

NST-E24-4932

Jamie Pittman v Combat AUS

**Determination**

**National Sports Tribunal**

**General Division**

**sitting in the following composition:**

Panel Member

Mr Anthony Lo Surdo SC

**in the arbitration between**

**Jamie Pittman**

*(Applicant)*

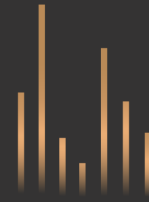
Represented by Dean Groth (Legal Representative)

And

**Combat Institute of Australia**

*(Respondent)*

Represented by Ajay Sivanathan, of Counsel, Darren Kane, Solicitor and Alex Vallentine (CEO)

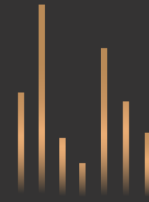


## PARTIES

1. The Applicant, Mr Jamie Pittman (**Mr Pittman**), is an employee of Boxing Australia Limited (**Boxing Australia**). He is Boxing Australia's National Head Coach and a member of several of its committees.
2. The Respondent, Combat Institute of Australia (**CombatAus**), is a national sporting body established to coordinate and harmonise the delivery of high-performance programs in Australia in the combat sports of boxing, judo, taekwondo, wrestling and fencing. The Respondent is an Australian public company limited by guarantee and is, along with Boxing Australia, recognised and supported by the Australian Sports Commission.
3. Boxing Australia is a member of the Respondent and both entities have entered into a Memorandum of Understanding (**MOU**), which came into force on 1 January 2021 and remains in force until 31 December 2024. Boxing Australia's coaches including the Applicant are involved in the delivery of the Respondent's high-performance programs.
4. Through his employment with Boxing Australia, Mr Pittman is bound by the rules, regulations and policies of Boxing Australia. Because of the organisational relationship between Boxing Australia and CombatAus, and a term of the MOU, in certain circumstances, and at all relevant times, Mr Pittman is also bound by the rules, regulations and policies of CombatAus.

## INTRODUCTION AND BRIEF FACTUAL BACKGROUND

5. Below is a summary of the relevant facts and allegations based on the parties' written submissions, pleadings and evidence adduced at the hearing on 20 March 2024. 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.
6. While the Sole Arbitrator has considered all the facts, allegations, legal arguments, and evidence submitted by the parties in the present proceedings, the Sole Arbitrator refers in its Award only to the submissions and evidence considered necessary to explain the reasoning.
7. This dispute arises from complaints about the alleged conduct of Mr Pittman during two overseas tours in 2023, when he was acting in his capacity as coach for an activity sanctioned by CombatAus. Following that tour, CombatAus received reports that whilst on tour and in the period between approximately 16 July 2023 and 26 October 2023, Mr Pittman may have engaged in Prohibited Conduct under its Member Protection Policy (**MPP**).
8. Following an external investigation conducted pursuant to clause 8.5 of the CombatAus Complaints, Disputes and Discipline Policy (**CDDP**), CombatAus determined that Mr Pittman had engaged in conduct that was Prohibited Conduct under clauses 3.1(a), 3.1(b) and 3.1(d) of the MPP in that it comprised Abuse, Bullying and Sexual Misconduct (**Prohibited Conduct**). The Prohibited Conduct concerned 11 different instances of misconduct.
9. On 13 December 2023, CombatAus issued a Breach Notice to Mr Pittman in relation to the Prohibited Conduct and proposed sanctions which included an 18-month suspension (9 months of which was to be suspended if Mr Pittman attended a CombatAus approved training course on anti-discrimination, anti-harassment, anti-bullying and anti-sexual misconduct, undertaking 20



days of community service and remained of good behaviour whilst serving the 9 month sanction), a reprimand, a written apology, and counselling (**Breach Notice**).

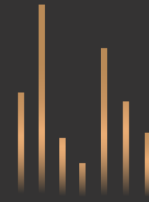
10. By Arbitration Agreement, dated 22 January 2024, the parties agreed to refer to the National Sports Tribunal (**Tribunal**) for determination whether the conduct the subject of the findings in the Breach Notice comprised Prohibited Conduct and, if so, the appropriate sanction. In doing so, the Tribunal acts as a hearing tribunal pursuant to clause 9.7(b) of the CDDP (**Arbitration Agreement**).
11. However, in written submissions filed on behalf of Mr Pittman on 15 February 2024 with the Tribunal by his legal representative, Mr Groth, Mr Pittman indicated that he would not be contesting the findings of Prohibited Conduct and would limit his submissions to the sanction alone.
12. The Prohibited Conduct particularised in the Breach Notice and accepted by Mr Pittman is, for convenience, set out at **Annexure A** to this Determination.

#### **NST JURISDICTION**

13. This is a dispute which has been referred to the National Sports Tribunal (**NST**) by the Respondent as an NST eligible matter under its CDDP.
14. Clause 9.5(a)(iii) of the CDDP provides that a respondent to a Breach Notice has a right to a hearing in relation to the alleged breach and/or proposed sanction. Clause 9.6 of the CDDP provides that if the matter is an “NST eligible matter”, the CombatAus Complaint Manager must refer the matter to the NST General Division for arbitration.
15. The NST has jurisdiction in this matter pursuant to section 23(b)(i) of the *National Sports Tribunal Act 2019* (Cth) (**NST Act**). The parties have confirmed the jurisdiction of the NST in the Arbitration Agreement.

