Arbitration CAS 2014/A/3537 Vernon Manilal Fernando v. Fédération Internationale de Football Association (FIFA), award of 30 March 2015

Panel: Prof. Luigi Fumagalli (Italy), President; The Hon. Michael Beloff QC (United Kingdom); Prof. Ulrich Haas (Germany)

Football
Breaches of the FIFA Code of Ethics
System of the FCE regarding applicable law
Evidence and standard of proof
Interpretation of bribery under the FCE
Secret voting
Duty of cooperation and privilege against self-incrimination
Sanction

1. **In general, the point of departure regarding the applicable law is the rule in force at the time the alleged offence was committed: any new rule, in force at the time of any proceedings based on that alleged offence, does not apply retroactively unless the *lex mitior* principle so commands. In other words, under such traditional perspective, the new rule does not apply unless it is more favourable to the accused. Conversely, the FIFA Code of Ethics (FCE) prescribes that it applies retroactively, unless its rules are less favourable than those previously in force.**

2. **Under the FCE, it is for FIFA to prove that a party committed an alleged offence. The applicable rules provide that the hearing body needs not establish the objective truth in relation to a certain fact for the latter to be or not to be found. In line with Swiss Civil procedure, the FCE provides that judgments and decisions must be taken "on the basis of the personal convictions" of the members of the body hearing a case. In other words, the FCE, in the same way as Swiss law, makes reference to the "subjective truth". When arriving at its conclusions a CAS panel needs to consider all elements submitted by the parties and adduced at the hearing and to assess and weigh the totality of the evidence, having in mind the particularities of the case. The more detailed are the factual allegations, the more substantiated must be their rebuttal. Emails relied on by FIFA for the charges which are drafted in clear wording must presumptively be given their natural meaning. It therefore falls to the other party to contest the facts and to rebut any inferences which might otherwise be drawn. The onus of proof remains on FIFA, but the evidential burden of contesting the facts submitted by FIFA and adducing evidence shifts.**

3. **Article 12 of the FCE should be interpreted as covering bribes given by one officer of FIFA to another officer of FIFA and not only to external third parties. This interpretation applies irrespective of which version of the FCE comes into play. In**

relation to the need for a link between payment and advantage gained, the timing of promise, not payment is decisive. Bribery occurs when one enters into an agreement to bribe and payment could be agreed to be paid before but actually paid after the event to which it relates.

4. **The fact that delegates are allowed to vote in secret does not preclude them from disclosing afterwards for whom they voted. However, the mechanism of secret voting is to protect delegates' freedom to vote as they wish and to guard them against undue influence. While a person may choose to disclose to others how he voted in an election, this is something freely done which has no impact on the individual's right to vote how he chooses.**

5. **The general duty of co-operation is important in disciplinary systems, particularly since sporting authorities find means of proof of offences difficult to come by. For that reason, sporting bodies can properly put rules and provisions into place for failure to cooperate. While the importance of people complying with their obligation to cooperate with investigations must be stressed, ordinarily failure to co-operate so as to avoid self-incrimination should not be treated as a separate offence from the substantive offence since this would involve an element of double counting.**

6. **An important message for all members of the sporting community, acting in whatever capacity, is that if one is involved in bribery then one may expect to exile from the sport. For this reason, a finding of bribery presumptively attracts the maximum sanction i.e. a life ban from taking part in any kind of football-related activity at national and international level (administrative, sports or any other).**

I. PARTIES

1. Mr Vernon Manilal Fernando (the "Appellant") is a Sri Lankan national and a non-practising lawyer. Prior to the decision under appeal, he was involved in football administration, including as a member of the executive committees of the Asian Football Confederation ("AFC") from 1979-2013, and the Fédération Internationale de Football Association ("FIFA") from 2011-2013. The Appellant is also a former board member of Holcim Ltd.

2. FIFA (the "Respondent") is an association under Swiss law and has its registered office in Zurich, Switzerland. FIFA is the international governing body of football. It exercises regulatory, supervisory and disciplinary functions over continental confederations, national associations, clubs, officials and players worldwide.

