondly, he did not get involved in any situations in the final 20 minutes to get himself booked; and thirdly, it would be highly unlikely that he had waited until the 93rd minute to get his illicit booking. If it is accepted by the Commission that in this particular match, he obviously was not trying to deliberately get booked, then what is the Commission to make of the fact that there were still 'suspicious' bets placed on RM4? The obvious conclusion is that there must be another reason as to why that 'suspicious' betting data arose.
795. With Mr Johnson accepting that SPIS's analysis had not considered the betting at granular/account level and The FA accepting that the Player was playing normally, the only way that The FA could possibly advance its case was to convince the Commission through background statistical analysis or intelligence that the Player was deliberately engaging in significantly more duels and challenges than would be normal for him in order to bring himself to the attention of the referees in his chase for a yellow card. The FA failed to convince the Commission, there was nothing to see in the footage and nothing convincing in the statistics to establish that the Player was deliberately over engaging in order to be cautioned.

⁴⁹⁹ FA Opening Submission paragraph 129.

796. Ultimately, having viewed the footage in respect to the four RM's, considered the statistical background evidence presented to it by both parties and considered the evidence relied upon by both parties, the Commission concluded that in its view there was nothing in the on-field conduct of the Player that advanced The FA's case in respect to the E5 charges.

THE MOBILE PHONE ANALYSIS

797. In this section of the Written Reasons, we will consider the evidence in relation to the mobile phone analysis.

798. As we observed at paragraph 32 above The FA identified the mobile phone analysis of the Player's phone as one of the factors, to be viewed cumulatively, to prove the E5 charges.

799. At paragraph 36 above we record The FA's significantly changed position in respect of this aspect of the evidence and their acceptance that the account no longer has the evidential value or weight that The FA originally considered it to have.

800. The FA's changed position was consequential upon the changed position of The FA's experts, Nathan Barker of CCL Solutions Group and Stephen Llewelyn of Sytech, who later accepted that they agreed with the contrary position advanced by the Player's expert Patrick Madden. It was agreed that the majority of the missing data did not result from deletions by the Player.

801. It is instructive to compare what was said by The FA in its Case Summary dated 23 May 2024, which was served with the charges against what The FA said in its written and oral closing submissions.

802. At paragraph 86 of the Case Summary, the concluding paragraph of the section headed '*Mobile Phone Analysis*', The FA said this:

"The FA's case, bearing the most likely explanation for the absence of such material on the devices, is that [the Player] intentionally deleted data from both mobile phones in the knowledge that The FA intended

*to commission a download and fearful the material he put beyond the Association's reach would further incriminate him. Any suggestion that both devices happened to have faults and/or issues with restoring backups is to stretch the bounds of credulity and fanciful and undermined by the evidence both from CCL, and more broadly, which suggests it is [the Player] who instigated the corrupt spot betting which is the subject of the E5 Charges."*⁵⁰⁰

803. By the time The FA presented its closing written submissions the situation in respect of the mobile phone data had evolved to such an extent that The FA was then indicating that it was not in a position at the hearing to positively assert that the cause of the deletions was the result of user deletions alone (i.e. solely based on the Player deleting the material himself). The FA wrote at para 218:

*"The mobile telephone evidence (or, to be more precise, the deletion evident from the Player's phones) does not have the evidential value or weight as was first thought by The FA, because following the service of the report from the defence expert, Patrick Madden ("PM"), The FA's _____ experts (upon whom at the time of drafting the Case Summary, The FA had placed reliance) have changed their positions and accepted that PM's views are correct..."*⁵⁰¹

804. Notwithstanding the above The FA maintained in its closing submissions that:

*"... it remains The FA's position (as the Player accepts) that very large amounts of data have been deleted from his two phones during the relevant period. It means that the extent of the Player's contact with the related bettors (and indeed any others of the 253 who in truth he knows) cannot be tested. In addition, the Player's explanation for deleting messages – namely that he did not want _____ to see innocent messages to family members due to some family feud – was undermined by the evidence of _____] and his friend Lucas De Assis, who gave evidence that those same family members were present to celebrate his wife and children's birthdays..."*⁵⁰²

⁵⁰⁰ Bundle A, page 25.

⁵⁰¹ Para 218, The FA's Closing Submissions.

⁵⁰² Para 219 The FA's Closing Submissions.

How the analysis of the phone data evolved

805. It was by a letter on 18 August 2023, that The FA first requested the Player to provide his mobile phones for download. A deletion warning was within this letter, it read: *“Please do not delete any data from your phone/s prior to the download taking place. This includes, but is not limited to text messages, iMessages, WhatsApp messages, Facebook or other social media messages, emails and other forms of communication. Also, in order not to compromise any existing data, we would ask that you do not carry out any software updates between now and the date of the download”*.⁵⁰³
806. On 11 September 2023, the day of the first interview, the Player gave The FA possession of his two iPhones (an Apple 13 ProMax (“**ST01**”) and an Apple 14 ProMax (“**ST02**”)).⁵⁰⁴
807. What The FA did not know, at that stage, was that the Player had commissioned a private download of his phones on 29 August 2023.⁵⁰⁵
808. CCL Solutions Group (“**CCL**”), a digital forensics company, was requested by The FA to download and analyse both of the Player’s phones.⁵⁰⁶
809. There are limitations as to what a non-law enforcement agency can download, so a ‘Logical Extraction’ of both phones was sought as opposed to a ‘Full File System’ download. A ‘Logical Extraction’ gains significantly less data than a ‘Full File System’ download and the potential for recovering deleted data is limited.⁵⁰⁷
810. CCL were provided with a list of agreed search words or phrases to search within a specified date range. The initial agreed date range was 1 January 2023 to 14 August 2023, but this was later extended to 1 June 2022 to 14 August 2023.⁵⁰⁸
811. The ‘Logical Extraction’ analysis identified that 5 of the 18 bettors that were known at the time of the first interview were saved in the Player’s mobile phone.

⁵⁰³ Para 222 FA’s Closing Submissions.

⁵⁰⁴ Para 224 FA’s Closing Submissions.

⁵⁰⁵ Para 225 FA’s Closing Submissions.

⁵⁰⁶ Para 226 FA’s Closing Submissions.

⁵⁰⁷ Para 226 FA’s Closing Submissions.

⁵⁰⁸ Para 227 FA’s Closing Submissions.

However, there were no recovered calls or messages with 17 of the bettors during the date range..⁵⁰⁹

812. Contact between the Player and two of the bettors was identified in the form of calls and/or messages. One of those identified bettors was

who had had contact with the Player via ST01. CCL identified 105 missing messages relating to conversations that took place between 9 December 2022 and 12 July 2023 between the Player and ..⁵¹⁰

813. The FA accepts, however, that the '*disappearing message*' function was activated on the Player's 'chat' with on 9 December 2022. This function automatically deletes messages after 24 hours, 7 days or 90 days after the message is sent or received, unless a message is saved by a recipient. The last message sent in the chat between and the Player was recorded as having taken place on 12 July 2023 – prior to the Player being notified of The FA's investigation..⁵¹¹

814. The FA's analysis of ST01 and ST02 showed a number of records to be missing from both phones, indicating deleted data.

- a. ST01 showed 858 missing contacts, 68 missing call logs and 213,244 missing messages.
- b. ST02 showed 41 missing contacts, 87 missing call logs, and 46 missing messages..⁵¹²

815. CCL had concluded initially that user deletion was the most likely explanation for the missing data. However, having reviewed Mr Madden's expert report for the Defence, the CCL expert Nathan Barker wrote: "*I would no longer state that the most likely reason for the apparently missing records is deletion. Deletion may still be a factor why there are missing records, however unexpected irregularities in the databases as noted by Mr. Madden and inspected for myself, lead me to concur with Mr. Madden on the cause*). This cause being a combination of system

⁵⁰⁹ Para 227 FA's Closing Submissions.

⁵¹⁰ Para 228 FA's Closing Submissions.

⁵¹¹ Para 228 FA's Closing Submissions.

⁵¹² Para 229 FA's Closing Submissions.

*and automated activities, maintenance of databases, backup and restoration, as well as some user deletions.”*⁵¹³

816. Analysis of the Player’s devices did not reveal any saved contacts or phone communication with eight further ‘connected’ bettors that had been identified by The FA.⁵¹⁴

817. After the charges had been issued, in order to address the issue of deletion, the Player had instructed Patrick Madden, a digital forensic examiner, to undertake a further forensic examination of the Player’s phone. Mr Madden concluded that the absence of the majority of the WhatsApp records was down to “*some other system activity within the database*” and not user-deletion. He stated that in his opinion “*there is some other technical explanation for these missing records*” and it would therefore be unsafe to conclude that the absent records were all user-deleted. He wrote, “*I have, as yet, not been able to explain or replicate such technical explanation within the time available; however, that does not prevent me forming the opinion that the solely user-driven explanation is not supported by the information available to me. It is possible that some of the absent records do relate to user-driven deletions, but there is no evidentially safe way in which to determine the quantity of such records or to whom they might relate*”.⁵¹⁵

818. Having received Mr Madden’s expert opinion, Nathan Barker of CCL and Steven Llewelyn of Sytech submitted further reports.

- a. Mr Barker agreed with Mr Madden that the phone analysis did not support the proposition that the missing records were deleted by a “*fully user-driven deletion process*” and that “*the most likely reason*” for the deleted data on the phones was “*a combination of user deletions and system events and other automated activities*”.
- b. Mr Llewelyn conceded that “*it is difficult to distinguish between data which has been deleted via a user instigated process and data which has been deleted through an automated system process. I am unable to comment on*

⁵¹³ Bundle B, page 187 cited at para 230 FA’s Closing Submissions.

⁵¹⁴ Para 231 FA’s Closing Submissions.

⁵¹⁵ Para 234 FA’s Closing Submissions.

how the entries were deleted or removed from the database files in question.”

819. A joint experts report, dated 20 February 2025, was agreed upon. The report stated:

“Agreed Facts - [t]he databases where WhatsApp messages, WhatsApp contacts, and iOS address book contacts are stored have been reviewed by all experts.

All experts agreed that there are absent records from the databases used to store WhatsApp messages, WhatsApp contacts, and iOS address book contact. It is not possible to state the direction of the absent records, the chat participants, or any content of the messages/address book records.

Due to the method of storage of these records using SQLite databases, the format does not allow an examiner to attribute absent records to any particular process, be it user-driven or an automatic system process.

*There is no way to definitively attribute any particular single or group of absent database records to either user deletions (any participant in a chat or group chat) or other system processes ...”*⁵¹⁶

820. On 26 January 2024, The FA had asked the Player to provide his phones again for further interrogation. The FA wished to see if the deleted data could be retrieved using different technology.⁵¹⁷

821. The Player’s solicitors wrote to The FA on 30 January 2024 stating that he no longer had possession of the devices. ST01 had been given to the family nanny as a Christmas gift and she had taken it to Brazil, and ST02 had been exchanged for an upgraded device. It was therefore not possible to undertake a further examination of the devices or retrieve the deleted data. The FA were informed in the same letter that *“on advice from his legal team..., in order to ensure he was*

⁵¹⁶ Joint Experts Report – Nathan Barker (CCL), Steven Llewellyn (Sytech), Sarah Felton (Cyfor) and Patrick Madden (Right Click Forensic) page 4 Para 2 ‘Agreed Facts’. Bundle H, page 4.