#### **PROCEEDINGS BEFORE THE NST**

16. On 3 January 2024, the NST Registry received the application from Mr Pittman for the arbitration of this dispute.
17. A Preliminary Conference took place on 18 January 2024 conducted by the NST CEO, setting out the administrative and procedural arrangements including a timetable for the lodgement of submissions and evidence.
18. The Respondent filed and served on the Applicant their submissions and evidence on 1 February 2024.
19. The Applicant filed and served on the Respondent his submissions and evidence on 15 February 2024.
20. The Respondent filed and served on the Applicant submissions and evidence to rely on in reply on 21 February 2024.



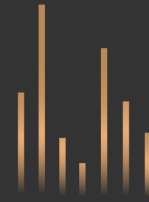
21. On 20 March 2024, a hearing took place in these proceedings by video-conference. Besides the Sole Arbitrator and Ms Halley Derera, NST Registry Staff, the following people attended the hearing:
- For Mr Pittman:
- Mr Dean Groth, Solicitor
- Mr Jamie Pittman
- For CombatAus:
- Mr Ajay Sivanathan, of Counsel
- Mr Darren Kane, Solicitor
- Mr Alex Vallentine, CEO CombatAus
22. No objection was made at the outset of the hearing to the composition of the Tribunal and at its conclusion the parties confirmed that their procedural rights had been fully respected.

#### APPLICABLE RULES

23. Having regard to the dates on which the Prohibited Conduct occurred and the date of the issue of the Breach Notice, the MPP, which commenced on 1 March 2022, applies.
24. Clause 3.1 of the MPP applies to a “Relevant Person” which, by definition, extends to a person in Mr Pittman’s capacity, provides that a Relevant Person commits a breach of the MPP if they engage in any of the conduct specified in clause 3.1. That conduct includes “Abuse”, “Bullying” and “Sexual Misconduct” as defined in the Schedule 1 of the MPP. That schedule also provides examples of what may constitute Prohibited Conduct under the MPP. Relevantly, each of the definitions of Abuse, Bullying and Sexual Misconduct make plain that it is “... *behaviour of a nature and level of seriousness, which includes, but is not limited to...*” the examples outlined in the Schedule.
25. Having regard to the dates on which the Prohibited Conduct occurred and the date of the issue of the Breach Notice, the CDDP which commenced on 3 February 2023 applies. Clause 6.1 of the CDDP relevantly provides that Prohibited Conduct under the MPP comprises a breach of the CDDP. Clause 9.4(a) of the CDDP provides that CombatAus may impose sanctions where the behaviour warrants such action. Clause 9.4(b) further provides that when deciding on an appropriate sanction CombatAus may refer to the Sport Integrity Australia Guidance for Sanctioning and may consider each of the matters enumerated in clause 9.4(b).
26. The “Sport Integrity Australia Guidance for Sanctioning” is referred to at Appendix A to the CDDP as the “Case Categorisation & Guidance for Sanctions Booklet”. The relevant iteration of that booklet was issued in January 2023.

#### THE EVIDENCE

27. CombatAus relies on the following evidence:
- (a) the Breach Notice;
- (b) the report of a team physiotherapist, dated 3 November 2023;

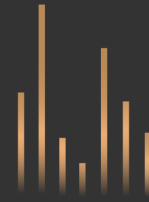


- (c) the statement of Athlete A, dated 31 January 2024;
- (d) the statement of Athlete B, dated 31 January 2024;
- (e) the statement of Athlete C, dated 31 January 2024;
- (f) the statement of Santiago Nieva, dated 31 January 2024; and
- (g) the statement of Athlete D, dated 31 January 2024.

28. Mr Pittman relies upon the following evidence:

- (a) an undated, unsigned document headed, “Mr. Jamie Pittman Statement”;
- (b) a character reference dated 9 February 2024 from Philip Goodes, President of Boxing Australia;
- (c) an undated character reference from Allison Goodes, President Boxing South Australia;
- (d) an undated character reference from Mark Evans, President Boxing Queensland;
- (e) a character reference, dated 11 January 2023 from Michael Rochford, President Boxing Northern Territory;
- (f) an undated character reference from Sean Fitzpatrick, President Boxing Australia New South Wales;
- (g) a character reference dated 18 January 2024 from Troy Huckstepp, President Boxing Australia, Australian Capital Territory;
- (h) a character reference dated 18 January 2024, from Amanda Stevenson, Secretary Boxing Western Australia;
- (i) a character reference dated 19 January 2024, from David G. Pike, Honourary Secretary, Boxing Victoria Incorporated;
- (j) a character reference dated 15 January 2024 from Parent of Athlete E;
- (k) an undated character reference from Athlete F;
- (l) an undated character reference from Athlete G; and
- (m) an undated character reference from Athlete H.

29. Mr Pittman was provided the opportunity to supplement his evidence orally. That additional evidence included, in summary, the following:



- that he was in the Solomon Islands in November 2023 when he received a written request from Mr Jessep, an independent investigator appointed by CombatAus, to answer 87 questions relating to conduct which subsequently became the subject of the Breach Notice. He was stressed at the receipt of that document, was distracted by his coaching commitments and did his best to answer those questions;
- that he received a full brief of the CombatAus evidence on 1 February 2024 and, once he considered the evidence, he felt ashamed and embarrassed, didn't want to cause any further stress or anxiety to the athletes who were preparing for the upcoming Olympic Games, withdrew his expression of interest to coach at those Games and accepted the breach; and
- Mr Pittman fears that he may lose his employment as a consequence of the Prohibited Conduct.