A. Background Facts

3. Below is a summary of the main relevant facts, as submitted by the parties in their written pleadings and adduced at the hearing. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

4. The dispute centres on events related to the election at the 2009 AFC Congress, for one of the AFC seats on the FIFA Executive Committee. Specifically, it is alleged that the Appellant acted in breach of the FIFA Code of Ethics, 2012 edition ("FCE") on a number of counts.

5. Two candidates contested the election: A. (the outgoing delegate) and B.

6. On 8 May 2009, A. was re-elected to the FIFA Executive Committee by a margin of 23 votes to 21, with two votes excluded as invalid.

7. On 12 May 2009, the Appellant sent an email to X. (A.'s assistant) marked "strictly private and confidential", which read in relevant part:

"X. – Pls forward this URGENTLY to A.
Thank you.
Dear A.,
… I am happy that in a small way myself and my team from Sri Lanka stood with you and was able to help you in achieving your goals. At the end of an Election many people will claim that they voted for you, but I am only 100% sure of the following:
1. Sri Lanka
2. India
3. Bangladesh
4. Nepal
5. Afghanistan
6. Pakistan
7. Uzbekistan
8. Iran
I am sure of Pakistan and Afghanistan because I sent a Mobile Phone and both photographed the ballot paper inside the booth and showed it to me…".

8. On an unknown date before 25 May 2009, the Appellant gave Y., the general secretary of the All India Football Federation ("AIFF"), an envelope containing US$ 20,000 in cash. The reason why the Appellant gave this money to Y. is disputed and will be considered below.

9. On 25 May 2009, the Appellant sent another email to X., which read in relevant part:

"My dear X.,
Just a small matter which I discussed with D.

1. When I went to India I gave Y. US$ 20,000/- as a gift.
I mentioned this to D. and he wanted me to give it.
2. One Air Line bill of the Tajikistan party – Colombo/KL was unpaid
as they travelled only after D. and A. left by
Srilankan Airlines
I am in no hurry for this money and I will collect it from D. in July
when I come for the AFC Exco Meetings. If it is OK with him.
I was with Alberto when you called him regarding Kaleel travelling to Nassau.
Copy of scaned [sic] *Travel Invoice is attached.*
Kind regards
Manilal"

10. On 7 June 2009—in reply to the Appellant's email of 25 May 2009—X. responded as follows:

"Dear Mr Manilal
I forgot to tell you this in Doha. The payment has been transferred to your account last week and please find attached the bank receipt to check with your bank.
Regards
X.".

B. Proceedings before FIFA

11. On 27 September 2012, the Appellant was interviewed by the Chairman of the Investigatory Chamber of the FIFA Ethics Committee with respect to investigation into allegations of corruption against A., not related to the 2009 AFC election. Subsequently, disciplinary proceedings were opened against the Appellant himself, for possible breaches of art. 13, 18, 19, 20, 21 and 42 of the FCE in relation to the 2009 AFC election.

12. On 11 March 2013, the Chairman of the Adjudicatory Chamber of the FIFA Ethics Committee provisionally banned the Appellant from taking part in any kind of football-related activity at national or international level (to include administrative, sports or any other type of activity).

13. On 11 March 2013, the Chief of Investigation filed the following charges against the Appellant:

1. Interference with Election for FIFA's Executive Committee

The Appellant instructed certain delegates at the May 2009 AFC Congress to take photographs of their ballots—in an election to be conducted by secret ballot—in order to confirm that those delegates voted to elect the Appellant's preferred candidate to the FIFA Executive Committee, conduct the Appellant subsequently described in an email message to the candidate, in violation of FCE art. 13(1)-(4); art. 19(1)-(3); art. 21(1) and (2); and analogous provisions of the 2006 edition of the FIFA Code of Ethics ("2006 FCE").

2. *Cash Payment to Football Official*

   Before or shortly after the election for the FIFA Executive Committee held at the May 2009 AFC Congress, the Appellant delivered approximately $20,000 in cash to a football official who voted for the Appellant's preferred candidate in that election, and the Appellant subsequently requested and received reimbursement for that payment from the candidate, in violation of FCE art. 13(1)-(4); art. 19(2)-(3); art. 20(1)-(2) and (4); art. 21(1) and (3); and analogous provisions of the 2006 FCE.

