

**CAS 2025/A/12030 Christopher John Fydler v. World Aquatics**

**ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

President: Mr. Jacques Radoux, Legal Secretary at the Court of Justice of the European Union, Luxembourg

Arbitrators: Mr. Anthony Lo Surdo SC, Barrister in Sydney, Australia

Mr. Rui Botica Santos, Attorney-at-law in Lisbon, Portugal

**in the arbitration between**

**Christopher John Fydler, Sydney, Australia**

Represented by Mr. Adam Casselden SC, Greenway Chambers, Sydney, Australia and instructed by Mr. Darren Kane, Advocatus Lawyers & Consultants, Sydney, Australia

**Appellant**

**and**

**World Aquatics, Lausanne, Switzerland**

Represented by Mr. Emanuel Cortada and Mr. Jonáš Gürtler, Attorneys-at-law, Bär & Karrer AG, Zurich, Switzerland

**Respondent**

## I. THE PARTIES

1. Mr. Christopher John Fydler (the “Appellant”) is the President of Swimming Australia (“SA”), which is the national federation for aquatics within Australia and a member of World Aquatics. He is an Olympic gold medallist and a legal practitioner of Australian nationality.
2. World Aquatics (“WA” or the “Respondent”) is an association incorporated under Swiss law with its registered office in Lausanne, Switzerland. It is the world governing body for aquatics. According to Article 1 of its Constitution (“WA Constitution”), WA is “*the sole and exclusive world governing body for all Aquatics*”.
3. Pursuant to Article 4 of the WA Constitution, the objectives of WA are, *inter alia*, “*to provide fair and clean sport and protect the integrity of Aquatics*” (sub b), and “*to promote safe Aquatics and the protection of Athletes from all forms of harassment and abuse*” (sub c). To achieve these objectives, it adopted the “*World Aquatics Integrity Code*” (the “Integrity Code”).
4. The Appellant and the Respondent are collectively referred to as the “Parties”.

## II. THE FACTUAL BACKGROUND

5. Below is a summary of the main relevant facts and allegations based on the Parties’ written submissions, pleadings and the evidence adduced in this procedure. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has carefully considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.
6. On 2 April 2024, Mr. Matthew Dunn sent an email to the members of the Board of Directors of SA (the “SA Board”) with the subject line, “*Oceania Aquatics Nomination – President of Oceania Aquatics/Oceania VP of World Aquatics*” by which he sought SA Board endorsement to continue “*as President of Oceania Aquatics and the Continental Vice President of World Aquatics*”.
7. The email outlined the key points in support of his candidacy for the two posts in two separate subparagraphs. A further subparagraph, entitled “*Request for Board approval*”, specified “*Nomination for President of Oceania Aquatics (closes 5pm AEST Sunday 7 April 2024)*”; “*Nomination for World Aquatics Bureau – Oceania Representative for Vice President (closes 5pm AEST Sunday 7 April 2024)*” and “*Confirmation that Swimming Australia will support both nominations in the Oceania Aquatics Election on 21 April 2024*”. In his email, Mr. Dunn suggested that the issue of his nomination be resolved by a circular resolution ideally prior to “*COB Friday 5 April*”.

8. On 3 April 2024, Mr. Hayden Collins, in his capacity as Interim Chair of the SA Board, sent an email to the members of the SA Board the subject of which reads as follows: “*Re: Oceania Aquatics Nomination - President of Oceania Aquatics / Oceania VP of World Aquatics*”. The relevant parts of that email read as follows:

*“Hello All,*

*For your reference. To ensure proper process across the next two days the following steps will happen in parallel:*

- We’ll be releasing a short EOI to our affiliate members to ensure that if there are other candidates that would like to seek nomination they can be considered alongside Matt Dunn’s nomination (outlined below). Noting that I’ll be seeking the advice of our communications team to ensure appropriate wording and it’ll also be reviewed by Ian Fullagar prior to release.*
- With the assistance of Ian Fullagar, I’ll be contacting the Oceania Aquatic members to ascertain the option of seeking an extension of the time period (noting that this will be unlikely due to other constitutional timeframes) for nominations being endorsed.*

*Once finalised we’ll either hold a short board meeting to discuss candidates in the event that there are more than one or we’ll provide a circular res for the endorsement of Matt.*

*If anyone would like to discuss please give me a call.*

*[...]”*

9. On 5 April 2024, Mr. Collins sent an email to Ms. Lauren Urquhart, the executive officer at SA, in which he stated the following:

*“Potential resolution?*

*‘The board of Swimming Australia resolves that Matt Dunn be endorsed by Swimming Australia to be a board member of The Oceania Swimming Association (also referred to as Oceania Aquatics). The Swimming Australia Board also endorses the nomination of Matt Dunn to be one of the representatives of Oceania on the World Aquatics Bureau.’”*

10. On 6 April 2024, Ms. Urquhart responded to Mr. Collins as follows:

*“Legend!!! I will file! Thanks mate!”*

11. On the same day, Ms. Urquhart prepared and sent out a circular voting resolution. The resolution reads as follows: “*That Matthew Dunn be endorsed by Swimming Australia to nominate to be Board Member of the Oceania Swimming Association (also referred to as Oceania Aquatics) for a period as decided by their constitution*”.

12. On 7 April 2024, Ms. Urquhart sent an email to Mr. Darren Kane, the Oceania Aquatics legal advisor, informing the latter that the SA Board “*resolves that Matt Dunn be endorsed by Swimming Australia to be a board member of The Oceania Swimming Association (also referred to as Oceania Aquatics). The [SA Board] also endorses the nomination of Matt Dunn to be one of the representatives of Oceania on the World Aquatics Bureau*”. Attached to the email was a completed and signed candidate nomination form (the “Nomination Form”).
13. The Nomination Form, dated 7 April 2024, was signed by Mr. Dunn and Mr. Collins and the posts for which Mr. Dunn wished to be nominated were marked as “*President*” of Oceania Aquatics and “*FINA Bureau – Oceania Representative (Vice President of World Aquatics)*”.
14. On 13 April 2024, Mr. Dunn sent an email to the members of the SA Board as follows:

“*Dear All,*

*A quick note to thank you for supporting my renomination as President of Oceania Aquatics and for the Continental VP of World Aquatics. This level of representation has been underpinned by many years of investment (time/effort), and the strategic support by [SA] and various member Federations of Oceania.*

*Although my appointment to the SA Board is due to these positions, my fiduciary duties as an independent Director of SA are fully respected and I remain committed to acting in the best interests of SA.*

*Kind regards*”
15. On the same day, Ms. Urquhart shared with the SA Board a communication from Oceania Aquatics regarding the nominations received by Oceania Aquatics for the positions to be determined at its upcoming Congress. According to this communication, Mr. Dunn was nominated for the post of “*OA President*” and for the post of “*Bureau – Oceania Vice President*”.
16. On 18 April 2024, an in-person meeting of the SA Board was held. In this meeting past decisions and proceedings were reviewed. The previously passed resolution endorsing Mr. Dunn’s “*nomination to the Board of Oceania Aquatics*” was reviewed and confirmed. Additionally, the candidacies for election at the Oceania General Assembly were discussed, and it was agreed that Mr. Collins would represent SA at that General Assembly. The minutes of that meeting contain no mention of Mr. Dunn’s candidacy as Continental Representative and Vice President of World Aquatics.
17. On 22 April 2024, the General Assembly of Oceania Aquatics elected Mr. Dunn as President of Oceania Aquatics and selected him as the nominee for the position of World Aquatics Oceania Vice President. The voting representative of SA at this General Assembly was Mr. Collins, who participated online.

18. On 6 March 2025, the Executive Director of World Aquatics, Mr. Brent Nowicki sent a letter to the Presidents of World Aquatics Continental Organisations, asking them to liaise with their Member Federations to ensure that their nominations for Vice President were submitted by 31 March 2025.
19. On or about 27 March 2025, Oceania Aquatics forwarded Mr. Nowicki’s letter to SA.
20. On 29 March 2025, the Appellant, in his then position as interim chair of SA, contacted Mr. Nowicki via email asking for a later deadline to have enough time to convene a quorum of the SA Board and resolve to provide the endorsement.
21. Also on 29 March 2025, Mr. Nowicki responded to that email and provided the Appellant with the following information: “[t]he 6 March letter was a general reminder letter to the COs. But this is moot for [SA] as we already received the [SA] nomination of Matt Dunn from April 2024 via Oceania Aquatics, which sufficiently covers his nomination for Vice President of World Aquatics (as so elected by Oceania Aquatics). So from our side, nothing further is needed from Swimming Australia. Apologies for any confusion”.
22. On 31 March 2025, the Appellant thanked Mr. Nowicki for his response and insisted on having more time to revert on the nomination of Mr. Dunn arguing that “*despite the form you refer to being sent to Oceania Aquatics in April last year, I can find no evidence to suggest that the [SA Board] has resolved to nominate and propose Matt to the World Aquatics Bureau as Oceania Rep this year, in accordance with clauses 15.2 and 15.4 of the WAQ constitution. Board minutes/resolutions for the period only refer to the board’s resolution of his appointment to the Board of Oceania Aquatics. So, in effect, we believe the form signed by Hayden and Matt was incorrectly completed.*

*Despite an exhaustive search by our company secretary, we can find no evidence to suggest otherwise, and as such we cannot confirm Matt’s endorsement by the [SA Board] by 31 March 2025. I will explain the same to John West in Oceania, and for transparency, the ASC who as you know, have an observer on our board.*

*As you know, the governance oversight of this board has been significant over the last 18 months, and I have only been on the board for less than two months, so am I very conscious of ensuring that we do things properly. I am in the process of explaining the unfortunate situation to the [SA Board] and hopefully will [be] in a position to have them vote clearly on that matter later in the week, can you please confirm if we can have an extension on the 31 March deadline, unless the 31 March deadline is a constitutional provision that cannot be extended?”*

23. Also on 31 March 2025, the Appellant sent an email to the SA Board, with Mr. Matthew Treglown from the Australian Sports Commission (the “ASC”) in copy. The relevant parts of that email state:

*“On Thursday 27 March 2025 [SA] received an email from Oceania Aquatics Secretary, John West. The email recognises there have been a number of changes within Swimming Australia over the last year and seeks confirmation that the board wishes to confirm its*

*decision from March 2024 that it endorses Matt Dunn to be elected to the World Aquatics bureau in the role of Vice President for Oceania. [...]*

*The correspondence references a decision/approval provided by the board in April 24. As a basic governance practice, we sought confirmation of the board decision at that time. On 7 April 2024, [t]he board resolved by Circular resolution the following: That Matthew Dunn be endorsed by [SA] to nominate to be Board Member of the Oceania Swimming Association (also referred to as Oceania Aquatics) for a period as decided by their constitution.*

*I am aware there were many discussions relating to this nomination at the time, but this was ultimately the agreed resolution via circular. It does not provide our endorsement for Matt to be the Oceania representative to WA as required.*

*Following that resolution, Hayden and Matt signed and forwarded to Oceania Aquatics on behalf of Swimming Australia the form attached 'World Aquatics Letterhead'. The form purports to provide the endorsement of Matt to the Oceania role to WA by Swimming Australia, however we are concerned, based on the resolution above, this form was incorrectly completed.*