30. In cross-examination, Mr Pittman confirmed that he had, in February 2024, withdrawn his interest to attend the Olympic Games.

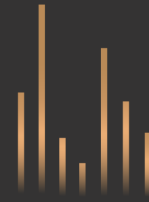
#### **MAIN SUBMISSIONS OF THE PARTIES**

31. CombatAus contends in chief, in summary, that:

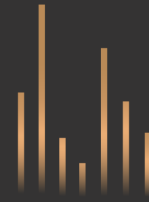
- (a) the sanctions offered to Mr Pittman in the Breach Notice represent a fair, reasonable and entirely proportionate punishment to be imposed on him, in respect of a clear, demonstrated pattern of serious and egregious Prohibited Conduct;
- (b) the Prohibited Conduct demonstrates a clear disregard for the well-being of Mr Pittman's fellow coaches and high-performance staff;
- (c) Mr Pittman repeatedly placed into peril the well-being of a number of elite athletes who, as the Head Coach, Mr Pittman was meant to be preparing for Olympic and elite international boxing competitions;
- (d) Mr Pittman's conduct is made significantly worse in the circumstances where he is a member of Boxing Australia's Coaching Consultative Committee, Indigenous Advisory Committee, Selectors Committee and National Selection Panel; and
- (e) Mr Pittman is the Head Coach of Boxing Australia and is thus in a position of authority and influence in the sport. The athletes in issue are left in an invidious position by reason of falling victim to the Prohibited Conduct and/or having the courage to speak out against him.

32. Mr Pittman's submissions may be summarised as follows:

- (a) he accepts, with reluctance, the findings of Prohibited Conduct, as he wishes to express his sincere desire not to disrupt the preparation of the athletes in the Australian Olympic team with whom he has always maintained a respectful and supportive relationship. He perceives that it would be an unwelcome distraction to the athletes in their preparation for the Olympics to be called to give evidence and he does not wish to be the cause of that distraction. He therefore accepts the findings;

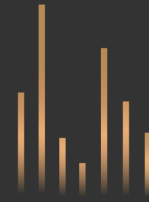


- (b) whilst he accepts the findings, Mr Pittman contends that he was not consciously engaging in the alleged conduct and was not aware of his alleged actions or of how they would be perceived by others, but he nevertheless accepts that he needs to be much more careful and mindful of his behaviour and engagement with young athletes in his charge;
  - (c) Mr Pittman acknowledges that certain comments he made were inappropriate and unintended to cause offence to some members of the team. Upon reviewing the evidence presented in the Breach Notice, he realises that his attempts to foster a friendly team atmosphere may have been misguided and inappropriate and he sincerely apologises for any distress caused;
  - (d) Mr Pittman expresses remorse for the unease and embarrassment caused by his inadvertent and thoughtless conduct and assures CombatAus of his commitment to rectify his behaviour moving forward. He acknowledges the need for increased vigilance and is willing to undertake any necessary courses or training to ensure such incidents do not recur;
  - (e) whilst Mr Pittman acknowledges errors in his behaviour, he submits the 18 month/9-month suspension together with 20 days continuous full-time community weekday service suggested by CombatAus is overly onerous and contends that any suspension should be limited to 3 months effective from the start of December 2023 when he withdrew from participation in CombatAus activities after the investigation;
  - (f) if any period of community service is considered necessary, its terms should be varied. The imposition of 20 days continuous full-time weekday service would be unduly onerous and be interfering with Mr Pittman's ability to maintain his employment which is essential for him to support his wife and two young children. He submits that any period of community service be restricted to no more than two days per week. However, his primary submission is that no other volunteer work is required given his substantial current commitment involving school visits, aboriginal culture sessions and mentoring a young autistic boy. Also, Mr Pittman has made a commitment to volunteer his time, when appropriate, to assist with the juvenile offender intervention program, "On Track Boxing" which attempts to avert young offenders from entering the criminal justice system;
  - (g) Mr Pittman is prepared to undergo counselling to address any underlying issues and to write apology letters to the individuals affected by his actions as suggested in the Breach Notice. He understands the importance of taking responsibility for his behaviour and is committed to making amends;
  - (h) Mr Pittman respectfully requests a reconsideration of the severity of the sanction, considering his willingness to accept responsibility, undergo counselling, fulfil community service requirements, and make amends for his actions. He remains committed to upholding the values of integrity and sportsmanship in the boxing community; and
  - (i) the Breach Notice is the first disciplinary action taken against Mr Pittman in his lengthy association with the sport as both an athlete and coach.
33. The submissions of CombatAus in reply, may be summarised as follows:
- (a) the Tribunal should not afford any significant credit to Mr Pittman, or any significant reduction in the sanctions to be imposed on him due to his late admission of breach;