⁵¹⁷ Para 233 FA’s Closing Submissions.

*fully compliant with his obligations, [the Player] privately commissioned a separate download of his phones”..*⁵¹⁸

822. Consequently, The FA was not able to assert that the cause of the deletion was purely the result of user deletions by the Player..⁵¹⁹

823. With the issue of deletion having largely been agreed upon, oral cross-examination of The FA's two experts was limited.⁵²⁰ and The FA chose not to cross-examine Mr Madden, the Player's expert.

Deletion of Messages between downloads

824. The FA initially placed much reliance on the fact that 345 WhatsApp messages and 11 contacts had been deleted between the Private Download and The FA's Download.

825. The FA had stated at para 74 of its Case Summary that..⁵²¹ *“The FA suggests that [the Player], in the knowledge that the devices would be analysed, deleted material from his phones prior to the download in an attempt to conceal any incriminating evidence against him”* and at para 86..⁵²², *“The FA's case, bearing the most likely explanation for the absence of so much material on the devices, is that [the Player] intentionally deleted data from both mobile phones in the knowledge that The FA intended to commission a download and fearful the material he put beyond the Associations reach would further incriminate him.”*

826. However, the messages were in fact subsequently recovered during further analysis of the phones. None of the 345 messages, which related to two conversations, one with his mother and another with a person named contained anything incriminating relating to the RM's or any betting associated with them. According to the Player the messages were deleted so as to keep from seeing them.

⁵¹⁸ Para 233 FA's Closing Submissions.

⁵¹⁹ Para 237 FA's Closing Submissions.

⁵²⁰ Transcript Day 13, pages 106-137.

⁵²¹ Bundle A, page 23.

⁵²² Bundle A, page 25.

827. The first set of deleted messages was a chat between the Player and his mother between 31 May 2023 and 13 June 2023 relating to WHUFC's Europa Conference League Final fixture and the wedding of Brazilian player,

828. The Player said, in respect of the Final, that he *"probably deleted the majority on the basis that the messages surrounding the final are very emotional and show how close I am to my mum, and I thought this might cause tension with It is obviously upsetting that this is necessary, but the division in my family is very deep and I try my best to keep everyone, , happy" ..*⁵²³

829. Explaining the deletions in respect of the wedding, the Player stated: ‘

*. I must have deleted these messages because I didn't want to see me asking about my with whom a particularly bad relationship" ..*⁵²⁴

830. The second set of deleted messages was from a chat between the Player and an individual named between 17 July 2023 and 20 July 2023. The Player gave the following explanation as to why he deleted this set of messages: “ is a player in a form of football called “X1”, which involves teams made up of one outfield player and one goalkeeper... Around this time, X1 had been growing in popularity in Brazil and suggested that I invest in a team. is considered one of the better players in this form of football and I was interested in making an investment in what I thought was an exciting form of the game. My conversation with relates to his contract for taking part in X1 games. We discussed his salary and the bonus he would get from the prize money if the team Given the rifts in

⁵²³ Para 47 LP's Second Witness Statement.

⁵²⁴ Para 48 LP's Second Witness Statement.

*my family, I know that [redacted] did not approve of me investing in X1. I therefore deleted these messages so that she wasn't able to read them."*⁵²⁵

831. With respect to the generality of having deleted messages after having been asked not to by The FA the Player stated the following: *"It was explained to me early on by The FA that I should not delete anything from my phones. Without waiving privilege, this was the reason why I decided to arrange for a private download of my phones – to ensure that everything on my phones was preserved as soon as possible. Once I had done this, I didn't think there was any problem with me deleting messages because there was already a full record. I continued with my habit of deleting certain personal messages in my desire to keep happy and, to be completely honest, I forgot about The FA's instruction. Thankfully, the messages have now been recovered and can be shown to be innocent, and I regret the confusion caused"*⁵²⁶

The " [redacted] Message"

832. A message on the Player's phone (ST01), that CCL thought was relevant to The FA's investigation, was discovered and disclosed to The FA. The message was sent from a number saved under 'LUCAS PAQUETA GAMING' and was in a WhatsApp group chat called 'LAN NO [redacted] 24'. It was sent at 00:49am on 21 June 2022 which was outside of the agreed specified date range. The message read in Portuguese ' [redacted] vai tomar 3 amarelo nesse jogo dia 20' which translates to ' [redacted] will receive a third yellow card in his game on 20th' (the '**Message**').⁵²⁷

833. [redacted] is a professional footballer who was playing for [redacted] in Brazil, [redacted], when the WhatsApp message was sent..⁵²⁸ The Player had been a teammate of Mr [redacted] between [redacted].⁵²⁹

⁵²⁵ Para 49-53 of Player's Second Witness Statement; Bundle F, pages 25-26.

⁵²⁶ Para 54 of Player's Second Witness Statement; Bundle F page 26.

⁵²⁷ Para 238 FA's Closing Submissions.

⁵²⁸ Para 238 FA's Closing Submissions.

⁵²⁹ Para 24 LP's Second Witness Statement.

834. It was also confirmed to The FA (by Sytech) that ST01 contained a deleted contact by the name of “ ” and a deleted WhatsApp message with

..⁵³⁰

835. were due to play in the on July 2022..⁵³¹

836. The FA, understandably, given the nature of the charges against the Player, sought an explanation from him for the meaning of the Message..⁵³²

837. The Player’s solicitors wrote to The FA on 30 January 2024 stating that *“the message was sent via Whatsapp to a group of friends... [the Player] does not read or respond to every message sent to the group. To the best of [the Player’s] knowledge, the message in question has nothing to do with betting. His assumption is that it is a joking reference to the possibility of another player getting suspended (by receiving another yellow card)”*..⁵³³

838. In his Second Witness Statement the Player gave the following explanation for the Message:

“I understand that The FA considers a WhatsApp message sent by a contact saved in my phone as “Lucas Paquetá Gaming” to be suspicious. As my solicitors explained in their letter to The FA dated 30 January 2024, the number that sent the message in question is not my number. It belongs to my friend Lucas De Assis, with whom I play online games (usually a first-person shooter-style game called “Counterstrike”), and who worked for my gaming company, Paquetá Gaming, as social media manager. That is why he is saved in my phone as “Lucas Paquetá Gaming”.

By way of background to the WhatsApp group in which this message was sent, “LAN No 24”, I played football with at for a couple of years between , . We bonded over video games and playing Counterstrike, and he introduced me to some friends of his, with whom

⁵³⁰ Para 240 FA’s Closing Submissions.
⁵³¹

⁵³² Para 239 FA’s Closing Submissions.

⁵³³ Para 239 FA’s Closing Submissions.

he played online. These friends are the members of the “LAN No 24” WhatsApp group, and I know all of them through

Most often, we would play Counterstrike remotely, each logging in to a remote server using our own PCs. However, [redacted] is a very keen gamer and has a set-up of five or six PCs at his house. As a group of friends, we would try to meet up in person to play at [redacted] house – usually around once a year. Most of the group lived a fair distance from Rio, so these events would normally involve people staying at [redacted] house for a week or so.

Although I couldn’t always join the group due to my football commitments, I did attend in person on one or two occasions. I did not stay over, but I do recall going to play for a couple of days. A video of the PC set up at [redacted] house, taken by me, is included with this statement.

The group is named “LAN no [redacted]” because “LAN” is short for “Local Area Network”. This is a kind of network gamers can join from a physical location to play together online (against each other and against third parties who join in the normal way for online games, i.e. remotely). The WhatsApp group is mainly used for organising these gatherings or simply seeing if anyone is available to play remotely. Inevitably, as a group of friends, there is a fair amount of joking and general chat as well. I don’t read every message on the group and don’t participate as much as many of the others – I am often too busy with football and they are not close friends of mine.

I understand that The FA alleges that the following message is suspicious: ‘[redacted] vai tomar 3º amarelo nesse jogo dia’

I did not send that message: it was sent by Lucas De Assis. I don’t remember reading the message at the time and have only given it any real thought since it was highlighted to me by The FA. I do not read the message as having anything to do with betting – I assume that Mr De Assis was joking that [redacted] would pick up a third yellow card, leading to a suspension, so that he could host an in-person LAN gaming event.

I also understand that The FA has noted that there is a single deleted message from [redacted] on my phone. I understand the deleted

*message says only “Eu” (“I”). I do not know what this means or why it was deleted.”*⁵³⁴

839. In respect to the _____ Message, the Player relied upon the witness statement and oral evidence of Mr De Assis, who, as seen above, had been identified as the sender of the message.

840. In his witness statement, Mr De Assis said that he was introduced to the Player by _____ who was a mutual friend of the two. He explained that a group of six friends would organise meetings in order to play the video game ‘Counterstrike’ together in each other’s physical company. The in-person meetings would take place at _____ house. So as to facilitate the coordination of these get-togethers a WhatsApp group was created between the friends and named ‘LAN no _____’. At the time, Mr De Assis was also working for the Player as a social media manager for the Player’s e-sports team which was named ‘Paqueta Gaming’.

841. In his witness statement Mr De Assis explained what was meant by the _____ Message’ and the context in which it was sent:

“It has been explained to me that a message I sent on 21 June 2022 to the “Lan no _____” group is considered by The FA to relate to spot fixing. That is not the case. I have never had any involvement of any kind in spot fixing. At the time, I did bet regularly on football (I have now stopped), but I have never placed a bet based on any inside information or anything other than intuition. I have never asked for or knowingly received any inside information which could be used for gambling. Whilst I have discussed betting on football with other friends, I have never had a conversation with [the Player] about betting on football...

In order to explain what I meant by the message, I set out below some context based on events earlier in the day.

Earlier that day ... _____ had messaged... [about] a recent gather[ing]...

⁵³⁴ Para 23-30 LP’s Second Witness Statement.

There is then some discussion of when we would all be available and I raise the prospect of July... then clarifies that his wife will be away from 20 July...

I then looked up games over the next month and posted a screenshot that were due to play against on July, which would interfere with our plans ...

I then replied to the screenshot I had posted... [will get a third yellow in this game on the . I quickly followed this with a message... ["not to travel"]. These messages were sent as a joke – in the excitement of the possibility of a second “LAN house” in quick succession, I was joking that would pick up a third yellow card and therefore be suspended (which is what happens under the rules in Brazil, allowing him to host the gathering.