*As we can find no evidence of the board otherwise approving Matt's candidature to the WA board, we drew the obvious conclusion that appropriate governance requires that the board will need to make such resolution. This is particularly the case considering the governance scrutiny we have incurred over the last 18 months. I have asked the ASC to confirm this approach is appropriate.*

*As this endorsement was required by WA by 31 March 2025, and we were only provided 2 business days to consider and approve such endorsement, I wrote to Brent N from WA seeking an extension. He responding [sic] by saying that we didn't need to approve Matt because we completed the form in April last year. I have sought legal advice from Darren Kane on the matter and he has stated that:*

- 1. He is not convinced that the completion of the form constitutes the approval referred to in clause 15.4 of the WA constitution; and in any event*
- 2. it does not remove our obligation to consider and vote appropriately on such matters.*

*As such, I have written again to Oceania Aquatics and WA to explain the situation and to seek an extension to the 31 March date.*

*I am hoping that this extension will be granted.*

*Assuming we are granted some additional time, and subject to any further comment from ASC, I would like to propose the following once we receive a response from WA.*

- 1. That we convene a board meeting to consider the approval of Matt to be the Oceania rep to WA from 2025-29 (we will make sure we get the correct wording).*

2. *So as to minimise the disruption to WA and OA, we try and convene that meeting either Thursday or Friday this week.*
3. *I think it would be good to give Matt an opportunity to address the board to discuss the appointment prior to the vote.*
4. *Matt will obviously be excluded from the vote, but following our previous board meeting, if anyone wanted the vote to be online and confidential, can you please let me know so we can set that facility up?"*

24. On 1 April 2025, Mr. Nowicki replied to the Appellant's email of 31 March 2025 relevantly as follows:

*"I take note of your point, but respectfully it appears a bit form over substance. Reviewing the Oceania Aquatics nomination form document, you have Hayden (your President) nominating Matt, who was then duly voted on and endorsed by Oceania Aquatics. And it can't be ignored that Matt was then unanimously re-elected as President of Oceania Aquatics nearly one year ago by the Oceania Aquatics membership (indeed, both myself and the President were in attendance at the election). Surely at that time your board was well aware of this and no objections were raised to our knowledge?"*

*It seems rather clear that Oceania Aquatics nominated Matt to World Aquatics based on the nomination provided by [SA]. And this is in accordance with World Aquatics Rules and Regulations. Everyone's intent seems very clear – unless you are telling us now at this stage that you don't support Matt? Assuming this isn't the case and your inquiry being really just a matter of form on your end, could you inform your Board about our position, our rules and constitution, and the steps taken by your Federation since 2024 so as to avoid any confusion? Please then just send us the confirmation of the nomination as a mere formality. Otherwise, considering that Matt's candidacy has already been subject to AQIU background check and review, and with World Aquatics not taking any issue with the process employed, we will continue to proceed with Matt's nomination."*

25. On 1 April 2025, Mr. Dunn replied to the Appellant's email of 31 March 2025 to the SA Board noting the following: (i) *"The nomination to Oceania Aquatics was signed by the President of Swimming Australia (7/4/2024) and was relied upon as valid by Oceania Aquatics";* (ii) *"I emailed the SA Board (see attached) thanking them for the renomination for President of Oceania Aquatics and for the Continental VP of World Aquatics. No replies, objections or issues were raised by the Board. (13/4/2024)";* (iii) *"The nominations were unanimously endorsed at the Oceania Aquatics Congress 2024 (22/4/2024) by the members of Oceania Aquatics including Swimming Australia";* (iv) *"Oceania Aquatics nominated the endorsed World Aquatics Bureau candidates to World Aquatics";* (v) *"World Aquatics carried out its internal review of eligibility in accordance with its Constitution",* and (vi) *"The AQUA Integrity Unit has declared my candidature for World Aquatics Vice President as valid".*

26. Also on 1 April 2025, the Appellant replied to Mr. Dunn’s email thanking the latter for the information provided and stating:

*“However, whilst your focus seems to be on the governance and process of WA, that is secondary in this instance to the governance of SA which we are discussing. It is up to you, Mr Nowicki and the AQUA Integrity Unit to manage/assess the constitutional validity of your nomination to their organisation and that of Oceania Aquatics not us.*

*Nothing in your note below replaces the fact that we have no evidence of a board resolution supporting your candidature to the WA Board. This organisation has just endured significant upheaval and change over the last 2 years as a result of actual or perceived governance issues, and I want to make sure that, as a board, we strive toward best practice.*

*I would hope you agree that evidence of a board resolution endorsing you as a candidate for this role would be an appropriate example of good governance.*

*Whether or not you have our support for this role, can be easily resolved, rather than debated.*

*The simplest way to remove any confusion and ensure that there is no uncertainty in relation to this matter, is for the board to conduct a vote ASAP.*

*I have consulted the ASC in relation to this matter (Matt T is copied on this confidential email as a board observer). They provided the following commentary that they were happy for me to share with the board confidentially:*

*‘Having reviewed the materials and with our understanding of some of the related discussions and practices of the board, our view is that:*

- 1. The wording of the initial resolution is explicit about SA nominating Matt Dunn as a board member of Oceania Swimming, but is silent on nominating him for a position on the World Aquatics board*
- 2. Notwithstanding this, we note that on the same day that the resolution was passed, Hayden (as president and representative of SA) submitted a nomination on behalf of SA for Matt for both positions (Oceania and World Aquatics).*

*There is clearly a disconnect here, and from a governance perspective it would be good to understand the reasons for this inconsistency.*

- 3. Subsequent actions from the board and its committees do seem to indicate an expectation that Matt would remain in his World Aquatics role and therefore on the SA board (eg skills assessments and director recruitment).*
- 4. In addition, noting that Matt’s election by Oceania Swimming was unanimous, we assume that the SA board had resolved to authorise its nominated representative to*

*vote in support of that motion at the Oceania Swimming Congress – is there a record of any such resolution?*

5. *Nevertheless, given the wording of the initial resolution, we agree that it is appropriate for the board to confirm its position in relation to Matt’s nomination to the World Aquatics board’*

*That being the case, could you please let me know by close of business Wednesday if you wish to address the board or provide any submission related to this matter to the board as it will be our intent to conduct a vote on this matter by the end of the week.”*

27. On 1 April 2025, Mr. Treglown sent an email to the Appellant with the subject “*RE. Swimming Australia update*”. This email reads as follows:

*“Hi Chris,*

*Thanks very much for the visibility on this and for the conversation earlier. I have also received the board correspondence and the additional correspondence from World Aquatics.*

*Having reviewed the materials and with our understanding of some of the related discussions and practices of the board, our view is that:*

1. *The wording of the initial resolution is explicit about SA nominating Matt Dunn as a board member of Oceania Swimming, but is silent on nominating him for a position on the World Aquatics board.*
2. *Notwithstanding this, we note that on the same day that the resolution was passed, Hayden (as president and representative of SA) submitted a nomination on behalf of SA for Matt for both position (Oceania and World Aquatics).*
  - a. *There is a clear disconnect here, and from a governance perspective it would be good to understand the reasons for this inconsistency.*
3. *Subsequent actions from the board and its committees to seem to indicate an expectation that Matt would remain in his world aquatics role and therefore on the SA board (eg skills assessments and director recruitment)*
4. *In addition, noting that Matt’s election by Oceania Swimming was unanimous, we assume that the SA board had resolved to authorise its nominated representative to vote in support of that motion at the Oceania Swimming Congress – is there a record of any such resolution?*
5. *Nevertheless, given the wording of the initial resolution, we agree that it is appropriate for the board to confirm its position in relation to Matt’s nomination to the World Aquatics board*

6. *As a general comment, the ASC believes it is beneficial to have Australian representation on I/s.*

*Also confirming that we are comfortable for this position to be shared with the board, given your initial board note mentioned that you were seeking the ASC's view.*

*[...]"*

28. Between 2 and 5 April 2025, there were further emails exchanged between Mr. Dunn, the Appellant and the SA Board, with Mr. Treglown in copy. These emails were mainly about the content of the information provided to the members of the SA Board in relation to the two resolutions that the Appellant circulated to the SA Board for approval.
29. These two resolutions were part of a “*Notice of circulating resolutions // Clause 15.9 [SA] Constitution*”, distributed on 3 April 2025. The subparagraph entitled “*Resolutions*” reads as follows in its relevant parts:

*“The 7 April 2024 Resolution is of no effect for the purpose of authorising Swimming Australia:*

- 1. To nominate Matthew Dunn to Oceania Aquatics, for Oceania Aquatics to in turn propose Matthew Dunn, in accordance with clause 15.2 of the WAQ Constitution, as a candidate for election as a Continental Representative.*
- 2. To nominate Matthew Dunn to the World Aquatics Executive Director, in accordance with clause 15.4 of the WAQ Constitution, as a candidate for election as a Vice President.*

*Accordingly and on the basis of the foregoing, notice of the following circulating resolutions is given to each director of Swimming Australia:*

*Resolution 1*

*RESOLVED That in accordance with clause 15.2 of the Constitution of World Aquatics, that Matthew Dunn be nominated by Swimming Australia Limited to Oceania Aquatics Incorporated as a candidate for election as a Continental Representative of World Aquatics for the period commencing from the World Aquatics General Congress scheduled for 29 July 2025.*

*Resolution 2*

*RESOLVED That in accordance with clause 15.4 of the Constitution of World Aquatics, that Matthew Dunn be nominated by Swimming Australia Limited to the Executive Director of World Aquatics, as a candidate for election as a Vice President of World Aquatics for the period commencing from the World Aquatics General Congress scheduled for 29 July 2025.*

*Resolution 2 will be of no effect unless Resolution 1 is first passed as a resolution of the directors, because only a Continental Representative is eligible to serve as a Vice President.”*

30. According to the “Notice of circulating resolutions”, the following documents were enclosed with that notice: (i) WA Constitution; (ii) Candidate Nomination Form; (iii) Letter from WA to Continental Federations, dated 6 March 2025; (iv) Email from Oceania Aquatics to SA, dated 228 March 2025; (v) Email chain between WA and SA from 28 March 2025 to 1 April 2025; and (vi) Email from Mr. Dunn to SA Board, dated 1 April 2025.
31. On 14 April 2025, Ms. Urquhart sent an email to the members of the SA Board, with Mr. Treglown in copy, informing them that *“the two resolutions have not passed and did not receive a majority vote in favour”*.
32. On the same day, the Appellant sent a letter (via email) to Mr. Nowicki, with the purpose of notifying WA and, Mr. Nowicki personally, that:
  - “1. *After a vote was conducted, the board of directors of Swimming Australia did not pass Resolution 1.*
  2. *After a vote was conducted, the board of directors of Swimming Australia did not pass Resolution 2.*
  3. *By reason of the board of directors of Swimming Australia not passing Resolution 1 and not passing Resolution 2:*
    - a) *Matthew Dunn is not nominated by Swimming Australia, as he is required to be nominated pursuant to article 15.2 of the World Aquatics Constitution, for election as a Continental Representative for the period commencing from the World Aquatics Congress to be held in Singapore on 29 July 2025.*
    - b) *Matthew Dunn is not nominated by Swimming Australia, as he is required to be nominated pursuant to article 15.4 of the World Aquatics Constitution, for election as the Oceania Vice President of World Aquatics, for the period commencing from the World Aquatics Congress to be held in Singapore on 29 July 2025.”*
33. On 14 April 2025, the Appellant forwarded a copy of this letter to the Chief Ethics and Compliance Officer (the “CECO”) of the WA Integrity Unit (the “AQIU”).
34. In the meantime, on 9 April 2025, the WA Bureau decided to refer the matter to the AQIU for investigation in accordance with Article 24 of the WA Constitution and the WA Integrity Code.
35. On 13 June 2025, Ms. Britta Kamrau-Fiedler, Vice-Chair of the AQIU Investigatory Body, presented an investigation report (the “IR”) with its twenty-two (22) accompanying annexes.