- (b) Mr Pittman seeks to diminish his wrongdoing by contending that although he engaged in each instance of Prohibited Conduct, he was not consciously engaging in that conduct and was not aware of his alleged actions or how they would be perceived by others. This position should not be considered by the Tribunal as an unreserved admission of guilt and corresponding contrition. Further, it is irrelevant as to whether or not Mr Pittman consciously engaged in the Prohibited Conduct, nor is it relevant as to whether he had an awareness as to how his actions would be perceived by others;
- (c) it is unsustainable for Mr Pittman to seek to classify his misconduct as part of his method to engender a convivial, welcoming, and friendly team environment. In actuality, Mr Pittman's unacceptable and at times puerile behaviour achieve the opposite outcome where a number of athletes and other support staff were left feeling confused, bewildered and uncomfortable because of his behaviour;
- (d) there is no evidence before the Tribunal that relates to Mr Pittman having been withdrawn by Boxing Australia and the Australian Olympic Committee from the Australian Olympic Team, of being nominated by Boxing Australia to the Australian Olympic Committee, having resigned from the Australian Olympic Team, having been removed from the Australian Olympic Team or otherwise ceasing to be part of the Australian Olympic Team for the Paris Olympics. Likewise, and if Mr Pittman is now definitely not part of the Australian Olympic Team for the Paris Games, there is no evidence before the Tribunal that relates to the reasons why Mr Pittman was withdrawn from the team and, in particular, that it was because of the Prohibited Conduct. Absent such evidence, it cannot be contended that Mr Pittman has suffered any extra curial punishment that the Tribunal should take into account;
- (e) it is plainly insufficient for the Tribunal to cede to Mr Pittman's contention that it impose a sanction of a three month suspension backdated to sometime in December 2023. There is no proper basis for any backdating of any sanctions and it is unreasonable in the circumstances of Mr Pittman's Prohibited Conduct for him to petition the Tribunal to impose a three-month sanction which would permit him to be involved in the Australian Olympic Team in circumstances where he is Boxing Australia's National Head Coach. However, during the course of oral submissions, Mr Sivanathan accepted that Mr Pittman had been provisionally suspended since 9 November 2023 from all CombatAus related activities and that it was appropriate that any suspension imposed be back-dated with effect from 9 November 2023;
- (f) CombatAus reiterates that unless a substantive sanction of an 18-month suspension (with the last nine months, suspended on the terms stated in the Breach Notice), the sanctions imposed on Mr Pittman will operate as no deterrence to him or anyone else. In oral submissions, Mr Sivanathan contended that CombatAus was particularly anxious to ensure that any suspension covered the period up to the conclusion of the forthcoming Olympic Games so as to avoid potential further harm to athletes who had provided reports and statements to CombatAus concerning conduct the subject of these proceedings and who had been selected to compete. Further, and in so far as the imposition of community service is concerned, Mr Sivanathan made a concession in oral submissions that whilst 20 days should be served, they need not be consecutive working days and that Mr Pittman could count his considerable volunteer work towards those 20 days;





(g) as to the character references upon which Mr Pittman relies, many are undated, while a number of others, and dated before 1 February 2024:

- the pre-1 February 2024 testimonials were prepared without the character witnesses being told or that they should have been told about the allegations against Mr Pittman;
- the character references offered by Alison Goodes, Mark Evans, Sean Fitzpatrick, Athlete F, Athlete G and Athlete H are undated. It cannot be known whether or not these documents were made by the authors before, or after Mr Pittman made the decision to concede that he engaged in the Prohibited Conduct;
- the character references offered by Michael Rochford, Troy Huckstepp, Amanda Stevenson, David Pike and Parent of Athlete E are each dated before 1 February 2024 and before the date on which Mr Pittman was served with the CombatAus submissions and exhibit. As at the date of these documents, Mr Pittman was disputing breach.

34. During the course of oral submissions and, in an attempt to assuage the concerns expressed by CombatAus concerning the potential for further harm to athletes who had provided reports and statements to CombatAus concerning conduct the subject of these proceedings and who had been selected to compete, Mr Pittman was invited by the Tribunal and did provide the following undertaking to the Tribunal and to CombatAus:

*“Mr Pittman undertakes to the Tribunal and to CombatAus that he will not attend the Paris Olympic Games as a coach or in any capacity or be involved in any preparations therefor, if he may otherwise be entitled to do so.” (Undertaking)*

Mr Pittman also consented to the terms of his undertaking being communicated to the Board of Boxing Australia and from it to the Australian Olympic Committee (**Consent**).

35. Notwithstanding the provision of the Undertaking and the Consent, CombatAus maintained its submissions as to sanction.

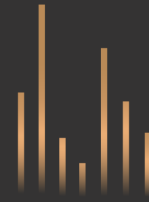
## MERITS

36. This is an unfortunate and regrettable case of Mr Pittman who, by all accounts has made a significant contribution to the sport of boxing in Australia since 1999, first as an athlete and, over the last decade as a coach, including as the National Head Coach of Boxing Australia, engaging in conduct that fell far short not only of the behaviour expected of coaches as mentors, role models and leaders of any sport but also compromised the respect and dignity of athletes and other coaches in his care in breach of the MPP.

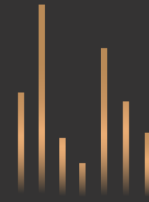
37. In no way can his conduct be considered an appropriate manner of engendering “...a *convivial, welcoming and friendly team environment*” as contended by Mr Pittman.

38. Clause 6.1 of the CDDP provides that “...*conduct proscribed under each of the Integrity Policies*” comprises “Prohibited Conduct” for the purposes of the CDDP. “Integrity Policies” is defined in clause 1 of the CDDP as including the MPP.