It is clear that understood my joke- he responds “kkk” (translated “lol” or “laughing out loud”)”..⁵³⁵

Oral Evidence of Mr Lucas De Assis

842. Mr De Assis appeared before the Commission on 12 May 2025 to give oral evidence via video link.

843. In summary, Mr De Assis said the following during his cross-examination by Mr Laidlaw

- He initially met the Player remotely through on-line gaming, playing ‘Counterstrike’.
- He first met the Player face-to-face in 2021, and he came to work for the Player’s on-line gaming team ‘Paqueta Gaming’.
- He stopped working for the company in 2023, but he remains a friend of the Player.

- He would meet the Player between 5-10 times a year in Brazil to play Counterstrike or less often football.
- The last time he saw the Player was in May 2024.
- He had attended two or three social gatherings at the family house in Brazil.
- He said he has placed accumulator bets in the past, but he did not bet on or on the *'to be carded market'*.
- He said that he had never discussed the details of this case or betting in general with the Player or any of his family members.
- The Counterstrike meetings, he said, took place mainly at the house of .
- He explained that the possibility that the group could meet at house in July 2022 was raised because wife was due to be away from the house from 20th July 2022.
- His message was suggesting should pick up a third yellow card on 20th July 2022 (thus getting himself automatically suspended and therefore free *'not to travel'* and perhaps then able to play Counterstrike sometime in July). It was nothing more than a joke.
- *"As I said, the only thing I wanted was to find a date for us - for our friends to get together and play Counterstrike"*.
- During re-examination Mr De Assis explained that the group members were simultaneously messaging across each other and therefore the messages were not corresponding when displayed sequentially.
- The follow-up message to " will get a third yellow in this game on the " was from Mr De Assis himself and read *"not to travel"* followed by *'kkk'* from .

- And the response to the message *"We need to check the date to let know on short notice so he can't come"* was from _____, *"I'll send it to the other group"*.

Oral evidence of the Player as to why he deleted messages.

844. The Player gave oral evidence to the Commission on 8 May 2025.

845. Mr Laidlaw cross-examined the Player about the deletion of data from his phones.

846. The Player accepted that there are numerous ways to communicate in the modern era including phone calls, text messaging and WhatsApp messaging or even through 'gaming' communications. The Player, however, said that he had not heard of the encrypted messaging application, Signal.

847. Mr Laidlaw asked the Player about the large amount of data, including messages and contacts that were missing from his phones.

"Q. And in this case, as I think is agreed, from your telephone, a very large number of messages, contacts and the like, are missing?"

A. Yes...

Q. And you were to say that you tended to delete a lot of messages out of habit?

*A. No, not like that, not just to delete. I had a reason. For example, the relationship with my wife, with my family. I always try to maintain a good relationship according to this situation. And many times I will be in groups, different groups, and sometimes, usually I remove myself from those groups. And probably when I leave these groups the messages are deleted automatically. I can assure you that from these 300,000 messages that were deleted, there is nothing to do either about betting or fixing betting.*⁵³⁶

848. The Player accepted that, between the date he was informed that an investigation had been launched by The FA and the First Interview, despite The

⁵³⁶ Transcript Day 16, page 59 line 3 to page 60 line 1.

FA having written to him requesting him not to delete any data, he had in fact manually deleted a number of messages from his phones.

849. The reason the Player gave for having deleted messages and conversations with members of his family was that he wanted to protect his relationship with He apologised to The FA but reiterated that the messages he had deleted manually had been due to the rift between his close family and

850. With respect to the 'rift' between his close family and , in his second Witness statement the Player stated

537

851. The Player stated that the rift had led to arguments

852. The Player said he had "*probably*" deleted messages from and had "*probably*" deleted messages from

He also said that he deleted messages from , for the same reason..⁵³⁹ But "*mostly*" he deleted messages from his mother, his father and his wife..⁵⁴⁰ The following exchange took place in cross-examination:

⁵³⁷ Para 7 the Player's second witness statement.

⁵³⁸ Para 8 the Player's second witness statement.

⁵³⁹ Transcript Day 16, page 61.

⁵⁴⁰ Transcript Day 16, page 61.

853. The Player said that he had not manually deleted any contacts. He believed that contacts had been lost from his phones due to him not backing them up when he had exchanged and upgraded his phones..⁵⁴²

854. The Player stated that he had followed advice from his solicitors to commission the private download of his phones and not to reveal this to The FA..⁵⁴³

Closing Submissions on the Mobile Phone Analysis – The FA

855. Mr Laidlaw in his closing submissions on behalf of The FA said:

“There is also the bad point that Mr De Marco accuses the FA of having taken about deletion from the mobile phones. This is between the date of the private download, which was kept from the Football Association, and the download commissioned by the FA from CCL following the first interview, and the point is this: all this could have been avoided altogether if only the Player, who in fairness to him was no doubt acting on advice, had told the FA at the first interview that he had already obtained a download from his mobile and that he was prepared to give

⁵⁴¹ Transcript Day 16, page 84.

⁵⁴² Transcript Day 16, page 60 lines 18-22.

⁵⁴³ Transcript Day 16, page 63 lines 13-18.

the access to it to the FA. Instead, that was deliberately held back by the Player's lawyers and would only emerge the following year.

There are further points to be made about the phone data. The phone evidence, along with the SPIS evidence about the Player's performance by way of example, was always on the margins of this case, which is the betting data and [the Player's] links to the bettors, which remains the central focus of the FA's case.

There are also, plainly, various means of communication which would be available to [the Player] and somebody engaged in spot-fixing, and it is unlikely, is it not, as a matter of common sense, that the Player would communicate an intention to deliberately seek a caution in a form which might be recovered.

I should also add that whilst the FA accepted the evidence of Mr Madden, it should be noted that he stated that user deletions were still a feature of the absent data on the device, and [the Player] was to admit deleting data on his phones.

——— *Now, whether the Commission is persuaded by his explanation for deleting messages with the linked bettors, namely there was some sort of feud is a different matter, and it is, as we would submit, certainly an explanation which lacks credibility in circumstances where those very same people were celebrating at birthday parties and*

Closing Submissions on the Mobile Phone Analysis – The Player

856. Mr De Marco in his closing submissions for the Player said:

“And, of course, if the FA were right and his lack of involvement and interest in betting meant that he thought he would never be caught and he wasn't taking any risks and he wasn't doing anything wrong, the way they now put it, if that was right, then why are there no mobile phone messages where he is talking about these fixes, because if he doesn't think he is doing anything wrong or he is never going to get caught and there is no problem, then why is there not a single shred

of evidence that he ever discussed getting a yellow card or betting with any person.

The suggestion is because he deleted them. Well, he would only delete them if he thought he would get caught or he was doing something wrong, but their case now is he didn't, so he wouldn't delete them, and of course there is no evidence that he did delete them. The evidence of the mobile phone experts strongly suggests that, apart from a small number of deletions, the vast majority is all automated, and the FA just jumped to conclusions, as you know, which they have had to retract from.

The only item really of all those personal circumstances that the FA challenged was the suggestion of a rift between [the Player] and perhaps what can be described as most of his mother's side of the family.

They either took issue with the existence of that rift or, if not the existence, the extent perhaps of that rift. But again, this was evidence that [the Player] and his mother gave from the very start. It is, frankly, not necessarily surprising or incredible evidence. You will no doubt know from your own judicial and regulatory experience that it is, unfortunately, not uncommon for a very successful professional footballer to be somewhat the focus of rifts,

There is nothing particularly surprising, I'm sure, to you, as an experienced commission, in hearing that evidence, and there was a strong ring of truth about it, both from [the Player] and from his mother. It was not -- it was, in a sense, quite sad evidence, that [the Player] was in this situation where his relationships with a large part of his family have become far more strained

Conclusions of the Commission in Respect to the Mobile Phone Analysis

857. The Commission did not consider that any adverse inferences could be made against the Player from the evidence relied upon by The FA in respect of the analysis of the Player's mobile phones.
858. The FA's initial assertion that the Player had deliberately, manually deleted 105 messages between himself and _____, in order to prevent The FA finding evidence of wrongdoing was not sustainable following the revelation that the messages had been deleted because a time sensitive automatic deletion function had been activated. The Commission did not feel that it could draw any adverse inference against the Player in respect of the method of deletion.
859. Furthermore, the Commission, having considered the analysis put forward by the Player,⁵⁴⁶ agreed that *"A detailed analysis of the data for the relevant chat does not justify an inference that the 105 messages were deleted because they discussed spot-fixing..."*⁵⁴⁷
860. Despite The FA's opening position in respect of the deleted data from the Player's phones, The FA, quite correctly, following the agreement between the joint experts that it was not possible to prove that the Player manually deleted data, beyond that which he had already admitted to, accepted that it could not be proved that the Player had deliberately deleted messages and contacts so as to avoid evidence of spot-fixing being unearthed. As such, the Commission does not draw any adverse inferences against the Player.
861. The Commission noted that the recovery of the 345 initially lost messages between the Player and _____ and the Player and _____ were found to be unconnected to spot-fixing which was a salient reminder to the Commission not to jump to conclusions and the dangers of drawing adverse inferences from events unknown.
862. In respect of the ' _____ Message' the Commission accepted the evidence of Lucas De Assis that the message was an entirely innocent joke between the members of the gaming group and had nothing at all to do with spot-fixing. His

⁵⁴⁶ Para 211-217 LP's Closing Submissions

⁵⁴⁷ Para 214 LP's Closing Submissions.

more so when one considers that CCL ran the search terms outside of the agreed time frames against all of the data held on the Player's phones.

'No comment interviews'

868. Before concluding on the E5 Charges, we need to briefly consider another strand of circumstantial evidence that was advanced by The FA in support of those charges, namely the fact of the Player's lack of co-operation in his interviews with The FA on 11 September 2023 and 10 November 2023, from which The FA asked us to draw an adverse inference against the Player. The FA made plain in its written closing submissions⁵⁵⁰ that the point was advanced as a separate head of circumstantial evidence and also as a feature which aggravated the commission of the E5 Charges.
869. Although, as is apparent from the paragraphs below which deal with the 'F Charges' we have found those proven, we unhesitatingly refuse to draw an adverse inference against the Player in the context of the E5 Charges.
870. As is explained below, there is no doubt that the Player answered 'no comment' or refused to answer questions on legal advice. We consider that it is fanciful to think that the Player, who speaks little English, whose club had retained Leading Counsel as an initial reaction to being asked to interview and who also, by the time of the interviews, was represented by solicitors, would not follow that advice. That, in the Commission's view, is substantially removed from an inference that the Player remained silent because he had been involved in a spot-fix in the RM's.
871. We also reject the suggestion that not answering questions in the interviews, given the wording of the E5 Charges, is an aggravating feature toward their commission.
872. In any event, given our views on the principal strands of The FA's case set out above, on the betting data, the performance analysis review and the mobile phone analysis, we rather think this point has, to a considerable extent, fallen away.

⁵⁵⁰ Paragraph 60.