36. The conclusions of the IR read as follows:

*“Based on the evidence collected, it is concluded that:*

- *In 2024, the [SA Board] did, in fact, support and nominate Matthew Dunn for two positions, i.e. also for the Vice President position at World Aquatics, despite the absence in the file made available to AQIU of a formal document mentioning such resolution explicitly.*
- *The evidence suggests that Chris Fydler’s conduct may have been politically motivated. The evidence does not support Chris Fydler’s assertion that his conduct was motivated by good governance.*
- *Chris Fydler abused his position as interim chair to induce the [SA Board] to vote on a matter on an obviously incorrect basis, diverting the attention of the members of the [SA Board] to one single document, and misleading them, arguing the non-existence of any other evidence.*
- *Independently of the motives behind Chris Fydler’s actions, Chris Fydler did not act in a manner that can be expected from a chair or an interim chair of the board of a national swimming federation that is a member of World Aquatics.*
- *The so-called ‘investigation’ conducted by Chris Fydler before submitting the matter to the [SA Board] was neither adequate nor ethical, as he failed to address the core inconsistencies or to engage the key individuals involved at the time. A proper investigation into whether the [SA Board] intended to nominate Matthew Dunn to World Aquatics was not conducted, even though Chris Fydler represented to his board and to World Aquatics of having conducted such a thorough investigation.*
- *Chris Fydler relied basically on one document, i.e. the written record of one single resolution, to justify initiating other circular voting resolutions. He clearly did not undertake any reasonable investigation nor make any serious efforts to find out whether and how in 2024, Matthew Dunn had been nominated to two positions, as communicated to Oceania Aquatics (and confirmed, with thanks, in an email back from Matthew Dunn to the board of Swimming Australia).*
- *This report should be communicated to the [CECO] of the AQIU as Chris Fydler appears to have breached at least Articles 5.1 and 5.2 and 9.9 of the [Integrity Code].”*

37. On 13 June 2025, the CECO of the AQIU was provided with the IR and its accompanying annexes.

38. On 16 June 2025, based on all information and documents contained in the IR and pursuant to Article 23 of the Integrity Code, the CECO of the AQIU decided to formally charge the Appellant by means of a Notice of Charge for possible violations of Articles

- 5.1, 5.2 and 9.9 of the Integrity Code and provided the Appellant with a deadline to file his response to the Notice of Charge.
39. On 20 June 2025, the Appellant requested an extension of the deadline to respond to the Notice of Charge until 7 July 2025.
  40. On the same day, the CECO of the AQIU confirmed the extension of the deadline until 3 July 2025 and clarified that if the Appellant denied the charge, he would be granted an opportunity to present his defence before the Adjudicatory Body.
  41. On 2 July 2025, the Appellant denied the allegations against him and requested the Adjudicatory Body to determine the charge and any consequences and sanctions.
  42. On 22 July 2025, the CECO of the AQIU referred the matter to the Adjudicatory Body.
  43. On 23 July 2025, the Chair of the Adjudicatory Body informed the Appellant of his rights, including the opportunity to challenge the composition of the Single-Member Panel and to provide additional information or written submissions regarding the charges brought against him.
  44. On 29 July 2025, the Appellant confirmed that he had no objection to the composition of the Single-Member Panel, and on 6 August 2025, he submitted his answer to the charges brought against him.
  45. In July 2025, the Appellant stepped aside from his functions and duties as President of SA.
  46. Following requests from the Appellant, the Adjudicatory Body proceedings were suspended from 7 August 2025 until 19 September 2025.
  47. On 18 November 2025, the Appellant filed a document containing a List of Authorities and requested that the Single-Member Panel give due consideration to it during the hearing.
  48. On 19 November 2025, the Single-Member Panel held a hearing by video-conference. At the conclusion of the hearing, both Parties expressly confirmed that they had no objections regarding the manner in which the hearing was conducted and that their right to be heard had been fully respected.
  49. On 11 December 2025, the Single-Member Panel of the Adjudicatory Body of AQIU rendered its decision (the “Appealed Decision”). The operative part of the Appealed Decision reads as follows:
    - “(i) *The [AQIU] has jurisdiction over this matter.*
    - “(ii) *The [Appellant] is guilty of improper conduct in accordance with the appropriate sporting rules, namely Articles 5.1, 5.2 and 9.9 of the [Integrity Code].*

- (iii) *The [Appellant] is sanctioned with an eight-month suspension from holding any position within [WA], any [WA] Continental Organisation, any [WA] Member Federation, any club or any other recognised body. The suspension imposed on the [Appellant] shall also prevent him from taking part in, or attending in any capacity, any aquatic-related activities or events organised by [WA], any [WA] Continental Organisation, any [WA] Member Federation, any club or any other recognised body. The eight-month suspension shall begin on the date this decision is issued (i.e., 11 December 2025).*
- (iv) *This decision is rendered without costs and will be made public.*
- (v) *As per Article 35 of the [Integrity Code], this decision can be appealed to CAS within twenty-one (21) calendar days of the appealing Party's receipt of the written reasoned decision in question by email."*

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

- 50. On 11 December 2025 by email and on 15 December 2025 by e-filing, the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS"), in Lausanne, Switzerland, in accordance with Article 31.2 of the WA Constitution, Articles 35.1 and 35.2 of the Integrity Code and Article R47 of the Code of Sports-related Arbitration (2025 edition) (the "Code"), against the WA and the CECO of the AQIU with respect to the Appealed Decision.
- 51. In his Statement of Appeal, the Appellant nominated Mr. Anthony Lo Surdo SC, Barrister in Sydney, Australia, as arbitrator, and requested that provisional measures be issued by the CAS.
- 52. On 16 December 2025, the CAS Court Office initiated an appeals arbitration procedure under the reference *CAS 2025/A/12030 Christopher John Fydler v. World Aquatics & Chief Ethics and Compliance Officer of the Aquatics Integrity Unit* and *inter alia* invited the Respondents to jointly nominate an arbitrator from the list of CAS arbitrators for the present matter and to comment on the Appellant's request for provisional measures.
- 53. On 17 December 2025, the Appellant filed an "Amended Statement of Appeal" in which he added the AQIU as a third respondent.
- 54. On the same day, the CAS Court Office invited the three respondents to comment on the addition of the AQIU as third respondent.
- 55. On 18 December 2025, the CECO of the AQIU informed the CAS Court Office that he did not have standing to be appealed against given that the Appealed Decision was rendered by the Adjudicatory Body of the AQIU, which is a body of WA.
- 56. On 19 December 2025, the Respondent informed the CAS Court Office that according to Swiss law, the only proper respondent in the present matter would be WA. Hence, it requested that that both the CECO and the AQIU be removed as respondents in these

proceedings. Further, the Respondent asked that the deadline for submitting its Answer to the provisional measures be set aside pending a decision on the above request, or in the alternative, that such deadline be suspended.

57. On 23 December 2025, the Appellant withdrew his appeal as far as it was directed against the CECO.
58. On 26 December 2025, the Respondent informed the CAS that it nominated Mr. Rui Botica Santos, Attorney-at-law in Lisbon, Portugal, as arbitrator in the present proceedings and provided further explanation as to why the AQIU did not have standing to be sued in the present matter.
59. On 30 December 2025, the Appellant informed the CAS Court Office that, in light of the explanation provided by the Respondent, he accepted that the proceedings move forward on the basis that WA is the sole respondent.
60. On 5 January 2026, the CAS Court Office acknowledged the withdrawal of the appeal against the AQIU and granted the Respondent a new deadline until 7 January 2026 at 12:00 noon to file its comments on the Appellant's request for provisional measures.
61. On 6 January 2026, the Respondent noted that the deadline to file its Answer to the request for provisional measures had been suspended with four days remaining and requested that the time limit previously set be confirmed and that the Respondent be granted the remaining four days to file its submission, noting in particular that the "*Appellant's allegation that certain information must be communicated to the Australian authorities by a certain date remained entirely unsubstantiated*".
62. On the same day, the CAS Court Office granted the Respondent's request and informed the Parties that, pursuant to Article R37(4) of the Code, the President of the CAS Appeals Arbitration Division, or her Deputy, would render an Order on provisional measures *ex parte*.
63. Also on the 6 January 2026, the Respondent underlined that there was no situation of utmost urgency that would justify the issuance of an *ex parte* order and informed the CAS Court Office that it would file an Answer to the request for provisional measures shortly.
64. On 7 January 2026, the Respondent filed its Answer to the request for provisional measures.
65. On the same day, the Deputy President of the CAS Appeals Arbitration Division issued the operative part of the Order on Request for Provisional Measures dismissing the Appellant's request and ruling that the costs of that Order shall be determined in the final award or any other final disposition of this arbitration.
66. On 10 January 2026, the Appellant filed his Appeal Brief.

67. On 11 January 2026, the CAS Court Office acknowledged receipt of the Appeal Brief and invited the Respondent to submit its Answer within the deadline set out in Article R55 of the Code, highlighting that if it failed to do so, the Panel may nevertheless proceed with the arbitration and deliver an award.
68. On 28 January 2026, the Respondent requested a twenty (20) day extension of the time limit to file its Answer.
69. On 29 January 2026, the CAS Court Office, on behalf of the CAS Director General, informed the Parties that, in accordance with Article R32(2) of the Code, the Respondent's deadline to file its Answer was extended by ten (10) days. The Parties were further informed that the Panel appointed to resolve this dispute was constituted as follows:  
  
President: Mr. Jacques Radoux, Legal Secretary at the Court of Justice of the European Union, Luxembourg  
  
Arbitrators: Mr. Anthony Lo Surdo SC, Barrister in Sydney, Australia and  
Mr. Rui Botica Santos, Attorney-at-law in Lisbon.
70. On 30 January 2026, the Appellant informed the CAS Court Office that he did not consent to a further extension of the deadline for the Respondent to file its Answer.
71. On 2 February 2026, the CAS Court Office, on behalf of the Panel, informed the Parties that the Panel had decided to grant the Respondent an additional five (5) day extension to file its Answer, in addition to the 10 days already granted on behalf of the CAS Director General, and that the Panel had decided to hold a hearing in this matter, either in person or by video-conference. The Parties were also provided with some potential hearing dates.
72. On the same day, the Appellant stated that he preferred a hearing by videoconference and requested that the matter be listed for a two-day hearing.
73. On 5 February 2026, the Respondent stated that it also preferred a hearing by videoconference.
74. On 9 February 2026, the CAS Court Office, on behalf of the Panel, informed the Parties that the hearing would take place by videoconference on 31 March 2026.
75. On 16 February 2026, the Respondent filed its Answer.
76. On 17 February 2026, the CAS Court Office acknowledged receipt of the Answer and informed the Parties that, according to Article R56 of the Code, unless they agreed or the President of the Panel ordered otherwise on the basis of exceptional circumstances, the Parties shall not be authorised to supplement or amend their requests or their argument, nor to produce new exhibits, nor to specify further evidence on which they intend to rely, after the submission of the Appeal Brief and of the Answer.