39. The MPP does not prescribe sanctions for breach.

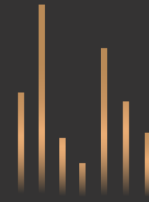


40. Clause 9.4(a) of the CDDP provides that CombatAus may impose sanctions where the behaviour warrants such action. Further, and when “...*deciding on the appropriate sanction CombatAus may refer to the Sport Integrity Australia Guidance for Sanctioning and may consider:*
- (i) the seriousness of the behaviour;*
  - (ii) whether it was a one-off incident or part of an overall pattern of behaviour;*
  - (iii) whether it was an honest and reasonable mistake;*
  - (iv) the potential impact on public confidence in the integrity of the sport;*
  - (v) the views and opinion of the Complainant;*
  - (vi) any relevant aggravating or mitigating factors.”*
41. Appendix A to the CDDP refers to the “Case Categorisation & Guidance for Sanctions Booklet” (**Booklet**). That document provides for a review of alleged breaches of the National Integrity Framework Policies (**Framework**), which includes the MPP by establishing a transparent, objective, and consistent basis for evaluating allegations of Prohibited Conduct. The system comprises of three main components: Case Categorisation; Aggravating and Mitigating Circumstances; and Sanctions and Related Measures.
42. Matters within the scope of the Framework are categorised in the Booklet through a three-tier system, based on the nature of the alleged conduct, perceived level of harm, and complexity.
43. Category 1: Blue matters involve minor allegations of Prohibited Conduct and mostly (although not always) involved a mistake, misunderstanding, or an absence of intent to harm. There are rarely, if any, complicating factors. The presence of any complicating factors may escalate the matter to a more severe Category. Complicating factors include a real risk of harm, criminality, aggravating factors, an uncooperative respondent or risk to the sport.
44. Category 1 matters include (but are not limited to): children having a physical altercation; low-level swearing, derogatory or disrespectful comments, chastising a child; aggressive tone, disrespectful comments, or a heated altercation, the absence of malice, vilification or bullying or other egregious behaviour; lewd jokes (where adults involve minors, a higher category may result); and unnecessary physical contact (not involving sexual misconduct), including pushing, shoving or bumping into another.
45. Category 2: Amber matters may involve the risk of moderate or reasonable harm, or repeated, more severe or more complex Category 1 allegations. They may also concern more severe prohibited conduct violations, or complicating factors, having regard to frequency, intensity, number of reported incidents or complaints received, or where the circumstances indicate a reasonable possibility for escalation (and may require referral to law enforcement). The presence of any complicating factors may escalate the matter to a more severe Category. Complicating factors include a real risk of harm, criminality, aggravating factors (as set out in “Aggravating and Mitigating Circumstances), an uncooperative respondent or risk to the sport.
46. Category 2 matters include (but are not limited to): repeated or more severe Category 1 matters, including the risk of reasonable harm; abuse of position of trust or power; harassing behaviours,



including unwonted sexual interest; inappropriate jokes, including insensitive jokes (race, religion and culture, disability, gender, sex); egregious or severe acts of prohibited conduct, includes repeating use of demeaning or bullying language; repeated or multiple incidents of harmful coaching techniques or training as punishment.

47. Category 3: Red matters may involve criminal behaviour and/or immediate risk of harm, and includes child abuse, sexual abuse, and includes sexual misconduct, as well as serious assault, doping and corruption. Category 3 matters may include severe Category 1 or 2 allegations where there is the presence of significant complications. Whether a matter is more severe is determined on the specific circumstances, including the frequency, intensity, number of reported incidents or complaints received. Complicating factors include a risk of harm, criminality, aggravating factors (as set out in “Aggravating and Mitigating Circumstances”), an uncooperative respondent or risk to the sport. Such matters must be reported to law enforcement/child protection, as mandated.
48. Category 3 matters include (but are not limited to): sexual misconduct; touching of genitals, breasts, buttocks; child abuse, exposing the child to age inappropriate or harmful material, or behaviours; serious assaults including striking or punching; doping; and match, race or competition fixing.
49. The Booklet sets out a list of non-exclusive aggravating and mitigating circumstances. Aggravating circumstances include: behaviour that is malicious, or targets vulnerable people; behaviour that targets multiple parties or result in multiple victims; breach motivated by race, religion, ethnicity, nationality, sexual identity, disability, gender; injury, emotional harm, loss or damage was substantial, including the level of embarrassment, distress or humiliation by the victim; previously similar conduct or related breaches, previous sanctions; ongoing and sustained offending over a period of time; abuse of position of power or trust; lack of cooperation; the breach was premeditated (rather than spur of the moment); the respondent has previously undertaken education in relation to the particular type of conduct.
50. Mitigating circumstances outlined in the Booklet include a consideration of: first time breach; unplanned, spur of the moment behaviour; accepting responsibility and level of remorse/contrition; level of cooperation; harm suffered by the victim or the sport was not substantial; mental illness; risk of loss of employment; whether the prohibited behaviour was uncharacteristic, including: the length of service, balancing a previously unblemished record against the expectation of greater awareness of behavioural requirements; whether there are records of previous counselling or breaches of the Framework about related issues; the extent to which there is evidence that the behaviour is atypical; and the individual’s attempts to manage any external personal issues impacting on the conduct.
51. In considering sanctions, the Booklet provides that rather than seeking to punish, sanctioning misconduct is primarily aimed at protecting an individual from harm with a secondary aim of protecting the integrity of sport. Sanctions are also designed to provide a clear message that the behaviour is unacceptable, thereby acting as a deterrent. The decision about whether to apply a sanction needs to be considered carefully on the facts and context of each case, having regard to: the seriousness of the conduct; whether it was a one-off incident or part of an overall pattern of behaviour; whether it was an honest and reasonable mistake; the potential impact on public confidence in the integrity of the sport; and the views, if any, of the Complainant (for example,

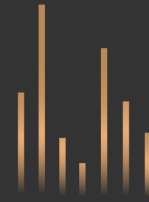


merely seeks an apology). Any aggravating and mitigating factors must also be taken into account.