DECISION IN RELATION TO THE E5 CHARGES

873. Accordingly, in light of our conclusions as set out in the sections above the Commission, by a unanimous decision, finds that each of the four (4) E5 charges are not proved. Accordingly, Charges 1, 2, 3 and 4 are dismissed.

874. In reaching this decision, the Commission takes into account all of the conclusions reached under the headings above, namely, the 'no comment' interviews, The Betting Data and Patterns, The Performance Analysis and the Mobile Phone Analysis.

875. In reaching our decision we have reminded ourselves, in particular of the following factors, amongst others, to be considered:

- a. The Burden and Standard of Proof: The burden remains on The FA throughout to prove the case on the balance of probabilities. We have rejected The FA's suggestion that in some way there is a shifting of the evidential burden to the Player (paragraphs 34 and 35 above). The position, as we observed at paragraph 35, is that The FA must prove that spot-fixing is more likely than any of the potential innocent explanations, including those advanced by the Player. It follows from our finding that the E5 charges are not proved that we reject The FA's case that they have discharged that burden and we accept the Player's case that the inferences which are invited by The FA to draw are destroyed by the co-existing circumstances, with which we deal in detail in the headings above.
- b. The need to consider each charge separately (which we have done). Our analysis under the headings above identifies and deals with the evidence as relative to each charge individually and collectively.
- c. Cross-admissibility, to which we have regard throughout our reasoning, reminding ourselves that evidence in relation to one charge may be used as evidence against the Player in another, including across the E5 and the F3 charges.
- d. Circumstantial evidence and the need for a careful forensic analysis of the totality of the evidence (see paragraph 20 above). The FA have, throughout,

accepted that its case relies entirely on circumstantial evidence and we have had firmly in mind the principles which we set out at paragraphs 22 - 23 above. In particular, whilst we have inevitably discussed parts of the case in the foregoing analysis, we have in mind what has been said by The FA, for example in paragraph 66 of its written closing submissions, namely: *“The FA’s case in respect of the E5 charges does rely upon circumstantial evidence. Namely, evidence which when viewed in the round gives rise to a logical inference of guilt. Put another way, proof of separate events and circumstances which is far more likely to be explained only by the guilt of the Player, or, on balance is to be preferred to any other co-existing explanation.”* The Commission, having reviewed all the individual strands of the evidence, also stood back for the specific purpose of looking at them as a whole, to see if when viewed as such, the strands gain strength, and the circumstantial net becomes one which might viably meet the burden placed on The FA. However, the weakness of the individual strands, as we have identified, in our view is such that even when viewed as a whole, The FA cannot discharge the burden upon it⁵⁵¹.

- e. Inherent improbability, on the particular facts of the case as we find them to be, in particular, but not exclusively, the Player’s lack of interest in gambling, his very comfortable financial circumstances, the risk to his footballing career, not least the stage reached in the proposed MCFC transfer discussions in RM4, his generosity to his close family in Brazil and the distancing from other family members in Brazil.

876. In summary, therefore, in dismissing each of the four E5 charges, for all of the reasons set out above, the Commission concluded that The FA have failed to meet the required standard of establishing on the balance of probabilities that the Player was involved in spot-fixing. Although, as we have already indicated, it is not for the Player to establish that his account is the more likely we do in any event consider the suggestion that the betting patterns, said by The FA to be cornerstone of its case (see paragraphs 74 to 76 above), emerge from a random

⁵⁵¹ Also see paragraphs 570 and 571 above.

passing of “hot tips” or perceived “inside information” within Brazil as the more likely explanation.⁵⁵²

877. In relation to the Performance Analysis we have explained at some length, looking at the particular circumstances of each RM individually, why we have concluded that the case advanced by The FA provides no support for The FA’s case in relation to the Player’s on-field conduct and why we preferred the evidence of the witnesses relied upon by the Player to that of The FA’s witnesses in relation to the assessment of footballing performance.

878. In relation to the mobile phone evidence, The FA fairly and properly in our view, accepted that their position had changed significantly since the service of the Case Summary in May 2024. Against that background we have set out in some detail above our assessment of the evidence relied on and our conclusion that there was nothing in that evidence which can be said to support The FA’s case in relation to the E5 charges. Nor, in the Commission’s view, was there any basis for drawing an adverse inference from the Player’s failure to co-operate in his interviews with The FA.

CHARGES 5 & 6 – THE F CHARGES

879. We now turn to consider the F Charges, namely charges 5 and 6 against the Player, brought for a failure to comply with the requirements of Rule F of The FA Regulations. We have already set out the terms of the Charges and the terms of the relevant elements of Rule F above (at paragraphs 16-19), the Charges being brought pursuant to Rule F3 for a failure to comply with the requirements of Rule F2.

880. There is no dispute that when the Player attended for interview with The FA, on 11 September 2023 and then again on 10 November 2023, for a large part of those interviews his stance, on legal advice, was to answer ‘no comment’ to the questions posed. That is the basis for The FA advancing the F Charges.

⁵⁵² See paragraph 571 above.

881. As reflected in paragraph 286 of the Player's written closing submissions, 3 points are taken in response to the F Charges, namely:

- (1) That the purpose of Rule F3 is to enable The FA to obtain information from Participants to investigate potential breaches and, in the present instance, the Player provided all relevant information before he was charged.
- (2) That the investigative powers of The FA must operate in such a way as to respect a Participant's privilege against self-incrimination and/or right to silence in an investigation of alleged spot-fixing; and
- (3) The FA failed to properly exercise its discretion in relation to the two interviews held with the Player in refusing to provide information about the bets and bettors that was requested on his behalf by his legal representatives before the interviews. It is said that because of this failure to properly exercise its discretion, the manner in which the interviews proceeded means that the Player cannot properly be said to be in breach of Rule F.

882. Before we consider these issues, however, we must firstly provide some background specific to the F charges.

Background

883. The FA contacted the Player, via WHUFC, by letter dated 14 August 2023 and asked him to attend for interview. In the context of these proceedings, we know this was just 2 days after RM4. The letter was emailed at one minute past midday and said, having identified in the heading RM2, RM3 and RM4⁵⁵³:

"We are writing in relation to an ongoing investigation into bets placed on you in 'Player To Be Carded Markets', and related markets, in the above matches. The bets have been flagged to The FA by UEFA and the International Betting Integrity Association. The bets could be connected to the passing of 'inside information' as there appears to be a link between some bettors and yourself.

⁵⁵³ Bundle D, page 17.

You will appreciate this matter is of concern to The FA and that it must be investigated in order to establish whether a breach of FA Rules has occurred or alternatively, that the betting is unconnected to you or any other Participant in football.”

884. At 19:16 that same day, Mr Pincher, WHUFC’s club secretary responded informing The FA that Mr De Marco had been instructed by the Club to act for the Player. The email included the following statement⁵⁵⁴:

“In addition, please can you provide the following information for us to share with the Player and take instructions on:

- 1. Details of each of the investigated bets placed (i.e. who placed them, when, with which company and for what stakes, as well as the outcome of each such bet);*
- 2. Disclosure of the communications between (a) UEFA and (b) the International Betting Integrity Association and The FA to which you refer; and*
- 3. The information upon which The FA relies for the suggestion that ‘there appears to be a link [between] some bettors’ and the Player.*

Once the above information has been provided, we shall take instructions from the Player before any interview is to take place...”

885. Accordingly, just over 7 hours from the time the interview request was sent, Leading Counsel had been instructed and a stance on behalf of the Player had been adopted which, as we shall see below, was effectively to remain firm.

886. It is plain from the correspondence that very shortly after, on 16 August 2023, The FA declined to provide more information, citing *“we have provided as much information as we can without jeopardising the ongoing investigation”*⁵⁵⁵ and Level were instructed, certainly by 18 August, to also act on behalf of the Player.

887. We do not think it is necessary to recite all the correspondence that then passed before the first interview which took place on 11 September 2023. At the outset

⁵⁵⁴ Bundle D, pages 13-14.

⁵⁵⁵ Bundle D, page 11.

of that interview, a statement was made by Mr De Marco in the following terms which summarises what was said and where the parties had reached:

"Lucas is extremely shocked and disturbed by allegations concerning him and betting. The details of the allegations provided so far by the FA have been extremely vague and unclear. The only thing the FA has said is as follows. First, in the invitation-to-interview letter dated 14th August, 2023, the FA identified three West Ham matches in which Lucas received a yellow card, on 13th March against Aston Villa, on 23rd May against Leeds United, and on 12th August against Bournemouth. The letter stated the investigation was into bets placed on Lucas for player to be carded, and that the bets "could", emphasised, be connected to Lucas passing on inside information as there "appears", emphasised, to be a link between some betters and Lucas. Understandably, before attending interview, Lucas' representatives requested some basic, further detail from the FA of the type routinely provided by you and your team, Tom, in each of the countless betting cases I have been involved in. So, on 14th August, at West Ham, wrote to the FA requesting the following basic information so that the player could be advised before interview.

(1) Details of each of the investigated bets placed, that is, who placed them, when, with which company and for what stakes, as well as the outcome of each such bet. (2) Disclosure of the communications between UEFA and the International Betting Integrity Association, and the FA, to which you refer. And (3) the information upon which the FA relies for the suggestion that there appears to be a link to some betters and the players. You replied on 15th August, Tom, stating that, "With regards to the requests you have made, all pertinent information relating to the alleged breaches will be disclosed during the interview." There was a further email exchange in which I requested pre-interview disclosure on the player's behalf and you replied on 16th August stating as follows. "At this stage of the investigation, the FA is unable to provide more specific details of the nature of the [concerns] as we consider such disclosure is likely to prejudice the investigation. The FA intends to explain the concerns in greater detail during the interview and permit [the Player] the opportunity to respond to those concerns freely. [The Player] will be entitled to pause the interview at any stage

should he need to speak with his legal representatives and/or any interpreter privately."

Following a further round of correspondence, the FA's regulatory legal department responded by email dated 17th August with various points. I won't read out the whole email, but quote from paragraphs two and three. Two, "In line with the FA's broad discretion in determining the manner in which it conducts its enquiry, we have made it clear that the reason for not providing information as to the details of the bettors is so as not to jeopardise the integrity of the ongoing investigation. Providing details of the bettors in a case of this nature clearly risks undermining the integrity of the evidence." Three, "This approach is entirely consistent with the pre-interview disclosure obligations of the police. PACE code C 11.1A states that whilst the information disclosed must be sufficient for a subject to understand the nature of any offence, it does not require any details to be disclosed that might prejudice the investigation. We have made it clear in our correspondence that further disclosure would be provided at interview and the player will be afforded the opportunity to take breaks and seek legal advice." Arrangements were then made to try and have this interview on 21st August, however on the Friday just before the interview, 18th August, Tom, you raised some further conditions by email including that it's important we conduct the interview in person, not least because of the necessity to download [the Player's] mobile phone devices, share documents relating to the investigation and discuss and navigate the match footage effectively. This was said knowing that, on 21st August, I will be out of the country and require to attend remotely. It was then agreed the interview would take place today. Pausing there, by this stage, the situation was that the FA continued to refuse to provide any of the most basic standard material before interview, including the bets placed and who placed them, such as it has been impossible for the [Player] and his representatives to take any steps to see if there were any connections or errors or explanations, or so on, that could be put forward by the player in relation to the unseen information. It's seen from your email correspondence that the FA was intent on conducting an interview by ambush. While it was suggested that disclosure would be made during the interview, it remained unclear if that would be full

disclosure, if disclosure would be made at the beginning of the interview, and so on.