77. On 20 February 2026, the CAS Court Office notified an Order of Procedure to the Parties.
78. On the same day, the Respondent signed and returned a copy of the Order of Procedure.
79. On 27 February 2026, the Appellant returned a signed copy of the Order of Procedure and, in light of the number of witnesses that were expected to testify during the hearing, invited the Panel to consider holding the hearing over two days. He further requested that Ms. Sally Howe and Mr. Matthew Treglown be produced for cross-examination by the Respondent.
80. On 11 March 2026, the Respondent, in response to the Appellant's request to produce these two individuals for cross-examination, informed the CAS Court Office that it had not called these individuals as witnesses and, therefore, was not responsible for their availability at the hearing.
81. On 17 March 2026, the Appellant filed a request for document production pursuant to Articles R44.3 and R57 of the Code.
82. On 18 March 2026, the CAS Court Office, on behalf of the Panel, sent a Redfern Schedule to the Parties that it invited them to complete. The Parties were further invited to liaise and agree on a tentative hearing schedule.
83. On 25 March 2026, the CAS Court Office acknowledged receipt, *inter alia*, of the Respondent's letter of 24 March 2026, its tentative hearing schedule and the completed Redfern schedule.
84. On 26 March 2026, the CAS Court Office, on behalf of the Panel, sent to the parties the finalised version of the Redfern Schedule, containing the Panel's decision on the different requests for document production, including the rejection of the request for production of documents. Further, in absence of an agreement between the Parties on the subject, the CAS Court Office provided the Parties with the final hearing schedule set out by the Panel.
85. On 31 March 2026, a hearing took place via videoconference. The Panel was assisted by Ms. Delphine Deschenaux-Rochat, Counsel to the CAS, and joined by the following participants:

**For the Appellant:**

Mr. Christopher John Fydler, Appellant  
Mr. Darren Kane, attorney  
Mr. Adam Casselden SC, counsel  
Mr. Steve Williams, expert  
Mr. Tim Ford, witness  
Mr. Matthew Abood, witness  
Mr. Iain Melhuish, witness  
Ms. Susan Smith, witness

Mr. Neil Martin, witness

**For the Respondent:**

Mr. Brent Nowicki, Executive Director of WA

Mr. Jonáš Gürtler, counsel

Mr. Emanuel Cortada, counsel

Mr. Matthew Dunn, witness

Ms. Britta Kamrau, witness

86. At the outset of the hearing, the Parties confirmed that they had no objection as to the constitution of the Panel.
87. During the hearing, the Panel heard evidence from the parties and from each of the witnesses. Before taking their evidence, the President of the Panel informed the witnesses of their duty to tell the truth, subject to sanctions of perjury under Swiss law. The Parties and the Panel had the opportunity to examine and cross-examine the witnesses. Finally, Mr. Fydler made a brief statement.
88. The Parties were given full opportunity to present their case, submit their arguments and answer the questions from the Panel. At the end of the hearing, the Parties confirmed that their right to be heard and their right to a fair trial had been fully respected and that they had no objections as to the manner in which the proceedings had been conducted.

**IV. THE PARTIES' SUBMISSIONS**

**A. The Appellant's Submissions and Request for Relief**

89. As a preliminary point, the Appellant argued that as CAS hears the case *de novo*, the burden of proof to establish the charges brought against the Appellant lies with the Respondent. Moreover, given the seriousness of the alleged charges, and in light of the applicable standard of proof (*i.e.* comfortable satisfaction of the Panel), the Respondent would have to bring cogent evidence to support its claim that the Appellant committed the alleged violations of the Integrity Code.
90. The Appellant denies the charges brought against him and contends that WA has failed in discharging its burden of proof.
91. Firstly, the Appellant claimed that the investigation, as managed by Ms. Kamrau, was flawed, selective as well as biased and the different conclusions set out in the IR are baseless. Ms. Kamrau did not only fail to interview key witnesses, particularly Mr. Collins, the former SA President, but most importantly did not provide signed statements, transcripts, or audio recordings of the interviews she conducted. Hence, the Respondent, and the Panel, would not know what has been said in these interviews and whether there are elements that are in the Appellant's favour that may exonerate him. Further, according to the Appellant, the investigation was procedurally unfair and prejudicial, as the investigator did not notify him of the fact that he was the specific

focus of the investigation, nor did she give him the opportunity to respond to any allegations or evidence before the IR was finalised and handed over to the CECO of the AQIU.

92. Second, the evidence presented by the CECO of the AQIU is insufficient to support the charges concerning the alleged violations of Articles 5.1, 5.2, and 9.9 of the Integrity Code. Indeed, the IR would not be sufficient in this regard as it is self-serving, lacks reasoning, and fails to provide a proper analysis of competing versions of the relevant events. The Appellant further asserts that the minute book and records of SA, which are *prima facie* evidence under Australian law, do not support the claim that Mr. Dunn was nominated by the SA Board for a position within WA in 2024.
93. Third, the Appellant argues that his actions, at the end of March and beginning of April 2025, were consistent with principles of good governance, the SA Constitution, and more importantly, with Australian law. Regarding the latter, he emphasises that SA is an Australian public company limited by guarantee and is, as such, governed by the SA Constitution together with the *Corporations Act 2001* (the “Corporations Act”). Section 251A(1)(b) of the Corporations Act requires that a company, such as SA, keep minute books in which it records, within one month, both the proceedings of directors’ meetings and resolutions of directors passed at directors’ meetings, and also the resolutions passed by directors without a directors’ meeting being held.
94. The minute books of a company are a conclusive record of the decisions made by the board of directors. In the present matter, there is no mention in the minute books of SA concerning Mr. Dunn being nominated and endorsed in April 2024 by the SA Board as a candidate for World Aquatics positions. Hence, pursuant to section 251A(1)(b) of the Corporations Act and the applicable law in Australia, the Appellant had to draw the conclusion that the members of the SA Board had not passed a resolution on that subject in April 2024. The Appellant claims that he acted appropriately and in accordance with the principles of good governance, as well as the Corporations Act when submitting the relevant decision to a resolution by the SA Board in April 2025 and considers that his position is confirmed by the expert testimony provided by Mr. Williams.
95. Fourth, the Appellant relies on the written witness statements and oral testimony of six current and former members of the SA Board (Mr. Martin, Ms. Smith, Mr. Ford, Mr. Melhuish, Mr. Abood and Ms. Fein – the latter having not appeared at the hearing). Each of these witnesses confirmed that no resolution was passed in April 2024 to nominate Mr. Dunn for a position within WA. Moreover, all of these witnesses confirmed, *inter alia*, that, in their view, it was appropriate in April 2025 for the directors of the Company to be asked to vote on the resolutions stated in the Notice of Circulating Resolutions as the SA Board had not, before that date, been asked to vote on that subject. Given that, in April 2025, four board members voted against the proposed resolutions, one in favour, one abstained and three did not participate, the Resolution did not pass, and the Appellant, accordingly, had to inform WA that SA did not nominate Mr. Dunn to any position within WA.
96. In addition to the above-mentioned witness statements provided by six current or former members of the SA Board, the Appellant relies on character testimonials provided by

Mr. Gary Flowers (Chairman, NSW Institute of Sport), Mr. James M. Hunter (Global Head of Investments and Growths with KPMG International), Mr. Ian Thorpe (OLY AM) and Ms. Tracy Stockwell (Former Board member and chair of SA). All of these testimonials supported, in essence, the Appellant's claim that he is a person with high moral and professional standards and a strong moral compass.

97. Fifth, there is no evidence regarding the alleged "*political motivation*" by the Appellant in calling the SA Board to vote on the resolutions in April 2025. Moreover, the allegations of abuse of power are also baseless and unsupported by evidence.
98. In light of all the above arguments, the Appellant requested, in his Appeal Brief, the Panel to order the following relief:
- a) *That the Decision Appealed Against is set aside.*
  - b) *That the sanctions listed at (ii)-(iv) of Part VI of the Decision Appealed Against each be quashed.*
  - c) *A declaration that the Appellant did not breach, and is not in breach of articles 5.1, 5.2 and 9.9 of the World Aquatics Integrity Code.*
  - d) *That the Respondent makes an appropriate contribution to the Appellant's legal costs and expenses incurred in connection with these proceedings.*
  - e) *That the appeal proceedings before the CAS constitute proceedings to which R65 of the CAS Code applies.*
  - f) *That in the alternative to (e) above, that the Respondent be ordered to bear the whole of the costs of the arbitration.*
  - g) *Any further or other relief as to the Panel seems fit."*
99. At the hearing the Appellant added that, in the event that the Panel determined he had committed a violation Article 5.1, Article 5.2 and/or Article 9.9 of the Integrity Code, the sanction imposed in the Appealed Decision is manifestly disproportionate and should be reduced or eliminated. A warning or a reprimand would, in such a case, be appropriate.

## **B. The Respondent's Submissions and Request for Relief**

100. The Respondent's position is simple. According to WA, in late March/early April 2025, the Appellant abused his position as then interim chair to induce the SA Board to vote on a matter, that is, Mr. Dunn's nomination by SA to a position within WA, on a demonstrably flawed basis. More specifically, the Appellant deliberately did not provide the members of the SA Board with all the relevant information and evidence regarding Mr. Dunn's nomination by SA for a position within WA in April 2024.

101. The Respondent argues that, by doing so, the Appellant did not act in a manner that can be expected from a Chair (or an interim chair) of the board of a National Federation that is a member of WA. The investigation launched by WA to determine whether a violation of the Integrity Code had been committed provided sufficient evidence to lead to the conclusion that the Appellant's conduct was improper and amounted to a violation of Articles 5.1, 5.2 and 9.9 of the Integrity Code. The sanction imposed by the Appealed Decision is fully appropriate and the Appeal should thus be dismissed.
102. In support of its position, the Respondent argues, first, that in April 2024, the SA Board endorsed the nomination of Mr. Dunn to the positions within Oceania Aquatics and WA. This evidence comprises: (i) Mr. Dunn's email from 2 April 2024 to the members of the SA Board; (ii) Mr. Collins email dated 3 April 2024 to the members of the SA Board; (iii) Mr. Collins' email from 5 April 2024 with the draft resolution sent to Ms. Urquhart; (iv) Ms. Urquhart's answer to that email, dated 6 April 2024; (v) Ms. Urquhart's email to Mr. Kane from 7 April 2024 and the annexed completed and signed nomination form, (vi) Mr. Dunn's email from 13 April 2024 to the members of the SA Board thanking them for supporting his nomination "*as President of Oceania Aquatics and for the Continental VP of World Aquatics*"; (vii) the minutes of the SA Board meeting from 18 April 2024; and (viii) the elections during the General Assembly of Oceania Aquatics held on 22 April 2024.
103. Moreover, Oceania Aquatics had already, in 2024, validly elected Mr. Dunn as President of Oceania Aquatics and as a candidate for the WA Vice President position and this decision, which had been validly taken, had never been questioned by any party, and constituted *res judicata* with *erga omnes* effect for all National Federations members of Oceania Aquatics. Further, Mr. Nowicki had repeatedly explained to the Appellant that WA acknowledged and processed these decisions.
104. The Respondent considers that it is clear from the evidence that the different actions taken by the Appellant following receipt, on 27 March 2025, of Mr. Nowicki's letter dated 6 March 2025, were aimed at obstructing Mr. Dunn's election as Continental Vice President of WA. The reason for this obstruction is, according to the Respondent, to be found in the deterioration of the relationship between Mr. Dunn and some members of the SA Board towards the end of 2024.
105. The Respondent recalls that Article 5.1 of the Integrity Code imposes a clear obligation on all "Covered Persons" to act honestly, fairly, impartially, and in accordance with the highest standards of integrity and transparency. It argues that the Appellant violated this provision by trying to obstruct Mr. Dunn's nomination and election to the WA board. He did so by misrepresenting the facts, providing only selected evidence to the members of the SA Board and inducing the latter to take a (new) decision on the basis of incomplete and false information.
106. As regards Article 5.2 of the Integrity Code, the Respondent recalls that, pursuant to that provision, Covered Persons must refrain from any conduct that is inconsistent with or undermines, in any way, the objectives of the Integrity Code. It considers that the Appellant infringed this provision when he misled the members of the SA Board by

providing them with a deliberately false factual and legal basis in an attempt to obstruct Mr. Dunn's election.