52. The range of sanctions and related measures outlined in the Booklet include:
- (a) for Category 1 breaches: awareness of NIF Policies; Mandatory awareness and education requirements; Formal warning and or remand and an apology;
  - (b) for Category 2 breaches: formal conciliation and mediation; counselling; restricted duties or access; supervision and mandatory oversight; Mandatory education and program; temporary suspension from relevant event/entity/club; and
  - (c) for Category 3 breaches: formal and mandatory awareness and education requirements; formal reprimand; requiring an apology; formal conciliation or mediation; counselling; role change/restricted duties or access; supervision and mandatory oversight; mandatory education and program; temporary suspension from relevant event/entity/club; withdrawal of accreditation from the relevant sporting event; permanent suspension/exclusion from the event/entity/club; and return of awards.
53. In approaching the issue of the appropriate sanction, the Tribunal proposes to have regard to the factors set out in clause 9.4 of the CDDP but guided, as appropriate, by the Case Categorisation; Aggravating and Mitigating Circumstances; and Sanctions and Related Measures outlined in the Booklet to ensure, so far as possible, a consistent basis for evaluating allegations of Prohibited Conduct.
54. As neither party in their written submissions addressed the framework within which sanctions were to be considered, the Tribunal informed the parties at the commencement of the hearing that it would be proceeding in the manner referred to in the preceding paragraph and afforded them an opportunity to supplement their written submissions orally which they did.

#### Seriousness of the Prohibited Conduct

55. Common to 9 of the 11 instances of Prohibited Conduct are inappropriate comments or conduct involving the sexual objectivisation of women that is puerile, infantile and lacking in sensitivity or awareness especially by someone of Mr Pittman's seniority and standing in the boxing community who should be leading by example. There is no place in modern society for such conduct which also falls well short of the standards of behaviour expected of those involved with CombatAus and which are proscribed by the MPP.
56. The incident described in clause 4(f) of the Breach Notice whilst not directed specifically at women, consisted nonetheless of a sexually lewd act in the presence of a female athlete under Mr Pittman's care.
57. The incident described in clause 4(k) of the Breach Notice was an attempt by Mr Pittman to obtain information relevant to a complaint which he suspected the athlete in question to have either made or have had relevant knowledge. That conduct thus comprised an abuse of trust or power by Mr Pittman and was intimidatory towards the athlete concerned.
58. The Tribunal considers each instance of the Prohibited Conduct to comprise Category 2 matters in their own right and also having regard to the frequency with which the conduct occurred over a confined period between approximately 16 July 2023 and 26 October 2023.



Was the Prohibited Conduct a one-off incident or part of an overall pattern of behaviour?

59. The Prohibited Conduct was not a one-off incident. The conduct comprised 11 separate incidents across two separate team camps abroad and thus, in the opinion of the Tribunal, is part of an overall pattern of behaviour.

Was it an honest and reasonable mistake?

60. Self-evidently, the comments and actions, the subject of the Prohibited Conduct, were undertaken deliberately and without due regard by Mr Pittman, both for their appropriateness and the impact they may have on those who witnessed them. Mr Pittman does not contend, nor could he reasonably do so, that any part of his conduct comprised an honest and reasonable mistake.

The potential impact on public confidence in the integrity of the sport

61. The MPP is one of a suite of “Integrity Policies” referred to in the CDDP which aims to set the standards of behaviour expected of those involved with the sport with a view to protecting its integrity.
62. Thus, any Prohibited Conduct has the potential to impact public confidence in the integrity of boxing in Australia; more so given Mr Pittman’s seniority and position of influence in the sport.

The views and opinion of the Complainant

63. CombatAus acted upon reports of the various incidents, which together comprised the Prohibited Conduct, from those athletes and at least one other coach who witnessed them. Those reports also formed the basis of witness statements tendered in evidence by CombatAus. The reactions by those witnessing the Prohibited Conduct can (without direct attribution) be variously summarised as follows:

*“disgusting”*

*“offensive”*

*“made me feel uncomfortable”*

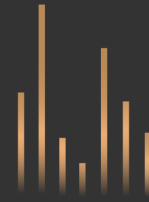
*“inappropriate”*

*“shocked”*

*“made me feel embarrassed and uncomfortable”*

*“the comments by Mr Pittman were gross...made me feel uncomfortable to be in his presence”*

*“...Mr Pittman seemed to me like he was behaving like a teenager”*



64. In short, the Prohibited Conduct which was variously described as “disgusting”, shocking, “inappropriate”, “gross” and “offensive” made those who witnessed it feel embarrassed and uncomfortable around Mr Pittman.

#### Aggravating Factors

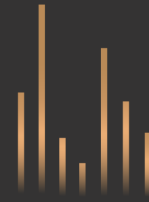
65. The Tribunal considers the conduct to be aggravated by Mr Pittman occupying senior positions within the sport including as a member of Boxing Australia’s Coaching Consultative Committee, Indigenous Advisory Committee, Selectors Committee and National Selection Panel and that engaging in the conduct comprised an abuse of Mr Pittman’s position of power or trust towards athletes who were vulnerable in the sense that they were rightly entitled to rely upon Mr Pittman to discharge his duties to them as a coach and, by engaging in the Prohibited Conduct, he failed to do so.