There followed widespread leaking of the fact of the FA investigation and the material alleged to be considered by the FA in the national media. Those leaks included details about where the bets were said to have been placed and suggestions about the maximum amount of monies being placed. The leaks could have only come from either the FA itself or someone else involved in the investigation with whom the material had been shared by the FA. That is because they contained details previously undisclosed to the [Player] and his lawyers. [The Player], and West Ham, were prejudiced by the leaking of the fact of the FA investigation and the supposed allegations. Not only did it affect the [Player's] reputation despite the fact that no charge being brought and these things supposedly being strictly confidential, but it led to a collapse of a transfer of the player that was otherwise agreed between [WHUFC], and Manchester City Football Club, from which both the player and [WHUFC] would have received substantial sums running into the tens of millions of pounds. Both the [Player] and [WHUFC] reserve all of their rights in that regard. The [Player] and [WHUFC's] lawyers wrote to the FA complaining about the leaking, and requesting the FA conduct a leak enquiry, which it has done in similar circumstances and which any reasonable regulator would do, and repeating the request for pre-interview disclosure, given the [Player] has now had to learn about the supposed allegations from the press. The FA have refused now in two separate letters dated 24th and 30th August, 2023 to conduct any investigation into the leaks, or to provide the details of the allegations, save for some details of a large number of organisations that the FA says it shared details of the investigation within the 30th August letter. The FA has continued to refuse to disclose the most basic evidence of the bets themselves and who placed them, up till now when this interview has commenced. The [Player] has no knowledge whatsoever of any bets being placed on him to receive a yellow card in the three matches identified.

He has not shared information connecting to such matters with anyone. He does not know of anyone who has placed the alleged bets. He has had no involvement in any of this and seeks to clear his name

which has now already been tarnished despite there being insufficient evidence to charge him and despite the fact that he has not been told anything about the bets. He has not, to his knowledge, ever himself placed any bets on football, instructed or encouraged anyone else to place bets on football, or breached the betting rules in any other way. Given he is completely innocent of any wrongdoing, he obviously does seek to cooperate with the FA to bring this investigation to a speedy conclusion. He has made clear on repeats that such cooperation extends to voluntary disclosure of his phones and other electronic device communications, about which he only seeks the opportunity to reasonably agree search terms. And also disclosure of all his banking and financial statements, with a similar protection guaranteed for irrelevant, confidential and personal material. Given the extent of the leaks in relation to the investigation so far, and his legal team's experience of similar leaks occurring during other FA investigations, such basic protections for his own confidential information unrelated to the investigation are entirely reasonable. The [Player] is also happy to answer any questions that the FA has, but he has been advised that he should not do so until the FA provide the basic information related to the bets that it has promised to provide him in this interview. Whilst it's correct, as the FA regulatory legal pointed out in their letter quoted above, that PACE states that whilst information disclosed must be sufficient for a subject to understand the nature of any offence, it does not require any details to be disclosed that might prejudice the investigation, it is also the case that under the Criminal Procedure and Investigations Act 1996, while the investigator is under no obligation to reveal the prosecution's case to the suspect or their legal representative before questioning begins, if the police disclose little or nothing of the case against the suspect so that a legal advisor cannot usefully provide advice to their client, then there may be good reason for the solicitor to advise the suspect to remain silent.

This means that, in the absence of the FA providing the basic information needed for [the Player] to address any concerns the FA may have, and to rely on facts or explanations that he may later rely on if charged, no adverse inferences should be drawn from him exercising his right to silence in this interview. This is particularly the case where, here, the [Player] cannot speak or understand anything

*more than the most basic English and has not been provided with any of the most basic facts relied on by the FA for him to seek legal and any other advice, or make appropriate inquiries so that he can properly answer your questions. As such, we have advised the [Player] to answer "No comment" to all of your questions until you provide disclosure of the material that the FA relies on in the investigation. What we now suggest is that you provide that information as you promised you would do at this interview, so we can advise the [Player] and the questioning can then start. It also follows, of course, that once you have provided that information, we can agree search terms, and the [Player] can hand over his phones, which are here with him and in his possession, so that an image can be taken by the independent third party.' Thank you."*⁵⁵⁶

888. The Commission notes from this statement:

- (1) The 'most basic' information required by the Player includes all 3 categories of information identified in the first response to the request for the Player to attend for interview.
- (2) This 'basic' information was said to reflect that 'routinely' provided in betting cases before interview.
- (3) The Player was stating that he was willing to co-operate with The FA;
- (4) The Player was also saying that he was innocent, had no knowledge of any bets concerning his being carded and had not passed on information of such matters to anyone; and
- (5) Rather than it being said, in terms, that the Player exercised his right to remain silent because of a fear of self-incrimination, the point taken was whilst he would co-operate, he would not answer questions until he had seen the documentation held by The FA and requested on his behalf. Put another way, as is said in The FA's closing submissions⁵⁵⁷ the refusal to answer questions was because of a perceived 'lack of disclosure'.

⁵⁵⁶ Bundle C, pages 89-92.

⁵⁵⁷ For example, at paragraph 561.

889. A little time later during the first interview, the following exchange took place⁵⁵⁸:

“Mr Astley: One last thing., sorry. In terms of, you've advised [the Player] to no comment to any questions... Rule F2.1 on the Portuguese version there requires you to answer questions of the FA... Any failure to answer any questions, by saying, 'No comment,' for example may result in you being charged under FA rule F3 for failure to comply.

Mr De Marco: Are you saying this on legal advice?

Tom Astley: I'm saying this because we have a rule-

Mr De Marco: No, but are you suggesting that overrules the common law right to silence? You cannot possibly have had legal advice that that overrules the common law right of silence.

David Mathews: Alright. We've obviously got it on the recording now as well, what we've said and your objections to it. But we will-, that's probably another point we can pick up in the break, too.

Mr De Marco: And in addition the [Player] has also made clear he will answer all your questions once you provide the information you have promised to provide at this interview.

Tom Astley: Okay. That's all on the record, so I think we will pause the interview now. The time is 11:33am.”

890. The Commission observes from this passage that the common law right to silence was mentioned, but the Player's position was not that he would not answer questions to protect his right against self-incrimination, but rather that he would “*answer all your questions*” once the requested disclosure had been provided. In turn, it had been said in the statement recited above the disclosure was needed to take legal advice and, also, to see if there were any ‘*connections, or errors or explanations*’.⁵⁵⁹

⁵⁵⁸ Bundle C, pages 101 – 102.

⁵⁵⁹ Bundle C, page 90.

891. A flavour of the interview appears from the following extract⁵⁶⁰:

“Mr De Marco: So, I mean, given that the answers are all going to be the same, I'm just thinking timewise, if you give us the names of all of them, we can have a break, take instructions and see how best to proceed, it might save some time.

Mr Astley: ... Well, the flip side will be, we've given you some names so we're happy to take a break and you can take instruction for these first three.

Mr De Marco: Well, yes but it's going to be the same because, I mean, the problem is in order to properly answer questions and me to be able to give advice to my client, he needs to understand for example the connection between all of these people. So, we need to know all of their names and then I can take instruction and we can see if there is an explanation that can be given today or not, ... because otherwise all that will happen- ...

Mr Astley: Yes, there's another fifteen.

Mr De Marco: So, my point is if, as you know, the answer is going to be the same in everyone and you can put on the transcript that it will be- ... Then you're going to have given us the fifteen by the end of the day anyway but we can just short circuit that next three hours.

Mr Astley: Yes, I get that but we've repeatedly said that the no comment route is, we know it's his choice, and we know that it's your advice that you've given him but nonetheless, we still don't know if he's going to answer questions if we go away having given you all the names. Do you see what I mean? But we'd still like to ask all our questions.

Mr De Marco: Yes, and you can because once you've given us all the names and we've had an opportunity to take instructions, a no comment in those circumstances would be different to one in these circumstances. So, that's, you know?

⁵⁶⁰ Bundle C, pages 123 – 124.

Mr Astley: Look, all we're doing is introducing people that we've identified links and have placed bets on games. I just, to my mind, I can't understand why we can't just have conversations throughout about them and if we're asking questions that you don't like then you can interrupt them.

Mr De Marco: You know that he's been advised to give no comment to all of these questions until we've had all of the names. So, that's going to be the position and I'm only trying to short circuit this because you're going to give us all the names anyway.

Mr Astley: What you've said there about you'll, disclose them all, have a conversation about whether there's relationships with these people, there clearly is because [the Player] is in some of those photos. So, what is stopping us from taking a break now and we can come back in and speak about these first three.

Mr De Marco: No, I'm talking about the relationship between everybody.

Mr Astley: But why can't we take a break now and do that? What would be the issue with that?

Mr De Marco: I don't know until I have the whole list. Until I've given the whole list to my client and given my client the opportunity to say what explanation he can give. I simply don't know without doing that. I'm not going to speculate but once he's had the whole list, something might come to mind or it might not.

Mr Astley: Okay. Respectfully, something I would respectfully argue is that he could tell us what his relationship is with people in those photographs given he's in them. So, we could have a break now so you can talk about what we've currently disclosed and then we can come back in and go from there.

Mr De Marco: Yes, but we're not just, he's not being advised just to talk about his relationship with three people, it's about his knowledge of betting and for us to be able to advise him on that and any explanation he gives, we need the names of all the people and he will continue to

give no comment answers until we have those. We're not going to move.

Mr Matthews: We've asked a lot of questions, which are no relevance to the names of the people and there was no answer to those whatsoever.

Mr De Marco: Yes, and you know that's standard if someone is advised to give a no comment interview that's what happens until they're no longer advised to give a no comment interview and that continues to be the case until we have the evidence..."

892. Moving on from the first interview, by a letter dated 27 October 2023, which was sent by email to the Player's solicitors and Leading Counsel, The FA invited the Player to a second interview. It was said:

*"We wish to advise that during the interview we intend to ask your client questions about a yellow card that he received in the match between [WHUFC] and Leicester City FC on 12th November 2022. We will also be asking questions relating to further bettors that have subsequently placed potentially suspicious bets across some or all of the four matches we have identified. Please also note, in line with previous correspondence on this matter, we will not be providing advance disclosure of these bettors, in order to preserve the integrity of the investigation."*⁵⁶¹

893. A second interview was held on 10 November 2023. Again, we need not detail everything that happened in the time between the interviews, because it also began with Mr De Marco reading a prepared statement which gives a clear flavour of what had occurred. That statement was in the following terms⁵⁶²:

"... So, at the beginning of the first interview with [the Player], you'll remember I read out a statement making it clear that [the Player] is extremely shocked and disturbed by the allegations concerning him of betting and the fact at the time, the FA had not disclosed any information at all about the bets it was investigating.