107. The Respondent further recalls that, pursuant to Article 9.9 of the Integrity Code, Covered Persons must not abuse their position within WA in any way, particularly to serve their own personal aims or objectives. It argues that the Appellant manifestly violated this provision by abusing his position as interim chair of SA by presenting incomplete and unbalanced evidence to the SA Board and deliberately withholding material information with the aim of steering the board towards a predetermined outcome favourable to his political aspirations and personal interests.
108. The Respondent considers that, in light of the seriousness of the violations the eight-month suspension imposed by the Appealed Decision is fully proportionate and even lenient and should be confirmed. In support of its position, the Respondent argues:
- first, that WA, as an association under Swiss law, has wide discretion in imposing disciplinary measures and that the CAS respects this discretion insofar as, according to constant CAS jurisprudence, it reviews disciplinary sanctions only with “*self-restraint*”, that is, only when the sanctions are “*grossly and evidently disproportionate*”;
  - second, the Appellant's actions undermined the principles of integrity, transparency and good governance and his conduct was a severe violation of the Integrity Code. His denial of wrongdoing further exacerbates the seriousness of the offence;
  - third, disciplinary sanctions serve both punitive and deterrent purposes. A lesser sanction than the one imposed by the Appealed Decision would fail to deter similar violations and could set a dangerous precedent; and
  - fourth, the imposed sanction is in line with WA's existing jurisprudence. In the past, more severe sanctions were imposed for similar violations, such as the 10-year suspension of the President of the Lebanon Swimming Federation and the 4-year suspension of the President of the Kosovo Swimming Federation.
109. Finally, in response to the Appellant's arguments, the Respondent rejects the Appellant's claim that Mr. Dunn was not properly nominated by the SA Board in April 2024, recalling that there is overwhelming evidence to the contrary, including signed nomination forms, email correspondence, and the minutes of the Oceania Aquatics General Assembly. The Respondent also disputes the allegation that the investigation led by Ms. Kamrau and the procedure leading to the Appealed Decision were flawed and lacked neutrality. In any event, any procedural defects, if they existed, would be cured by the CAS appeal process.
110. In light of the above arguments, the Respondent requests the CAS:

- “(i) *To dismiss the appeal of Appellant in the proceedings CAS 2025/A/12030 Christopher John Fydler v. World Aquatics in its entirety and to confirm the Appealed Decision;*
- (ii) *In any event, to order Appellant to pay an amount of at least CHF 20'000 as contribution to the costs and expenses incurred by World Aquatics.”*

## V. THE HEARING

111. At the hearing, the Panel heard evidence from Mr. Steve Williams, the Appellant, Mr. Tim Ford, Mr. Matthew Abood, Mr. Iain Melhuish, Ms. Susan Smith, Mr. Neil Martin, Ms. Britta Kamrau and Mr. Matthew Dunn.
112. Mr. Williams, a highly experienced solicitor of the Supreme Court of New South Wales and who is specialised in commercial as well as corporate law, confirmed that SA is an incorporated company and is, as such, subject to the Corporations Act. He stated that SA has a constitution which incorporates the obligations deriving from the Corporations Act. Mr. Williams further testified that the Directors of SA and the members of the SA Board have a duty to follow the SA Constitution and Australian Law and that the latter supersedes the rules of WA. As regards Section 251 A of the Corporations Act, he stated that this provision imposes an obligation on incorporated companies to keep minutes books that are considered “*prima facie*” evidence. He stated that, to determine decisions that were adopted in April 2024, the Appellant had to check the minute book of SA, and these minutes were *prima facie* evidence that no resolution had been adopted as regards the nomination of Mr. Dunn to a position within WA. He further testified that the IR had misunderstood the effect of Australian corporate law and, in particular, that once the Appellant had sought external legal advice, it would have been prudent for him in the exercise of his duty of care and diligence to have followed that advice.
113. In response to a question from the Respondent, Mr. Williams stated that he did not know about nor have any understanding about the WA Constitution and WA Rules.
114. In response to questions from the Panel, Mr. Williams testified that third parties can validly rely on the signature of the President of SA in order to be satisfied that a nomination provided by SA is correct.
115. The Appellant, who, amongst others, holds a Bachelor of Laws and is a graduate of the Australian Institute of Company Directors, stated that he has held several different official roles and functions in swimming in Australia and internationally. In particular, he was a member of the Ethics Panel within World Aquatics’ predecessor, Fédération Internationale de Natation (FINA) for several years. He testified that, apart from the finding that was made against him in the matter at hand, he has never had any discrepancies or blemishes in relation to his character or of a disciplinary nature in his activities as a lawyer, company director or swimming official.
116. He stated that in late March/early April 2025, he checked the minute book of SA and could not find any evidence to suggest that there was a resolution of the SA Board of

Mr. Dunn's appointment for the Vice President position at WA. The only resolution he was able to find was the one for Mr. Dunn's appointment to the Oceania Aquatics board. As a result of that, he sought legal advice and also advice from the ASC as to what he should do. He further stated that he also spoke to a number of SA Board members who were on the board both in March/April 2025 and in March 2024, the majority of which said that they did not recall voting for Mr. Dunn specifically to the board of WA.

117. He denied any allegation that his conduct in late March/early April 2025 was politically motivated and emphasised that prior to him joining the SA Board, it had been under severe and critical criticism from both WA and the ASC, and that he was very sensitive to anything relating to governance. That's why he sought external advice, from legal advisors and the ASC; he wanted to ensure that he and the SA Board were doing the "right thing". Contrary to what the IR alleges, he did not only rely on one document. The minute book was the starting point of his investigation, knowing that it was the only true record on which he could rely.
118. The Appellant said that he felt the investigation he conducted was thorough given that there were only so many sources of information he could have checked (that is, the minutes, the directors who were present at that time and legal advice as to whether that process was correct). He stated that he had multiple conversations both with the ASC and the SA's lawyers and had assured himself that they had done everything that they needed to do to resolve the confusion of the minute from 2024. The conclusion was that the easiest way to cure that confusion was just to have another vote. He further considers that he acted properly, investigated thoroughly and has been transparent during the whole process with all parties involved (WA, members of the SA Board and Mr. Dunn). He stated that he faithfully applied the SA Constitution and the relevant provisions of the Corporations Act to his decision-making process.
119. In response to questions from the Respondent, the Appellant stated that, at the time of the signing of the agreement between WA and SA (October 2024), he was representing New South Wales Swimming and, in that function, was defending the powers and rights of that association. However, in the end, he was happy signing that agreement which settled the matter with WA and the ASC.
120. In response to questions from the Panel, the Appellant explained that all the information and documents provided to the members of the SA Board before they voted on the resolution in April 2025 were included in an explanatory document comprising 66 pages including the various emails. He agreed that, according to Mr. Williams, a third party such as WA could have been satisfied that the signed nomination form from April 2024 was valid. He finally acknowledged that it would be beneficial for an Australia sports federation to have a representative in the relevant international federation.
121. Mr. Ford, Mr. Abood, Mr. Melhuish, Ms. Smith and Mr. Martin all confirmed their written witness statements. They all stated that they considered that in April 2024 there was a vote for the nomination of Mr. Dunn to only one position (that is, Oceania Aquatics).

122. Mr. Dunn is a Vice President of WA, President of Oceania Aquatics and *ex-officio* member of the SA Board. During his testimony, he described the different steps he took in 2024 in relation to his nomination, by the SA Board, to the position of President of Oceania Aquatics and the position as VP of WA. He stated that between April 2024 and late March 2025, there had never been a doubt about his nomination to these two positions by the SA Board. He said that during a phone call in late March 2025, the Appellant informed him that a review of the circular resolution from April 2024 showed that he had only been nominated to the Oceania Aquatics position and indicated to him that he was not in a good position because of the events in 2024 around the governance change in SA. Mr. Dunn stated that the Appellant told him that people (that is, members of the SA Board) felt aggrieved and none more than the Appellant himself.
123. In response to questions posed by the Appellant, Mr. Dunn stated that he considered his telephone conversation with the Appellant at the end of March 2025 to be slightly aggressive. He testified that during this phone call, the Appellant told him that he was going to call Mr. Kane to get external legal advice. He further stated that he did not recall any phone call after the 29 March 2025 during which the Appellant would have informed him that, based on the advice provided by Mr. Kane and the ASC, the SA Board was required to undertake a vote so far as it related to Mr. Dunn's nomination to WA. However, he acknowledged that there was an email exchange in this regard. He stated having no recollection of any conversation in which the Appellant informed him that he should not rely on the fact that he would be automatically appointed to the WA Board and that he should lobby members of the SA Board for his vote.
124. Mr. Dunn further denied the affirmation that, during the alleged phone call at the end of March 2025 (that is, 29 March 2025), the Appellant never said, "*people are aggrieved, none more than me*". He agreed that in the minute book of the 18 April 2024, there was no mention of a resolution so far as it related to his nomination to WA. He also acknowledged having seen the minute book in late April or early May 2024 before the meeting of the SA Board but not having acted as he believed he had been formally nominated. He agreed that there was no minute recording that a vote or resolution was passed by the SA Board in April 2024 in relation to his nomination to WA. He also stated that, as far as he knows, after his appointment to his position within WA, neither SA and/or the SA Board has taken any issue with that appointment.
125. In response to questions posed from the Panel, Mr. Dunn stated that he believed a majority of the members of the SA Board in April 2024 supported his nomination for the position in WA based on the fact that under the Section 1180 of the Corporations Act, the members of the SA Board should have acted with care and diligence and reacted to his "*Thank you email*" from 13 April 2024, that outlined both positions. However, according to him, there was absolute silence. Further, a note from Mr. Kane, dated 13 April 2024, on behalf of Oceania Aquatics, outlined that all the nominations (contested and uncontested positions) had been submitted to the SA Board as part of the board pack on the 18 April 2024. It was clear from this note that Mr. Dunn had been nominated by SA for the position in WA and none of the members of the SA Board addressed this point at the time.