#### Mitigating Factors

66. The Tribunal considers the following to be mitigating factors:
- (a) apart from the events the subject of the Prohibited Conduct, Mr Pittman has had an unblemished career as both an athlete since 1999 and as a coach for the last decade;
  - (b) Mr Pittman has expressed genuine remorse for the “unease and embarrassment caused by his inadvertent and thoughtless conduct” and affirms his commitment to rectify his behaviour moving forward. He acknowledges the need for increased vigilance and is willing to undertake any necessary courses or training to ensure such incidents do not recur. He is also willing to write apologies to each of the persons that his conduct has offended;
  - (c) Mr Pittman has not contested breach;
  - (d) Mr Pittman fears that he may lose his employment as a consequence of the Prohibited Conduct;
  - (e) Mr Pittman has been very active in both the sporting and indigenous community over many years and has given freely of his time in many endeavours; and
  - (f) in so far as the character references are concerned, even allowing for the fact that some are undated, some do not reference the Prohibited Conduct and most were obtained prior to Mr Pittman conceding breach; each speak to Mr Pittman’s commitment, dedication and contribution to boxing over many years. To the extent that the character references refer to the Prohibited Conduct, such conduct is expressed to be out of character for Mr Pittman.

#### **SANCTION**

67. The Booklet provides, by way of guidance, the following sanctions for Category 2 breaches: formal conciliation and mediation; counselling; restricted duties or access; supervision and mandatory oversight; Mandatory education and program; temporary suspension from relevant event/entity/club to which the Tribunal has had regard. It is also important to note that Booklet makes plain that any sanction is not intended to punish but aimed at protecting an individual from

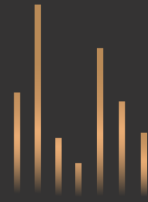


harm with a secondary aim of protecting the integrity of sport. Sanctions are also designed to provide a clear message that the behaviour is unacceptable, thereby acting as a deterrent.

68. In determining the sanction that follows, the Tribunal:
- (a) does not consider that any sanction should include a suspended portion because, having regard to Mr Pittman's antecedents, his character references and his willingness to attend counselling and appropriate courses, the Tribunal does not consider that he is likely to re-offend;
  - (b) does not consider that any additional community service is warranted given the extensive service that Mr Pittman already provides freely to the community. Any further community service, especially in the nature of 20 days (whether consecutive business days or otherwise) would unduly burden Mr Pittman; and
  - (c) has taken into account the Undertaking and Consent which, in the view of the Tribunal will provide sufficient comfort to CombatAus against the concerns that Mr Pittman may have some potential role as a coach or in some other capacity in the upcoming Olympic Games and thus, in the opinion of the Tribunal will provide a necessary and further protection against any potential harm to athletes competing at those Games.

**THE TRIBUNAL THEREFORE DETERMINES:**

69. For the reasons set out in this determination and having regard to the factors set out in clause 9.4 of the CDDP and the guidance provided by the Booklet, the Tribunal imposes the following sanction on Mr Pittman:
- (a) That Mr Pittman be suspended for a period of six (6) months from all rights, privileges and benefits provided by CombatAus, such that Mr Pittman is suspended from participating in all CombatAus activities from 9 November 2023;
  - (b) a reprimand;
  - (c) Mr Pittman is to provide written apologies to each of the team physiotherapist, Athlete A, Athlete B and Mr Nieva within 30 days of the date of the issue of this determination. Those apologies are to be communicated to the persons to whom they are addressed via the Chief Executive Officer of CombatAus; and
  - (d) Mr Pittman is to attend and complete counselling as reasonably directed by CombatAus to address the behaviours giving rise to the Prohibited Conduct with 60 days of this determination; and
  - (e) Mr Pittman is to attend and successfully complete a CombatAus approved training course on anti-discrimination, anti-harassment, anti-bullying and anti-sexual misconduct within 60 days from the date of the issue of this determination.

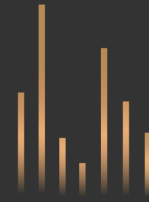


Date: 22 March 2024



Anthony Lo Surdo SC

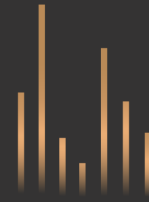




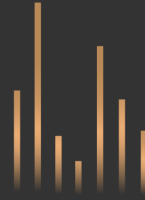
## Annexure A – Particulars of the allegations against the Applicant

The Breach Notice states the Prohibited Conduct, which the Applicant now concedes, in respect of, as follows:

Clause	Description
4(a)	Sometime between 16 to 26 July 2023, while in Thailand and participating in CombatAUS Activity, in front of other CombatAUS Activity participants, you said to Athlete E words to the effect of: <i>“You need to fuck more women to become more of man”</i> . <b>(Young athlete comment, Thailand, between 16 to 26 July 2023)</b>
4(b)	On around 26 July 2023, while on an international flight from Thailand to Australia and participating in CombatAUS Activity, in front of other CombatAUS Activity participants, you took a photograph of Athlete J as she was bent over with her back towards you and later showed that photo to Athlete B. <b>(Thailand return flight photograph, transiting international airspace, around 26 July 2023)</b>
4(c)	On around 13 October 2023, while attending training at the Assisi National Boxing Training Centre and participating in CombatAUS Activity, you said to Athlete B words to the effect of: <i>“how fucking hot are some of the girls here”</i> , implied to be about the Italian women’s boxing team. <b>(Training session comment 1, Italy, around 13 October 2023)</b>
4(d)	On around 13 October 2023, while attending the same training session as above at the Assisi National Boxing Training Centre and participating in CombatAUS Activity, you and Athlete B had a later conversation where words to the following effect were said, with implied reference to Italian women’s boxing team: <b>You:</b> <i>That one’s a good sort. I’m in love with her.</i> <b>Athlete B:</b> <i>You know the girls in here are on the under 22 team?</i> <b>You:</b> <i>They’re a bit young for me.</i> <b>(Training session comment 2, Italy, around 13 October 2023)</b>
4(e)	Sometime between 15 to 17 October 2023, while at the Assisi National Boxing Training Centre and participating in CombatAUS Activity, you said to Athlete B words to the effect of <i>“Yummy, yes please”</i> as a member of the Italian women’s boxing team walked past, within earshot. <b>(Training session comment 3, Italy, between 15 to 17 October 2023)</b>
4(f)	On around 15 October 2023, while at the Assisi National Boxing Training Centre and participating in CombatAUS Activity, you had an interaction with Athlete J regarding the Australian National Flag, whereby two other flags (the Aboriginal flag and what was recalled as either the Torres Strait Islands flag or the flag of training partners, the Cook Islands) were taken down, but Athlete J said words to the effect of <i>“Maybe I’ll just leave this one [the Australian flag] here, what’s it ever done for us anyway”</i> , to which you seemingly replied in agreeance and then made some hip thrusts towards the flag, laughing while doing so. <b>(Flag incident, Italy, around 15 October 2023)</b>
4(g)	On around 18 October 2023, while at Frankfurt Airport and participating in CombatAUS



	<p>Activity, as a woman walked past with a baby, you and Athlete B had a conversation in front of another CombatAUS Activity participant where words to the following effect were said:</p> <p><b>You:</b> <i>Oh how good is the life of a child, I wish I was that age again.</i></p> <p><b>Athlete B:</b> <i>Yeah.</i></p> <p><b>You:</b> <i>... get pushed around in a pram all day and suck titties.</i></p> <p><b>(Airport incident, Germany, around 18 October 2023)</b></p>
4(h)	<p>Sometime between 19 to 22 October 2023, while in the dining hall of the German Institute of Sport and participating in CombatAUS Activity, following a statement from Athlete D where she exclaimed out loud words to the effect of: "There's a bone in my [chicken or fish]", to which you stated words to the effect of: "There's a bone in my sausage!", immediately after which you attempted to initiate a conversation with Athlete B in front of other CombatAUS Activity participants where words to the following effect were said:</p> <p><b>You:</b> <i>Hey Athlete B, did you hear that?</i></p> <p><b>Athlete B:</b> <i>Hear what?</i></p> <p><b>You:</b> <i>Athlete D said, there's a bone in her [chicken or fish] and I said there's a bone in my sausage.</i></p> <p><b>(Bone incident, Germany, between 19 to 22 October 2023)</b></p>
4(i)	<p>Sometime between 19 to 22 October 2023, while in the dining hall of the German Institute of Sport and participating in CombatAUS Activity, you had a conversation with athlete Athlete J in front of other CombatAUS Activity participants where words to the following effect were said:</p> <p><b>Athlete J:</b> <i>Can I try one of your balls?</i> [in relation to meatballs on your dining plate]</p> <p><b>You:</b> <i>You want to taste my balls?</i></p> <p><b>(Meatball incident, Germany, between 19 to 22 December 2023)</b></p>
4(j)	<p>On around 21 October 2023, while in a gymnasium-based strength and conditioning training session in Germany and participating in CombatAUS Activity, you gave Athlete C a 'lap dance' or otherwise moved your hips and buttocks suggestively in thrusting sequences while Athlete C was using a stationary machine, saying to Athlete C words to the effect of: "Sexual activity improves performance".</p> <p><b>(Gym lap dance incident, Germany, around 21 October 2023)</b></p>
4(k)	<p>On around 26 October 2023, while in the German Institute of Sport dining hall and participating in CombatAUS Activity, you initiated a conversation with Athlete B where words to the following effect were said:</p> <p><b>You:</b> <i>Hey Athlete B, how are you, are you alright?</i></p> <p><b>Athlete B:</b> <i>I'm alright thanks.</i></p> <p><b>You:</b> <i>Have you heard anything about me?</i></p> <p><b>Athlete B:</b> <i>Yeah, we can talk later about it.</i></p> <p><b>You:</b> <i>When, now?</i></p> <p><b>Athlete B:</b> <i>No, later, we can go grab a coffee later.</i></p> <p><b>You:</b> <i>Is it about me or Marcos, or me and him?</i></p> <p><b>Athlete B:</b> <i>Can we talk later; I don't want to talk about it right now.</i></p> <p><b>You:</b> <i>I have a meeting with Santiago in 15 minutes, I need to know. Is it about the sausage comment?</i></p> <p><b>Athlete B:</b> <i>I was approached and asked if I heard anything at the airport, and I told the truth – I</i></p>



*heard what you said at the airport.*

**You:** *At the airport, what airport?*

**Athlete B:** *Germany. I said about the baby.*

**You:** *I don't remember what I said.*

**Athlete B:** *Look I was honest, just like I'm being honest to you now.*

**You:** ***Athlete B** they want to send me home.*

**(Dining hall discussion, Germany, around 26 October 2023)**