⁵⁶¹ Bundle D, page 80.

⁵⁶² Bundle C, pages 146-149.

... And the fact that the FA had not disclosed any information at all about the bets it was investigating, making it impossible for [the Player] to be properly assisted, or rather to properly assist your investigation in a normal way, including having the evidence explained to him, translated where necessary, and for him to have a reasonable opportunity to seek legal advice, if requested, before answering questions. You will recall that, at that stage, the FA refused to provide details of the bets before the interview, but had promised it would do so during the interview itself. There was a dispute about what should be done with [the Player's] phones, which we managed to resolve between us at the interview. You took the phones away and you had them interrogated by forensic experts, who made a full searchable image of their entire content, and that meant that you could have all of the evidence available, properly preserved.

We then went through what we regard respectfully as a rather wasteful exercise, of the FA asking a series of questions throughout the day, but refusing to provide the information that you were asking about until the end of the interview. And, instead of providing us with that evidence once we were in the room, and after you had taken the phones away, so there could be no possible risk to the integrity of the investigation or interview, you took the position that you would ask the questions first and provide the information at the end. That resulted in the [Player] being advised to give a no comment interview to the questions given he was not told the case against him, until after you provided the information about the bets, which you did at the end of the interview. And so, by the end of the interview, you had finally provided us with all of the information you said the FA relied on in relation to the bets placed on [the Player] to receive yellow cards in respect of three separate matches, by a total of eighteen people. You did not provide, and suggested you did not have access to, other bets placed by those same eighteen people during the same period, whether on [the Player] or on other players or on other events.

You did not provide any evidence of any communications between [the Player] and those eighteen people whose bets you said you were investigating, saying you would find out about that later, presumably, from the phone search you have since completed. You also explained

that there were a, quote, 'Couple of hundred other people who placed bets on [the Player] getting booked in the same matches,' but that you had not asked [the Player] any questions about any of those people and nor had you since told us that what those people bet on, what those bets were or if you believe there's any connection between any of them and [the Player]. The FA has said before this interview that it refuses to now ask him about any of the matters in relation to the previous interview. So, [the Player] volunteered to come back and answer any questions you had about the bookings in those three matches in which the bets were placed and about his connections, if any, with the eighteen people you have now informed him off [sic].

[The Player] again makes that offer to you here and now, during this interview. He is ready, willing and able and eager to answer any and all questions you have about the three bookings that took place that were the subject of the last interview and his connection if any, with any of the eighteen people you identified during that last interview. You've had the benefit of a full search of his phone and contact with any third parties. You're able to ask him questions you wish about any communications he's had with those eighteen people and since [the Player's] very strong position is that he had absolutely no knowledge of, or involvement in any bets on him getting yellow cards. He is, and remains, very keen to clear his name and answer your questions on those matters, as he's offered to on numerous previous occasions. So, before we go on, we would ask you to seriously consider, or reconsider if you've made a decision, the stance taken so far and to use today's opportunity and [the Player] being here to ask him questions about the bets you have already informed him about. He's ready, willing and able to answer any questions in relation to those matters.

The last interview took place, I think, on 11th September, so that's nearly two months ago and obviously, that's when you first took the image of the phone. There's no doubt been time since then to have a full search of the phone and we had expected that you were wanting to have some, perhaps, follow-up questions in relation to the previous bets and eighteen people and any communications with those people, or any other people, identified from the phone search. From what you've said about your original plan in this interview, it doesn't suggest

you are going to ask those questions and we assume that is because you have not identified any evidence that would be relevant from the phone to at least those last three bets and contact with the eighteen people, but again, if that's wrong and you have identified such evidence, there must be a duty to put that to [the Player] in an interview before any charge and decision and we'd invite you to do that in this interview.

As to new matters that you've identified you want to ask [the Player] about ... you said in your letter of 22nd October, that you intend to ask him about a yellow card he received in a match between [WHUFC] and Leicester City on 12th November 2022 and you'll also be asking questions relating to further bettors that have placed potentially suspicious bets across some or all of the four matches identified. That may be out of those couple of hundred or so before. You went on to say, 'Please also note, in line with the previous correspondence on this matter, we will not be providing advanced disclosure of those bettors in order to preserve the integrity of the investigation.' Now, pausing there, we understood your point about integrity of investigation before the phone, because there is always a danger that somebody may try

and conceal or delete evidence. Obviously, that concern no longer [exists] because you'll have taken an image of the phone. If the concern is that [the Player] may have had the opportunity to approach or discuss with anyone you're now going to ask about before this interview, then again, that concern must now be passed, because we're altogether.

So, if you are going to ask any questions about any further people, then as with previous interview, the position we take is that you ought to now provide us, and there's no reason at all for not now providing us, with the details of those bets. Let us have a break and a reasonable opportunity to look into them and if we can answer those questions today, as well as all of the other questions about the eighteen, we can. If there's no time to do so, we can come back and do so, as we promised to with the eighteen. So, that's how [the Player] has been advised to deal with the interview. Any new bets that you deal with, without giving us advanced disclosure, he's been advised again to give a no comment answer to, for the very same reason that he was last

time. It's simply unfair of the proceedings. The interview is unfair when there's no advanced disclosure, in our view. But he is happy to discuss, not only the three bookings in the three previous matches, but if you have questions about the booking the Leicester match, he is able to answer a question, or questions about that as well.

And so, that was all I wanted to say at the outset. We hope you do consider now, asking him questions about the things he's been given disclosure of, so that we can actually make some use of today and you can get some answers to go away and deal with, rather than just have another day of no comment interviews. But obviously, that's a matter for you."

894. The key points the Commission takes from this statement are:

- (1) That the Player would adopt the same 'no comment' stance he was advised to take in the first interview in respect of any questions arising from information which had not previously been disclosed; but
- (2) The Player was willing to answer any questions arising from the disclosure which had been provided by The FA after the first interview.

895. In fact, The FA declined to ask any questions which related to matters which had been covered in the first interview, as had been foreshadowed before the second interview in correspondence.⁵⁶³ Mr Matthews responded to Mr De Marco's statement by saying⁵⁶⁴:

"... I think, obviously, this is something which has been covered by some correspondence between the two parties. Our position is, it remains the same as it has in that correspondence. We don't intend to ask the same questions again that we asked over the first interview. Our position is that [the Player] has had the opportunity to answer those questions already. Albeit, we understand that was under advice from you."

⁵⁶³ Letter from The FA dated 19 October 2023 at Bundle D, page 75.

⁵⁶⁴ Bundle C, page 149.

896. On this point, when Mr Astley was cross-examined the following exchange took place:

“Q: ... So your position was in the interview you are not going to ask him the question’s or listen to any answers, yes?”

A: It was Mr Matthews that said that, and my recollection of that is that was on advice from our legal team, and that’s why we’ve said it in there.

Q: You’re the investigator investigating his connections with these bettors, what he did in the matches, yes?

A: Yes

Q: You’re presumably interested to know answers to these questions aren’t you?

A: Yes, but as I say, we got legal advice from our counsel to - that was what we were to do, so that was why Mr Matthews said that in the interview.

Q: Even though you’re interested in the answers to these questions, you’ve got legal advice not to ask them?

*A: Correct.”*⁵⁶⁵

897. The Commission wishes to record its surprise that at the investigation stage of what were clearly serious matters which could, and did, lead to serious charges which in turn led to a Commission hearing lasting 20 days, The FA were apparently not interested in what the Player had to say, notwithstanding his stance, taken on advice, in the first interview.

898. As to the remainder of the interview, as The FA identify in its written closing submissions, the Player did answer some questions⁵⁶⁶, although in respect of the questions asked of him about bettors whose names were introduced in the second interview, the Player, on advice, answered ‘no comment’.

⁵⁶⁵ Transcript Day 4, page 39 line 10 to page 40, line 1.

⁵⁶⁶ Paragraph 599.

899. Thus, in the second interview, the following is an example of what happened when new names were put to the Player.⁵⁶⁷:

“Mr Astley: Okay, so we’ve got a number of people we’re going to disclose to you now, Lucas, who’ve placed bets across various of these games, so similar to last time, where we’ll give you the name and then the opportunity to answer any questions in terms of how you know them, and then we’ll tell you what bets they placed on you.

Mr De Marco: Tom, you said there may be some overlap. So, if any of these are the eighteen people, let me know before asking the question, will you, because then my advice to Lucas will change.

Mr Astley: Yes, that’s fine, yes.

Mr De Marco: Could that be translated?

Mr : Yes, just to reflect what he’s like, Nick, if they are the same, overlapping, the names, [the Player] is responding.

Mr De Marco: [The Player] can answer the question, if not, he’s advised to give, ‘No comment.’

Mr : You guys will say if it’s a new name or not?

Mr Astley: We can tell him that as well.

Mr De Marco: Tom is going to say.

Mr Matthews: We obviously don’t want to step on the toes of that at all, so if you’re unsure at all, please jump in.

Mr Astley: Okay. So, the first individual is somebody called . Is he somebody that you know, Lucas?

The Player: No.

Mr De Marco: It’s, ‘No comment.’. Is this new?

Mr Astley: Yes, this is new, we’ll tell you when the overlap is.

⁵⁶⁷ Bundle C, pages 154-155.

Mr De Marco: Should we say before each one if it's a new person or not, just so we're completely clear?

Mr Astley: Yes, this is a new individual that wasn't disclosed in the first interview.

Player: No comment.

Mr Astley: Okay, have you got any relationship with this individual?

Player: No comment.

*Mr Astley: Okay, what about has a brother called
Do you know ?*

Mr De Marco: Again, you were going to identify before each one.

Mr Astley: So yes, so this is a new name.

Player: No comment."

900. After the second interview, but before the Charges, the Player provided a witness statement dated 15 December 2023. That is the witness statement that formed the Player's first witness statement for the purposes of these proceedings. As is evident from the citations in the analysis of the betting data set out earlier in these Written Reasons, in respect of the named bettors the Player set out in that statement the relationships he had with the bettors or confirmed that he had no relationship with them.⁵⁶⁸

The FA's argument

901. As to the first interview, to which Charge 5 relates, in its opening submissions, The FA alleged:

"This failure to answer questions amounts to a clear breach of Rule F3. The FA's request pursuant to Rule F2 was within the terms of what the Rules allow and, furthermore, [the Player] had been provided with sufficient information in relation to The FA's investigation to enable him to attend and answer questions. [The Player's] case was clearly a case

⁵⁶⁸ At paragraphs 37 – 45, Bundle F pages 10-12.

where any further advanced disclosure of the detail he requested would be likely to prejudice the investigation. ...