126. Ms. Kamrau is a senior public prosecutor at the office of the Prosecutor General of the Federal State Mecklenburg-Vorpommern in Germany and, in that position, deals with investigations and prosecutions of general criminal offenses. Part of her duties at the Office of the Prosecutor General is to conduct investigations into lawyers and tax advisors in cases involving breaches of professional duties.
127. In the present matter, she led the investigations and authored the IR. She explained that for her IR, she relied on the 22 annexes attached thereto. She stated that at the beginning of her investigation she contacted all relevant members of the SA Board, including the Appellant and Ms. Urquhart, asking for their availability for interviews. However, due to concerns of conflicts of interest and weight/value of the testimonies to be expected she decided, in line with her mandate to conduct an independent and objective investigation fact-finding process, she decided to defer those interviews for later and started with the other interviews she could do and with the collection of the evidence and documentation.
128. As the investigation progressed, and in light of the extensive documentation received, including the materials provided by Mr. Fydler, which clarified what records existed within SA, Ms. Kamrau decided not to hear other witnesses. She further testified that, during his interview, Mr. Fydler had explained that his inquiries had involved only a limited number of board members – with inconsistent answers – and that he had not consulted the individuals she considered “key individuals”, such as the President of SA in April 2024 (Mr. Collins) and the executive officer, Ms. Urquart. Ms. Kamrau stated that as her mandate included to assess why Mr. Fydler asserted that his reasonable investigation and exhaustive search had not produced evidence of the SA Board’s support for Mr. Dunn’s nomination to the position within WA, she determined that the witnesses could not really clarify that specific issue anymore. At the same time, she assumed that those witnesses would also confirm that there was no documentation of a second formal resolution which she reflected in the IR. Consequently, she considered that no further interviews were needed. Ms. Kamrau testified that she drafted the IR by herself and that the content was her work. Ms. Kamrau stated that she adhered to the conclusions of the IR and believed them to be supported by the facts that are laid out in that report.
129. In response to questions posed by the Appellant, Ms. Kamrau stated that this was the first investigation she did for the AQIU that concerned governance issues/good governance practices. She agreed that it is important to respect procedural fairness so that a respondent knows with precision what he/she is being accused of. She stated that her mandate was not directed at investigating Mr. Fydler but to find the facts, to clarify the facts underlying Mr. Fydler’s claim (communicated to WA and to the AQIU), that Mr. Dunn had not been properly nominated and that the latter did not have the support of the SA Board, as well as Mr. Fydler’s claim that although having conducted a thorough and in-depth investigation he had found no evidence for such support.
130. Ms. Kamrau testified that she didn’t charge Mr. Fydler with anything, she established the IR and the following steps in the matter were taken by the AQIU. According to her, Mr. Fydler became the only recipient of the Notice of Charge because he was the one

who raised the before mentioned claims and took responsibility for the investigation he had led. She explained that the resolutions passed in 2025 were not part of her mandate, the latter being limited to what had happened in April 2024 in relation to Mr. Dunn's nomination to the two positions at hand.

131. She acknowledged that she did not seek advice from an Australian based lawyer or expert in corporate law and that she neither considered the SA Constitution nor the corporations' law that governs good corporate practices in Australia as her investigation was done under the Integrity Code and not under the Australian law. She acknowledged that she did not attach all documents received during her investigation to the IR but reaffirmed that she attached all the documents and evidence that she considered relevant to the case.
132. She explained that she did not consider it necessary to conduct interviews with, *inter alia*, Ms. Fein, Mr. Ford, Ms. Smith, Mr. Melhuish, Mr. Abood or Mr. Martin, as she already had sufficient evidence establishing that there was only one resolution passed in April 2024, that is, the nomination of Mr. Dunn to Oceania Aquatics. She stated that she wasn't consulted about the terms of the Notice of Charge served on Mr. Fydler. She also stated that she became aware of the fact that the Appellant might become a potential subject of allegations of impropriety in breach of the Integrity Code after the interview she had with him but that it was not up to her to inform him about that as it was not part of her mandate. She acknowledged that she had not confronted the Appellant with the idea, stated in the conclusions of the IR, that his actions might have been politically motivated.
133. In response to a question from the Panel regarding the interpretation of the relevant provisions of the Integrity Code (Articles 5.1, 5.2 and 9.9), Ms. Kamrau stated that, for an action to be a violation of these provisions, it does not have to be successful as regards the pursued outcome. What matters is the action as such and not its outcome.
134. In his statement at the conclusion of the hearing, the Appellant emphasised that he was appointed to the SA Board after there had been several governance issues within SA. Thus, he was very conscious of the context of the governance overlay and wanted to make sure everything was done correctly after he had received Mr. Nowicki's letter, dated 6 March 2025. There was no evidence to suggest that a resolution had been passed in April 2024 to nominate Mr. Dunn to the position within WA. However, there was evidence provided from the majority of SA Board at that time that no discussions or resolution was passed. He then decided to resolve the matter according to what he had learned in his legal training and relied on his knowledge of Australian corporate law to lead, what he thought, was a fair and proper process to cure that problem. He considered that every piece of relevant information was provided to the SA Board and noted that the SA Board was given the opportunity to ask questions in relation to the discussions and the drafting of the resolutions submitted to it in April 2025. He stated that he was at no point politically motivated.

## **VI. JURISDICTION OF THE CAS**

135. Article R47 para. 1 of the Code provides, in its relevant parts:

*“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.”*

136. The Appellant relies on Article 31.2 of the WA Constitution which reads as follows:

*“31.2 Provided no internal legal remedy is available, any appeal against a final decision of World Aquatics shall be submitted to the exclusive jurisdiction of CAS within twenty-one (21) Days from the date of the decision being appealed.*

[...]”

137. Pursuant to Article 35.1 of the Integrity Code (2023 edition):

*“35.1 Only final decisions of the Adjudicatory Body determining that an Integrity Code Violation has been committed may be appealed by any Party to the proceedings in question. Any such appeal shall be filed exclusively to the CAS.”*

138. The Panel notes that the Appealed Decision determined that the Appellant committed several Integrity Code violations and imposed a sanction on him. According to the above-mentioned provisions, the CAS appears to have jurisdiction to hear the present matter.

139. Moreover, the Parties confirmed CAS jurisdiction by signing the Order of Procedure.

140. In view of the above, the Panel considers that the CAS has jurisdiction to decide on the present appeal.

## **VII. ADMISSIBILITY**

141. Article R49 of the Code provides as follows:

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. [...]”*

142. Pursuant to Article 35.2 of the Integrity Code, “[t]o be admissible, an appeal to CAS must be filed with the CAS within twenty-one (21) calendar days of the appealing Party’s receipt of the written reasoned decision in question by email”.

143. The Appealed Decision was notified to the Appellant on 11 December 2025. The Appellant filed his Statement of Appeal on the same day and thus respected the twenty-one (21) day deadline set out in Article 35.2 of the Integrity Code.
144. Further, the Statement of Appeal complied with all other requirements of Article R48 of the CAS Code.
145. Hence, the Panel considers that the present appeal is admissible.

#### **VIII. APPLICABLE LAW**

146. Article R58 of the CAS Code provides as follows:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

147. The Appealed Decision was rendered by the Adjudicatory Body of the AQIU which is a body of WA.
148. Pursuant to Article 31.3. of the WA Constitution:

*“The CAS shall resolve any dispute in accordance with the [Code], this Constitution, the applicable World Aquatics Rules and subsidiarily Swiss law.”*

149. Article 35.4 of the Integrity Code provides, *inter alia*, that the “*procedure [before the CAS] will be governed by the procedural rules of the [Code]. The substantive issues on appeal will be governed by this Integrity Code (and any other applicable World Aquatics Regulations and/or guidelines) and subsidiarily by Swiss law*”.
150. Accordingly, the Panel will decide the dispute pursuant to the applicable regulations of WA, in particular the WA Constitution and the Integrity Code, and, subsidiarily, Swiss Law.

#### **IX. MERITS**

151. The present dispute concerns an alleged violation of Articles 5.1, 5.2 and 9.9 of the Integrity Code by the Appellant.
152. As a preliminary point, the Panel notes that pursuant to Article 4.1 of the Integrity Code, it applies automatically to “*persons who are, or are seeking to become (whether by election or appointment or otherwise) World Aquatics Officials or Other Officials*”.

153. According to the definitions set out in Chapter A of the Integrity Code, “Covered Persons” are, *inter alia*, “persons who are, or are seeking to become (whether by election or appointment or otherwise) World Aquatics Officials or Other Officials”. Further, the Integrity Code defines “Other Officials” as follows:

*“members of the Bureau and/or executive bodies, committees, units, panels and advisory boards of Continental Organisations/World Aquatics Members, Continental Organisation/World Aquatics Member team or delegation members (or other persons accredited to attend any Event on behalf of any Continental Organisation/World Aquatics Member);*

*persons who act, or are entitled to act, for or on behalf of World Aquatics, Continental Organisations and/or World Aquatics Members, including (without limitation), staff, consultants, agents and advisors [...]*”

154. Given that the Appellant acted as interim chair of SA in late March – early April 2025, he is a “Covered Person” within the meaning of the Integrity Code.

155. As regards the allegedly violated provisions of the Integrity Code, these read as follows:

*“5.1 Covered Persons must always act honestly, fairly, impartially and in accordance with the highest ethical standards of integrity and transparency.*

*5.2 Covered Persons must avoid any conduct that is inconsistent with or that undermines in any way the objectives of this Integrity Code.*

*9.9. Covered Persons must not abuse their position within Aquatics in any way, especially for their own aims or objectives.”*

156. Further, it is worth mentioning that according to Article 31 of the Integrity Code:

*“31.1 The AQIU will have the burden of establishing that an Integrity Code Violation has been committed. The standard of proof will be the balance of probabilities.*

*31.2 Facts shall be established by any reliable means. The Panel shall at its own discretion determine the admissibility, relevance, materiality and weight of the evidence offered.*

*31.3 The principle of strict liability applies. Therefore, violations are punishable regardless of whether they have been committed intentionally, recklessly, and/or negligently.”*

157. In this regard, the Panel notes, first, that the burden of establishing the alleged Integrity Code violations lies, in the present matter, with WA. Given that, according to Article R57 (1) of the Code, the CAS hears the present dispute *de novo*, that burden stays with the Respondent.

158. It must be added that precisely because the Panel has full power to examine all facts and legal issues of this dispute *de novo* under Article R57 (1) of the Code, it does not need to address the Appellant’s argument that the investigation was procedurally unfair and did not respect the principles of due process. Indeed, pursuant to constant CAS jurisprudence, a *de novo* hearing is “*a completely fresh hearing of the dispute between the parties, any allegation of denial of natural justice or any defect or procedural error even in violation of the principle of due process which may have occurred at first instance, whether within the sporting body or by the Ordinary Division CAS panel, will be cured by the arbitration proceedings before the appeal panel and the appeal panel is therefore not required to consider any such allegations*” (CAS 2008/A/1574; CAS 2012/A/2702, CAS 2020/A/7215 & 7232). Accordingly, even if there had been a lack of due process in the investigation or the proceedings before the AQIU, any such deficiencies are cured by the CAS in its hearing of this appeal.
159. The Panel notes, second, that pursuant to Article 31.1 of the Integrity Code, the applicable standard of proof is the “*balance of probabilities*” and not, as argued by the Appellant during the hearing, the “*comfortable satisfaction*” of the Panel. As recalled by some CAS panels, according to the predominant line of jurisprudence, this standard of proof requires the party who has the burden of proof to establish that “*the occurrence of a specified circumstance is more probable than its non-occurrence*” or, in other words, the party must establish that the facts on which it relies are more likely than not to have occurred (more than 50%) (CAS 2024/A/10655).
160. In the present matter, the Respondent relies not only on the IR but also on the 22 annexes attached thereto to argue that Mr. Dunn was validly nominated by SA in April 2024 for the position within WA and to establish that, in late March/early April 2025, the Appellant abused his position as interim President of SA, by not providing the members of the SA Board with all of the available evidence and necessary information in this regard, misleading and inducing said members to vote on a resolution – with the aim of obstructing Mr. Dunn’s election to a position in the Bureau of the Respondent – although the Appellant had been informed that the General Assembly of Oceania Aquatics had already validly nominated Mr. Dunn as candidate for that position.
161. In this regard, the Panel observes, first, that the Appellant did provide his colleagues from the SA Board with information and documents with the “Notice of circulating resolutions” distributed on 3 April 2025. Indeed, the following documents, the content of which may be found above, in the chapter “Factual Background”, were attached to that Notice:
- (i) the WA Constitution;
  - (ii) the Candidate Nomination Form;
  - (iii) Mr. Nowicki’s letter dated 6 March 2025;
  - (iv) the email, dated 28 March 2025, by which Oceania Aquatics forwarded that letter to SA;
  - (v) the email chain between WA and SA from 27 March 2025 to 1 April 2025;
  - (vi) the email from Mr. Dunn to the SA Board, dated 1 April 2025;
  - (vii) the email from Mr. Dunn to the SA Board, dated 13 April 2024.