*Throughout the interview The FA's interviewers provided [the Player] with ample opportunity to take breaks and seek legal advice with the assistance of a translator. He was given more than sufficient information about the nature of the case against him and there was no basis for his refusal to answer questions...*⁵⁶⁹

902. As regards the second interview, which is the subject matter of Charge 6, in its written opening The FA said:

"It is apparent from the second interview, that despite the fact [the Player] answered some questions, these were limited, and there were again a number of questions which he refused to answer.

*This failure to answer questions amounts to a further clear breach of Rule F3. The FA's request pursuant to Rule F2 was within the terms of what Rule F permitted and [the Player] had been provided with sufficient information in relation to The FA's investigation to enable him to attend and answer questions. [The Player's] case was clearly a case where advance disclosure of the information he requested would be likely to prejudice the investigation."*⁵⁷⁰

The Player's Response

903. Before turning to the points previously identified in the Player's written closing submissions, we should refer to one point which arises from the above recited passages, namely the suggestion made by Mr De Marco in his statement at the first interview that the 'basic' information requested was information which was 'routinely' provided by The FA in betting cases.

904. In oral opening Mr De Marco said⁵⁷¹:

"... The FA in those interviews failed to provide any or any sufficient pre-interview disclosure, and, in doing so, we say they failed to properly exercise their discretion as regards their approach to the

⁵⁶⁹ Paragraphs 606 and 608.

⁵⁷⁰ FA Written Opening – paragraph 623-624.

⁵⁷¹ Transcript Day 3, page 90 line 3 to line 22.

interviews, and the Player was entitled to rely on legal advice in responding 'no comment'.

Now, pausing there, I don't suggest that the FA must always, in every case, disclose the basic information before an interview that they're going to ask a person about, it will always depend on the circumstances of the case. It is, in FA interviews, normal, standard policy to do so, in betting cases, to provide usually by way of the sort of data you've seen in spreadsheet, the list of bets and bettors and so on, that the participant is going to be asked about. That is what usually happens in interviews, and that's what [the Player] wanted in this interview, and the FA failed to provide that information, and it said it did so because it was concerned about doing so might jeopardise the information."

905. The suggestion The FA had withheld information which it would ordinarily provide was a concern for the Commission. However, after he had initially given evidence, one of the statements produced by Mr Astley identified what pre-disclosure information had been provided in some other notable cases involving betting.⁵⁷² It was plain from that information that the pre-disclosure information in those cases was limited in nature and similar to that provided in the present case. Mr Astley was recalled for further cross-examination on his new statements and on this point, Mr De Marco simply stated: "... *the remaining paragraphs deal with pre-interview disclosure... which I'm not going to ask you about.*"⁵⁷³

906. In these circumstances, the Commission's concerns that The FA had adopted a restrictive approach in the Player's case compared to other betting cases was assuaged. It seems to the Commission that, in fact, what the Player was told was in line with The FA's approach in those other betting matters.

907. We therefore turn to the points raised in the Player's written closing submissions, the first of which is based on the purpose of Rule F3. When cross-examining Mr Astley, the following exchange took place⁵⁷⁴:

⁵⁷² Bundle B, page 233.

⁵⁷³ Transcript Day 15, page 91 lines 13-15.

⁵⁷⁴ Transcript Day 4, page 19 line 24 – page 20, line 11.

“Q: Would you agree with me that F2 is there to help the FA and specifically investigators like you to obtain information from participants so that you can investigate matters?”

A: That’s its purpose, yes.

Q: And that’s so you can have a full investigation.

A: Yes, and get - yes, exactly.

Q: And it gives you and The FA the power to compel reasonable co-operation, handing over devices, answering questions, those sorts of things.

A: I think it’s upon reasonable notice, not reasonable co-operation, those are two different things, but upon reasonable notice to provide information to The FA, yes.”

908. The function of these questions, as the Commission understands them, is to place emphasis on a purpose of Rule F3 which is to obtain compliance, allied, in the present instance to the fact the Player is said to have provided all relevant information before charge, as evidenced by his first statement which is dated 15 December 2023.

909. We were also referred to the decision of a previous Regulatory Commission in *The FA v McBean*.⁵⁷⁵ At paragraph 60 of that decision, it was said:

“It was agreed by Ms Turner that the intention of Rule F2 is not strictly punitive, rather a sanction under Rule F3 could be to ensure future compliance. We agreed that this was the logical and proportionate approach.”

910. In that case, the Commission proceeded to indefinitely suspend the Participant from football activities until he attended an interview to answer questions and provide information to the satisfaction of The FA.

911. The Commission, in that case, also commented⁵⁷⁶:

⁵⁷⁵ 28 October 2019 (Chair: Ifeanyi Odogwu).

⁵⁷⁶ At paragraph 55.

“... the Rules certainly do not require the FA to disclose any material prior to interview. Also, it cannot be right, or the intention of the Rules, for Participant’s to frustrate the investigative process by dictating the terms upon which they will attend an interview. We accepted LG’s evidence and Ms Turner’s submissions that the decision of advance disclosure is case and fact specific. It is correct that disclosure in some cases could prejudice the investigation.”

912. In the Commission’s view, Rules F2 and F3 are important rules in the armoury of The FA. It does not have statutory powers of investigation or compulsion, yet it does have the power, through these Rules, to require Participants to (a) attend to answer questions and provide information; (b) provide documents, information or any material held by that Participant; and (c) to procure the provision of any documents, information or material not held by the Participant, but which the Participant has the power to obtain. Those critical powers are protected by Rule F3 which clearly provides that “any” failure by the Participant to require with “any” requirement may constitute Misconduct.
913. In considering the terms of Rules F1 – F3, the Commission is clear, as a matter of construction, that Rule F3 means what it says: ‘any’ failure to comply with the terms of Rule F2 with ‘any’ requirement under Rule F2 may constitute ‘Misconduct’. The requirements of Rule F2 expressly include provision for the Participant to attend interview, including to ‘answer questions.’ Accordingly, the Commission is wholly satisfied that a failure to answer questions, substantially, by answering ‘no comment’ (unless facilitated by the points we shall come to), may be Misconduct under the terms of Rule F3.
914. The *purpose* of Rule F3 is not, in the Commission’s view, as narrow as being a rule which is only invoked to facilitate compliance by ensuring that the types of information referred to in Rule F2 are, in any given case, delivered. Whilst there may be, as in *McBean*, a use of the rule to ensure that compliance with Rule F2 is achieved, that does not reflect the full extent of the provision. The Commission in *McBean* recognised this, in stating that the intent behind the rule is not ‘strictly’ punitive. In our view, a failure to comply with the requirements is unquestionably a breach and may, therefore, itself be the subject of sanction.

915. Whilst on advice, which is not a defence to a charge of Misconduct, the Player did not answer questions as Rule F2 requires, it is not an answer to being in breach of the Rule to say that he subsequently provided The FA with information in the guise of his witness statement dated 15 December 2023. That is a point which, at best, goes to sanction.
916. Subject to the points we shall proceed to consider, Participants simply cannot dictate the terms on which they disclose information, whether in the form of answering questions, providing documents or whosoever, to The FA during the course of an investigation. An obligation is imposed by Rule F2 to co-operate with The FA's inquiries. Rule F2 does not permit the Participant to determine the manner in which they will comply with that obligation.
917. Accordingly, the 'purpose' of Rule F3, in the Commission's view, is of no assistance to the Player in the present instance in defending Charges 5 and 6.
918. The next point taken in the Player's written closing submissions is that the investigative powers of The FA must operate in such a way as to respect privilege against self-incrimination and / or a player's right to silence during an investigation into alleged spot-fixing. We shall refer to this as a right against self-incrimination, which is a right against self-incrimination in any criminal proceedings which may be instigated, not that there is any such suggestion of either any criminal investigation or criminal proceedings in the present instance.
919. Although the Player appears to seek to limit the point to an allegation of spot-fixing, in the Commission's view that is too introspective and is wrong. The Commission can readily think of other potential rule breaches which may require investigation, where serious and potentially criminal consequences could follow. Examples include an allegation of assault on the pitch, or a pitch invasion.
920. We also observe that in our view the point is one which only gained any real traction during the latter course of the proceedings. At the outset, the Commission understood the Player's stance to be one which was focused on disclosure, allied to statements that he wanted to co-operate with The FA, which tied into the alleged failure of The FA to exercise its discretion properly to provide

that disclosure (which is the next point considered below). Indeed, the Player's Defence document stated⁵⁷⁷:

"This is not a case in which the Player has repeatedly refused to engage or to cooperate with The FA's investigation or to give an account (contrary to The FA's suggestion). Indeed, the Player has provided answers and explanation to the matters raised by The FA in the Interviews and will be available for cross-examination (during which his credibility can be considered by the Commission). However, at the interview stage, the Player was entitled to protect his rights in circumstances where The FA had failed to exercise its discretion reasonably and, in doing so, failed to act fairly or to ensure the Player's rights were protected." [Underling added for emphasis].

921. Equally, in both the Player's written opening⁵⁷⁸, and in his oral opening Mr De Marco made points about silence in the context of arguing that adverse inferences⁵⁷⁹ should not be drawn, as distinct from asserting the Player had exercised a right of silence as part of his privilege against self-incrimination. Of course, we have already identified that no adverse inferences have been drawn in all the circumstances of this case (at paragraph 869 above).

922. By the time of written closing submissions a section was included on the "*right to silence and privilege against self-incrimination in an investigation into spot-fixing*"⁵⁸⁰, including reliance on a case from the Grand Chamber, namely *DB v Commissione Nazionale per le Società e la Borsa* (C-481/19), a case which was only referred to in the Supplemental Bundle of Authorities provided for oral closing submissions.⁵⁸¹ This was after The FA had completed its written closing submission, which is why it was not commented upon in those submissions. Nor did The FA comment, in terms, upon the case in oral closing which left the Commission with the disadvantage of having heard no proper argument on the point.

⁵⁷⁷ At Bundle E, page 90 paragraph 175. We also note that a point was taken, at footnote 214 within paragraph 175, that in what are civil proceedings it would be inappropriate to draw any inference from the silence of the Player in the interviews.

⁵⁷⁸ At paragraph 34(b).

⁵⁷⁹ Transcript Day 3, pages 95 and 96.

⁵⁸⁰ Paragraphs 292 – 295.

⁵⁸¹ At page 550.

923. In any event, the Commission did not derive much assistance from the above recited case, which involved a regime imposed by statute, as opposed to the current scenario in which the Player has voluntarily agreed to a contract between himself and The FA incorporating The FA's Rules and Regulations, including Rule F.⁵⁸²

924. However, in the Commission's view arguments about the right of silence/privilege against self-incrimination were not actually engaged in this matter.

925. Any exercise of the right should have been by the Player at the time of the interviews. But, in the Commission's view this was not a matter in which the Player stated he was not prepared to answer questions for fear of incriminating himself in any criminal investigation and/or charges which may ultimately ensue. Rather the point taken was that The FA had failed to exercise its discretion properly regarding the provision of pre-interview disclosure, which in the Commission's view is a separate point (being the third point we deal with below). Indeed, the Player was extremely clear, through Leading Counsel, in the statement delivered at the first interview, that:

"... The player has no knowledge whatsoever of any bets being placed on him to receive a yellow card in the three matches identified. He has not shared information connecting to such matters with anyone. He does not know of anyone who has placed the alleged bets. He has no involvement in any of this and seeks to clear his name... He has not, to his knowledge, ever placed any bets on football, instructed or encouraged anyone else to place bets on football, or breached the betting rules in any other way."

926. Whilst maintaining innocence and exercising a right against self-incrimination are not inconsistent, in the Commission's view, on the facts before us this was not the Player exercising his privilege against self-incrimination. Instead, this was someone breaking that silence by expressly saying he did not pass any information about bets to anyone but then refusing to go further and deal with the

⁵⁸² The Player accepted there was such a contract: see Player's written closing submissions at paragraph 298 and footnote 512. The voluntary aspects of the contract potentially engage arguments such as those of waiver identified in *Macpherson v The Law Society* [2005] EWHC 2837 in which Lord Justice Maurice Kay cited with approval a passage from Lord Justice Leggatt in *R v The Institute of Chartered Accountants for England and Wales, ex parte Nawaz* [1997] 4 WLUK 394.

detail relating to individual bettors until he had knowledge of the granular detail of the bets and what links were being alleged.

927. Put another way, and accepting as recited above that Mr De Marco plainly referred to the common law right to silence in the first interview in the exchange we have recited, which took place after the pre-prepared statement was made, in the Commission's view in this case not answering questions was a means used to seek to obtain disclosure that The FA were not willing to voluntarily provide.
928. Again, in all the circumstances, we do not consider this point offers a defence to the Player in respect of Charges 5 and 6. The Commission prefers the view that the real issue is that which we consider was actually included in the Player's written Defence document (recited above), to which we now turn.
929. The third point taken in respect of the F Charges is the argument that The FA failed properly to exercise its discretion by failing to provide the Player with information relating to the bets and bettors, as requested by his lawyers.
930. As previously identified, the Commission does not intend to set out in detail all the communications which passed on the issue. However, we have carefully considered all the correspondence in Bundle D, including relating to mobile phones and alleged leaks of information (including The FA's denial the leak was from it), as well as other documents relating to the interviews, including submissions, statements and the transcripts of cross-examination.
931. The issue can usefully be summarised as being that in the initial invitation for interview, as set out above, the Player was informed that The FA was investigating bets placed on the 'player to be carded' market, and related markets, at that stage on RM2, RM3 and RM4. The Player was also told that the bets had been flagged by UEFA and the IBIA and the bets could be connected to the passing of 'inside information' as there appeared to be a link between some bettors and the Player. As we have previously identified, despite requests for more information before the interview, The FA refused to provide more information. As we have also identified, this appears to the Commission to be

consistent with other betting cases where the extent of disclosure was identified by Mr Astley in his statement dated 26 March 2023.⁵⁸³

932. A similar stance was then adopted in respect of RM1 and further bettors when it came to the second interview.⁵⁸⁴

933. On this point, The FA have accepted that the discretion vested in it by Rule F must be exercised reasonably, as identified in *Braganza v BP Shipping* [2015] UKSC 17. In its written closing submissions⁵⁸⁵ The FA said:

“The case of Braganza sets out the principles applicable to public bodies when exercising discretion conferred under contract. The FA accepts that any discretion must be exercised reasonably, in the Wednesbury sense and that this amounts to a two-stage test as set out in Braganza with the first limb focused on the decision-making process and the second limb on the outcome. A decision which is Wednesbury unreasonable is ‘a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided would have arrived at it.’”

934. In *Braganza*⁵⁸⁶, Lord Neuberger said:

“[A] decision-maker’s discretion will be limited, as a matter of necessary implication, by concepts of honesty, good faith, and genuineness, and the need for the absence of arbitrariness, capriciousness, perversity and irrationality. The concern is that the discretion should not be abused. Reasonableness and unreasonableness are also concepts deployed in this context, but only in a sense analogous to Wednesbury unreasonableness.”

935. The FA’s position⁵⁸⁷ is ultimately that it cannot be sensibly suggested that the decision in respect of pre-interview disclosure could be described as *Wednesbury* unreasonable. The Player’s position is that “*in order to exercise its*

⁵⁸³ Bundle B, page 232.

⁵⁸⁴ Bundle D, page 80.

⁵⁸⁵ At paragraph 603.

⁵⁸⁶ [2015] UKSC 17 at para 102, citing from the Judgment of Rix LJ in *Socimer International Bank Ltd v Standard Bank Ltd* [2008] EWCA Civ 116.

⁵⁸⁷ Written Closing Submissions at paragraph 604.

discretion reasonably, The FA should have provided the information to the Player about the bets and bettors to enable him to take legal advice, rather than attempting to ambush the Player in the interviews, unless The FA had very good reason to withhold the information.”⁵⁸⁸

936. The Commission does not agree with the Player’s approach and considers it must address the question of whether the decision not to provide the requested disclosure fell foul of the Braganza test, not whether the information should have been provided, unless The FA can establish it had a ‘very good’ reason to withhold the information. The manner in which an investigation is conducted is for The FA, not for this or any Commission to assess, other than whether the manner in which it did so does or does not satisfy the Braganza test.

937. In its written closing submissions, The FA asserts⁵⁸⁹:

“Given the obvious risks in providing further disclosure to [the Player] in circumstances where he was suspected to be linked to several of the bettors and to have himself been involved in manipulating fixtures, further disclosure would, in the view of The FA, have been likely to prejudice the ongoing investigation. Whether that concern was reasonably as opposed to genuinely held is arguably immaterial given the clear and express terms of the Rules. In those circumstances, The FA refused to provide more, citing the risks of jeopardising the ongoing investigation, but reaffirmed its position that further disclosure would be provided in the interview; a translator would be made available for [the Player] to ensure he was not at any disadvantage; and he would be afforded the opportunity of breaks in the interview to receive legal advice.”

938. The submission in the first sentence of this citation is accepted by the Commission. When considering these charges, the Commission must be careful to ensure that we seek to consider The FA’s actions through the prism of what was known to it and, based on that knowledge, what was suspected by it at the

⁵⁸⁸ Player’s Written Closing Submissions at paragraph 302.

⁵⁸⁹ Paragraph 573, a paragraph which was in the same terms as paragraph 594 of its Opening submissions.

time, not through our position of having heard all the evidence in a 20 day hearing with documentation running into thousands of pages.

939. In this regard the Commission is satisfied that the decision not to provide disclosure of details of the bettors and bets in advance of the interviews cannot be said to fall foul of the Braganza test, in circumstances where there were concerns about links between some of the bettors and the Player. It is not, in the Commission's view, arbitrary, capricious, perverse or irrational to have withheld the disclosure. Indeed, in the Commission's view, the fact of a suspected link between the Player and some of the bettors was a positive reason for withholding the requested disclosure.
940. The Commission rejects the suggestion made on behalf of the Player that The FA's approach was to 'ambush' the Player. Seeing how a Participant responds to information presented during an interview, as opposed to receiving an answer that has been considered before the interview, with the benefit of legal advice (whatever advice that might have been), in the Commission's view is an important tool in the armoury of an investigator.
941. Furthermore, the ability for the Player to stop and take legal advice during the interview, once bettors names had been put to him, was not consistent with a suggestion of an 'ambush'.
942. The Commission have considered the various points made on the Player's behalf in the Player's written closing submissions, including the detailed points made at paragraphs 304 (a) – (d) and 305 (a) – (e), but we are not persuaded that they erode, let alone displace our above stated views.
943. Accordingly, we reject the suggestion made on behalf of the Player that The FA acted unreasonably and in breach of the Braganza test in providing only the information it did in its letters dated 14 August 2023 and 27 October 2023. Those letters were sufficient for the Player to understand what he was to be asked about during the interviews and, in the Commission's view, The FA was not obliged to provide the granular data requested of the bettors before questioning the Player for it to have considered to be acting reasonably. This line of argument also does not afford a defence to charges 5 and 6.

Summary

944. In all the circumstances the Commission considers that Charges 5 and 6 are proved. Rule F2 required the Player, as a Participant, to answer questions which he unquestionably failed to do during both interviews.

945. However, whilst we will consider all submissions on sanction as are advanced in due course, it is only right that we indicate at this stage that taking all the circumstances of Charges 5 and 6 into account and, in particular, the fact that at all times the Player acted on advice, with, as we have found, it being fanciful to expect that he would not follow that advice, allied to matters such as The FA's unwillingness to hear what the Player had to say once he had been provided with all the information from the first interview at the start of the second interview, whilst Charges 5 and 6 are proven we anticipate, subject to submissions, that any sanction imposed will be at the lower end of the scale.

DETERMINATION

946. By a unanimous decision of the Commission the E5 Charges, namely charges 1, 2, 3 and 4 are found not proved and are accordingly dismissed. The F3 Charges, namely Charges 5 and 6 are found proved. The question of the sanction to be imposed in respect of the F3 charges is reserved for further decision by this Commission.

947. This decision is subject to the relevant Appeal Regulations.

NEXT STEPS

948. We reserve for further decision:

- (i) The sanctions to be imposed on the Player in respect of the F3 charges.
- (ii) The costs incurred by the Regulatory Commission pursuant to Regulation 52.2.

949. The parties shall by 4pm on Thursday 21 August 2025, being 7 days after the delivery of these Written Reasons, provide their views in writing as to whether the matters at paragraph 948 should be dealt with by an in-person hearing or by a remote hearing.

P. Sycamore

His Honour Phillip Sycamore CBE (Chair)
For and on behalf of the Regulatory Commission
London, UK
14 August 2025



Appendix 1

LIST OF WITNESSES

The following witnesses gave evidence in person:

For the FA

Tom Astley (20 March 2025, 21 March 2025, 24 March 2025 and 6 May 2025)

David Matthews (25 March 2025)

Matthew Fowler (25 March 2025, 26 March 2025)

Jack Johnson (31 March 2025, 1 April 2025)

For the Player

Ben Paterson (26 March 2025, 27 March 2025, 28 March 2025)

David Moyes (28 March 2025)

Tim Keech (2 April 2025)

Bob Scott (2 April 2025)

The Player (8 May 2025)

The following witnesses gave evidence by video link:

For the FA

Nathan Barker (2 April 2025)

Steven Llewellyn (2 April 2025)

Caio Campello De Menezes (8 May 2025)

For the Player

Mark Clattenburg (28 March 2025)

Christiane Tolentino (9 May 2025)

Lucas De Assis (12 May 2025)

(12 May 2025)

We considered witness statements from the following:

For the FA

Matthew Guyler

For the Player

Patrick Madden

Sarah Felton