162. While it is true that the documents provided to the members of the SA Board on 3 April 2025 gave them some information that was certainly relevant for the resolutions on which they were asked to vote, the Panel considers that these documents did not contain all the relevant information and facts that ought to have been brought to the Board members' attention.
163. The Appellant omitted to communicate important information and facts to the members of the SA Board, more particularly:
- (i) Mr. Dunn's email, from 2 April 2024, to the members of the SA Board, with the subject line "*Oceania Aquatics Nomination – President of Oceania Aquatics/Oceania VP of World Aquatics*", in which he was seeking the Board's endorsement for positions as Board Member of Oceania Aquatics and Continental Representative/Vice President of World Aquatics and in which he suggested "*a circular resolution*" in order to solve the issue quickly, that is, prior to 5 April 2024;
  - (ii) Mr. Collins' email, from 3 April 2024, to the Members of the SA Board, with the subject line "*Re: Oceania Aquatics Nomination - President of Oceania Aquatics / Oceania VP of World Aquatics*", in which he outlined the steps he suggested to take over the next two days to see whether there were other candidates that would like to seek nomination and would have to be considered alongside Mr. Dunn's nomination;
  - (iii) Mr. Collins' email from 5 April 2024 to Ms. Urquhart in which he proposed a resolution to endorse Mr. Dunn for both positions;
  - (iv) Ms. Urquhart's answer, from 6 April 2024, stating that she will file that resolution;
  - (v) The circular resolution actually filed by Ms. Urquhart on 6 April 2024 only referring to the endorsement of Mr. Dunn to be a board member of Oceania Aquatics;
  - (vi) Ms. Urquhart's email, from 7 April 2024, to Mr. Kane, the Oceania Aquatics legal advisor, transmitting a signed nomination form and informing him that the SA Board had resolved that Mr. Dunn "*be endorsed [...] to be a board member of The Oceania Swimming Association (also referred to as Oceania Aquatics)*" and "*to be one of the representatives of Oceania on the World Aquatics Bureau*";
  - (vii) Ms. Urquhart's email from 13 April 2024 to the members of the SA Board attaching advice from Mr. Kane, in his capacity as Oceania Aquatics legal advisor, giving notice of the nominations received for the positions to be determined at Oceania Aquatics Congress on 22 April 2024, including the nominations of Mr. Dunn for "*OA President*" and "*Bureau Oceania Vice President*";

- (viii) The information that the nomination form, signed by Mr. Collins and Mr. Dunn, communicated to Oceania Aquatics on 7 April 2024 which had been relied upon by Oceania Aquatics and validly so, given that, *inter alia*, under Australian corporate law, in particular sections 128 & 129 of the Corporations Act, it was entitled to assume that Mr. Collins, in his capacity as director, had authority to execute the nomination on behalf of SA;
  - (ix) The information that during the Oceania Aquatics Congress held on 22 April 2024, Mr. Dunn’s nominations to the two positions were unanimously endorsed by the members of Oceania Aquatics including SA; and
  - (x) The information that, while there was no formal or express resolution adopted by the SA Board in April 2024 regarding the endorsement of Mr. Dunn to the position in the WA Board, sections 128 & 129 of the Corporations Act had the effect that Oceania Aquatics and WA could validly rely on the signed nomination form communicated on 7 April 2024.
164. As is clear from the documents provided to the members of the SA Board on 3 April 2025, in particular the Appellant’s emails dated 31 March 2025 to Mr. Nowicki and to the members of the SA Board, he emphasised the concern that this nomination form was “*incorrectly completed*”. Further, as mentioned in his email from 1 April 2025 to Mr. Dunn, also part of the document package provided to the members of the SA Board on 3 April 2025, he considered that the assessment of the constitutional validity of Mr. Dunn’s nominations to Oceania Aquatics and WA was “*up to [Mr. Dunn], Mr Nowicki and the [AQIU]*” and not to SA.
165. In this regard, the Panel considers that, if the Appellant had genuinely been concerned that the lack of any formal or express resolution voted by the SA Board in April 2024 could affect the internal validity of the nomination form signed by Mr. Collins in April 2024, he could easily have addressed that concern by recommending that the SA Board remedy that omission by ratification, that is, by retrospectively granting Mr. Collins actual authority as its agent and thereby confirming the internal validity and correctness of the nomination form.
166. However, that is not what the Appellant decided to do. Instead, he asked the members of the SA Board to vote on two resolutions concerning the Mr. Dunn’s nomination by SA to “*Oceania Aquatics Incorporated as a candidate for election as a Continental Representative of World Aquatics for the period commencing from the World Aquatics General Congress scheduled for 29 July 2025*” and to “*the Executive Director of World Aquatics, as a candidate for election as a Vice President of World Aquatics for the period commencing from the World Aquatics General Congress scheduled for 29 July 2025*”. As is clear from the Appellant’s email, dated 1 April 2025 to Mr. Dunn, he considered that in the absence of evidence of a SA Board resolution from April 2024 supporting Mr. Dunn’s nomination to the WA Board “*the simplest way to remove any confusion and ensure that there is no uncertainty in relation to this matter [that is, support for Mr. Dunn’s role in the WA Board], is for the board to conduct a vote ASAP*”.

167. Hence, the Panel finds that the aim of the resolutions submitted to the members of the SA Board on 3 April 2025 was not the confirmation of the internal validity and correctness of the signed nomination form submitted to Oceania Aquatics on 7 April 2024 but to clarify whether the members of the SA Board would, in April 2025, endorse Mr. Dunn’s nomination as a Vice President of WA at the WA congress on 29 July 2025.
168. The Panel considers that the discrepancy between the measure that would have been sufficient, even according to the Corporations Act, to establish or rather reestablish the internal validity of the signed nomination form submitted to Oceania Aquatics on 7 April 2024 – which third parties like Oceania Aquatics and WA were entitled to consider as valid – and the measure actually taken by the Appellant as well as its implementation is, when viewed in the light of the Integrity Code, more than problematic.
169. Indeed, according to Article 1.1 of the Integrity Code, the purpose of that Code is to establish clear integrity standards for persons involved in the activities of WA and, *inter alia*, to prohibit conduct that might undermine public confidence in the integrity of Aquatics. Further, pursuant to Article 1.2 of the Integrity Code, WA is committed to upholding integrity in the governance and administration of Aquatics as a basic principle of good governance and as a fundamental precept of its autonomous role as governing body of Aquatics worldwide. It is thus clear that the aim of the Integrity Code is not only to ensure that the conduct of the Covered Persons is irreproachable as regards the applicable legal and regulatory provisions, whether sports rules or national legal provisions, but to ensure that, as set out in its Article 5.1, Covered Persons “*always act honestly, fairly, impartially and in accordance with the highest ethical standards of integrity and transparency*”.
170. The fact that a particular conduct or action of a Covered Person is not contrary to or is consistent with applicable national law, for example, in the present matter Australian Law, does not, as such, mean that it does not infringe one or more provisions of the Integrity Code. That conduct or actions must fulfil the criteria set out in Article 5.1 of the Integrity Code and be consistent with the standards of good governance means, in the Panel’s view, that in the context of collegial relations between the members of an executive committee or a board of directors, particular weight has to be attributed to good faith, legitimate expectations and institutional propriety.
171. Regarding the present matter, the Panel holds, first, that contrary to what the Appellant argues, Australian Law as such, and the Corporations Act in particular, did not, in any way, require the Appellant to act in the manner that he did. Admittedly, the Appellant could rely on the SA Board minutes to consider that, *prima facie*, no formal or express resolution was adopted by the SA Board in April 2024 to endorse Mr. Dunn’s nomination to the WA Board. However, this was just one of the strands of evidence necessary to establish whether, in April 2024, Mr. Dunn effectively had the support of the SA Board for that nomination and decide on whether or not it would be appropriate to confirm that nomination form by way of ratification.
172. Considering that the Appellant had only recently been appointed to the SA Board, and did not have full knowledge of the factual elements surrounding the filing, in April 2024, of the signed nomination form to Oceania Aquatics, and the commitments it entailed,

he was under an increased duty of diligence, inquiry and caution as he should have respected and preserved the legitimate expectations not only formed by Mr. Dunn, but also by Oceania Aquatics and WA. This is even more so in light of the fact Mr. Nowicki had repeatedly informed the Appellant that no further action regarding the former's letter from 6 March 2025 was required from SA.

173. However, as is clear from the list of elements of evidence that the Appellant omitted to communicate to the members of the SA Board on 3 April 2025, it is one of two things: the Appellant either had not made the necessary inquiries to find these elements of evidence or; he had not considered it necessary to communicate these elements of evidence to the members of the SA Board. Indeed, the Appellant has not argued that he was not aware of these elements of evidence. The Panel considers that if the Appellant had made the necessary inquiries these elements of evidence would have come to his attention and he would, given the criteria set out in Article 5.1 of the Integrity Code, have been under the obligation to provide them to the members of the SA Board in order for them to take a fully informed decision and preserve the principle of legitimate expectations.
174. In the Panel's view, the Appellant's conduct and actions seem even more at odds with the high standards of integrity and good governance set out in the Integrity Code when one considers that, as mentioned by Mr. Treglown in his email from 1 April 2025 and acknowledged by the Appellant during the hearing, it can be considered that it is generally in the interests of national sports federation to have a national representative on an international federation's board. Indeed, the wording of the resolutions submitted to the members of the SA Board on 3 April 2025 and the outcome of the vote that followed would, if WA had not considered that Mr. Dunn had been validly nominated for the position in the WA Board, led to a situation where SA would not have had such representation on the WA Board. As mentioned above, there was a legally valid and institutionally more coherent alternative to solve the issue relating to the internal validity of Mr. Dunn's nomination on 7 April 2024, that is, the ratification of the signed nomination form filed on 7 April 2024. However, there is no evidence that the Appellant, in his function as interim president of SA, either considered this option or, if he did, suggested it to the Board as a means of addressing the perceived internal governance issue.
175. In light of the above considerations, the Panel finds, first, that the Appellant's conduct and actions, when put in their context, did not meet the criteria of honesty, fairness and impartiality set out in the Integrity Code and were not consistent with the high standards of integrity and transparency to which he was subject in his capacity as interim President of SA. Hence, the Panel concludes that the Appellant violated Article 5.1 of the Integrity Code.
176. The Panel holds, second, that the Appellant's conduct and actions, when put in their context, were, from an objective point of view, not only inconsistent with the principle of good governance but also undermining the decisions already adopted by Oceania Aquatics at its congress on 22 April 2024 and potentially affecting the electoral process within WA. Moreover, by creating the impression that the signed nomination form filed by SA on 7 April 2024 was not correct and that Mr. Dunn had not been validly

nominated, the Appellant created a situation that could severely undermine the public confidence in the integrity of Oceania Aquatics and WA. Thus, the Panel concludes that the Appellant also infringed Article 5.2 of the Integrity Code.

177. The Panel finds, third, that the Appellant's conduct and actions, in his capacity of interim president of SA, had the potential to mislead the members of the SA Board and to deprive them of a complete and impartial understanding of the situation at hand and to affect the outcome of the decision-making process within the SA Board. This finding is not diminished by the fact that, according to the witness statements provided by five members of the SA Board, Mr. Melhuish, Ms. Smith, Mr. Ford, Mr. Abood and Ms. Fein, rejecting, in essence, the contention set out in the IR that the Appellant had engaged in conduct which amounted to a misrepresentation, an abuse of power to vote on Mr. Dunn's nomination and/or diverting their attention to one single document. Indeed, pursuant to the definition set out in the Integrity Code, an Integrity Code Violation occurs where a Covered Person not only breaches a requirement of the Integrity Code, but when a Covered Person fails to comply with any of the requirements set out in that Code or attempts to engage in conduct that would culminate in a breach of any such requirement. Hence, in the present matter, it is irrelevant whether or not the members of the SA Board consider that the Appellant had misled them or had actually abused his position as interim President of SA in the circumstances at hand.
178. As already mentioned, the Panel considers that if, as argued by the Appellant in several of his emails, he had really wanted to address the issue relating to the alleged internal invalidity of the signed nomination form submitted by SA on 7 April 2024, he could have done so by submitting a proposal to the members of the SA Board to ratify the decision of the former Interim President Mr. Collins or, as Mr. Treglown had suggested in his email from 1 April 2025, simply confirm the SA Board's position regarding Mr. Dunn's nomination to the WA Board. Instead, he submitted resolutions to the members of the SA Board that were not aimed at confirming the internal validity and correctness of that signed nomination form but at clarifying whether the members of the SA Board were, in April 2025, willing to endorse Mr. Dunn's nomination to the WA Board at the WA congress on 29 July 2025. The Panel finds that this conduct of the Appellant as well as the fact that, having led the alleged inquiries regarding whether or not, in April 2024, the SA Board had effectively supported Mr. Dunn's nomination to the WA Board, the Appellant had omitted to communicate the numerous elements of evidence that would have been essential for the members of the SA Board to have an informed, transparent and impartial view of the facts that occurred in April 2024, fall within the scope of Article 9.9 of the Integrity Code and amount to an abuse, by the Appellant, of his position as interim President of SA.
179. In this regard, while the Panel concurs with the Appellant that the Respondent has not established to the applicable standard of proof, that is, the balance of probabilities, that the Appellant's conduct was motivated by a personal or political aim or objective, it recalls that, according to the wording of Article 9.9 of the Integrity Code, the existence of such aim or objective is not conditional for a finding that a Covered Person committed an abuse of position.

180. In light of the above, the Panel concludes that the Appellant's conduct and actions, when put into context and objectively assessed, amount to an abuse of position within the meaning of Article 9.9. of the Integrity Code.
181. Given that the Panel has concluded that the Appellant has committed a violation of Articles 5.1, 5.2 and 9.9 of the Integrity Code, it now proceeds to consider the applicable sanction.
182. In this respect, according to well-established CAS jurisprudence, CAS panels should exert self-restraint in reviewing the level of a sanction imposed by a first instance disciplinary body and should reassess such sanctions only if they are evidently and grossly disproportionate to the offence or if a different conclusion is reached on the substantive merits of the case than did the first instance body. The above does not mean that CAS's powers are limited but rather means that – far from excluding or limiting the power of a CAS panel to review *de novo* the facts and the law of the dispute at hand – a CAS panel would tend to pay respect to a fully-reasoned decision and would not easily “tinker” with a well-reasoned sanction, not considering it proper to just slightly adjust the measure of the sanction. Hence, the reference to a sanction being “*grossly and evidently disproportionate to the offence*” should be understood as a guideline rather than a binding norm, aimed at restraining CAS's powers (see, to that effect, CAS 2022/A/9053, para. 123 and case-law cited).
183. Pursuant to another line of jurisprudence, whenever an association uses its discretion to impose a sanction, a CAS panel will have regard to that association's expertise but, if having done so, it considers nonetheless that the sanction is disproportionate, it must, given its *de novo* powers of review, be free to say so and apply the appropriate sanction (see, to that effect, CAS 2022/A/9053, para. 124 and case-law cited).
184. In the present matter, the Respondent argued that the sanction imposed in the Appealed Decision is proportionate and necessary to protect the core values of WA and should thus be confirmed. In his Appeal Brief, the Appellant limited himself to requesting “*that the sanctions listed at (ii)-(iv) of Part VI of the [Appealed Decision] each be quashed*” and did not submit an express alternative request for relief. However, during his closing submissions, the Appellant argued that, in case the Panel were to find that he had breached the Integrity Code, it should reduce the sanction to no more than a warning or a reprimand or a caution and eliminate the suspension. The Respondent did not object to that alternative request for relief in its closing submissions nor in its rebuttal.
185. In this respect, the Panel recalls that it is hearing the case *de novo* and that, according to CAS jurisprudence, a panel may decide on the basis of implicit prayers for relief, virtually contained in the relief that is expressly formulated in that the former can be drawn from the latter by deduction, provided that they are connected with each other by the same grounds, namely, by the same reasons in fact and in law (so that the main legal issue to be resolved by the adjudicator is the same) (CAS 2021/A/8334). In the present matter, that is manifestly the case as the principal request for relief, aimed at obtaining the total elimination of the suspension, implicitly contains the alternative request for relief, that is, a reduction of the suspension. Hence, in the present matter, the Panel may

validly rule on the Appellant's alternative request for relief without being limited by the principle of *ne ultra petita*.

186. For the present matter, the available sanctions are set out in Article 33.1 of the Integrity Code which provides as follows:

*“Any one or more of the following sanctions may be imposed for an Integrity Code Violation:*

- a) a warning as to future conduct;*
- b) a reprimand;*
- c) a fine in an amount proportionate to the seriousness of the violation;*
- d) an order of reimbursement or restitution;*
- e) a suspension from carrying out specific activities on behalf of World Aquatics and/or Continental Organisation and/or World Aquatics Member for a specified period;*
- f) a period of ineligibility, the length of which is to be determined based on what is proportionate in the circumstances of the case, taking into account in particular (i) the nature of the violation(s), (ii) the degree of fault of the Covered Person, (iii) the harm that the violation(s) has/have done to the sport, (iv) the need to deter future violations, and (v) any specific aggravating or mitigating factors; and*
- g) any other sanction deemed appropriate, including, but not limited to disqualification of results, annulment of results of any Event, removal from office, forfeiture of points and/or of quota places and/or of hosting rights, other loss of privileges, no contact directives, requirement to complete educational or other programs, and return of World Aquatics awards.”*

187. Further, pursuant to Article 33.2 of the Integrity Code, the *“sanction(s) to be imposed in a particular case shall be determined by reference to all of the relevant circumstances of the case, including an assessment of the seriousness of the violation, and any mitigating or aggravating factors that may be present”*.

188. Article 33.3 of the Integrity Code provides a non-exhaustive list of *“aggravating factors”* while Article 33.4. does the same in relation to *“mitigating factors”*.

189. In the present matter, the Panel considers that the relevant aggravating factors are (i) the authority of the Appellant (that is, interim president of SA) and (ii) the fact the Appellant was found to have violated more than one Article of the Integrity Code.

190. As to mitigating factors, the Panel notes that the Appellant (i) at the time of the relevant facts, had only recently been appointed to the SA Board and his function as interim

president of SA; (ii) has a good previous disciplinary record; (iii) did not receive or expected to receive any significant benefit as a result of the violations he committed; (iv) has been cooperative during the course of the AQIU's investigation as well as during the proceedings before the Adjudicatory Body and the CAS, and (v) stated that if he were again in the same situation and if there was a way in which he could have acted appropriately under Australian law and also remove the present process he would happily change the course of action he took.

191. In light of the gravity of the violations, which had the potential to seriously undermine the credibility of SA, Oceania Aquatics and WA in the public perception, the Panel nevertheless considers that the sanction imposed failed to give due and adequate weight to the relevant mitigating factors mentioned above, as well as the Adjudicatory Body's jurisprudence referred to by the Respondent. Consideration must also be given to the finding by the Panel that the Appellant's conduct was not motivated by a personal or political aim or objective. As a result, the sanction must be regarded as excessive and disproportionate in the circumstances and the Panel considers appropriate to review and reduce the sanction to a level that it deems fair and proportionate, thereby eliminating the excessive component of the original measure. In the Panel's view, the appropriate and proportionate sanction for the Appellant's Integrity Code violations would be a six-month period of suspension from carrying out specific activities on behalf of WA and/or a Continental Organisation and/or a WA Member, including participation in, or attendance in any capacity at, any aquatic-related activities or events organised by WA, any WA Continental Organisation, any WA Member Federation, any club or any other recognised body.
192. Given that the difference between the six-month period of suspension that the Panel finds appropriate and proportionate and the eight-months period of suspension imposed in the Appealed Decision is significant, that is, more than 1/3 superior, the Panel finds that the sanction imposed in point (iii) of the operative part of the Appealed Decision must be reduced to six months.
193. In light of all of the above considerations, the Panel holds that the Appeal must be partially upheld and the Appealed Decision otherwise confirmed.
194. Any other and further claims or requests for relief on the merits are dismissed.

## **X. COSTS**

(...)

\*\*\*\*\*

## ON THESE GROUNDS

### The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr. Christopher John Fydler against World Aquatics with respect to the decision rendered by the Adjudicatory Body of the Aquatics Integrity Unit on 11 December 2025 is partially upheld.
2. The decision rendered by the Adjudicatory Body of the Aquatics Integrity Unit on 11 December 2025 is confirmed, save for item nr. (iii) of its operative part which shall be amended as follows:

*“Mr. Christopher John Fydler is sanctioned with a six-month period of suspension from holding any position within World Aquatics, any World Aquatics Continental Organisation, any World Aquatics Member Federation, any club or any other recognised body. The suspension imposed on the Respondent shall also prevent him from taking part in, or attending in any capacity, any aquatic-related activities or events organised by World Aquatics, any World Aquatics Continental Organisation, any World Aquatics Member Federation, any club or any other recognised body. The six-month period of suspension shall be effective as of 11 December 2025.”*

3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 26 May 2026

## THE COURT OF ARBITRATION FOR SPORT

Jacques Radoux  
President of the Panel

Anthony Lo Surdo SC  
Arbitrator

Rui Botica Santos  
Arbitrator