3. *Solicitation and Acceptance of Cash Payment from Football Official*

   Shortly before the January 2011 AFC Congress, the Appellant solicited and accepted a cash payment of approximately $20,000 from a candidate in the AFC Congress election for the AFC Executive Committee, in exchange for the Appellant's promise to influence the election in that candidate's favour, in violation of FCE art. 13(1)-(4); art. 19(2)-(3); art. 20(1)-(2) and (4); art. 21(1) and 3; and analogous provisions of the 2006 FCE.

4. *False Statements to Ethics Committee*

   In September 2012, the Appellant knowingly made three material false statements in connection with Ethics Committee proceedings against another party, in violation of FCE art. 13(1)-(3); art. 18(2); and art. 42(1)-(2).

5. *Attempt to Block These Proceedings Through Official Action*

   In January 2013, the Appellant attempted to obstruct these proceedings through official action he purportedly sought to take on behalf of the AFC, in violation of FCE art. 13(1)-(4); and art. 19(1)-(3).

14. On 30 April 2013, with grounds communicated on 10 July 2013, the Adjudicatory Chamber of the FIFA Ethics Committee found the Appellant guilty of having infringed art. 13 (General rules of conduct), art. 19 (Conflict of interests), art. 20 (Offering and accepting gifts and other benefits), and art. 21 (Bribery and corruption) of the FCE. The Appellant was banned from taking part in any kind of football-related activity for a period of 8 years, from 11 March 2013.

15. Both the Appellant and the Chief of the Investigation filed appeals against the decision of the Adjudicatory Chamber. The FIFA Appeal Committee ("AC") heard both appeals together

16. On 9 October 2013, with grounds communicated on 11 March 2014, the AC confirmed the findings of the Adjudicatory Chamber in relation to a violation of art. 13, 19, 20 and 21 of the FCE, and also found that the Appellant had violated art. 42 (General obligation to collaborate) of the FCE.

17. In imposing a sanction, the AC noted that the Appellant had committed more than one breach of the FCE and referred to art. 11 par. 1, which provides that the sanction would be based on the most serious breach and increased as appropriate depending on the specific circumstances.

18. The AC held that the most serious breach committed by the Appellant was the violation of art. 21 (Bribery and corruption). Taking into account all the circumstances of the case and the destructive nature of corruption in sport, the AC banned the Appellant from taking part in any

kind of football-related activity at national and international level (administrative, sports or any other) for life, from 11 March 2013 ("AC Decision").

II. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

19. On 28 March 2014, the Appellant filed his statement of appeal at the Court of Arbitration for Sport (CAS) pursuant to art. R48 of the Code of Sports-related Arbitration ("CAS Code"). In his statement of appeal, the Appellant requested the following relief:

    1. *The annulment of the Decision of the Appeal Committee (A-1 and A-2) as well as any findings adverse to the Appellant in that of the Adjudicatory Chamber;*
    2. *The setting aside of the convictions on each of the charges 1, 2 and 4 and recording verdicts of not guilty.*
    3. *In the event that the convictions are not set aside, the substitution of a fair and proportionate sanction in place of the life ban, taking into account that the Appellant has already been suspended from all football related activity since the commencement of the proceedings on 11th March 2013.*
    4. *The Respondent shall bear the costs of the proceedings below and in this arbitration. The Respondent shall pay to the Appellant a contribution towards his legal fees and other expenses incurred in connection with the proceedings to be determined at the end of this arbitration. This should also include the costs of the Appellant before the Adjudicatory Chamber and the FIFA Appeals Committee (including reimbursement of the CHF 3,000 paid pursuant to the Decision).*

20. On 8 April 2014, pursuant to art. R51 of the CAS Code, the Appellant filed his appeal brief. In his appeal brief, the Appellant repeated his request for relief.

21. On 14 May 2014, pursuant to art. R55 of the CAS Code, FIFA filed its answer. It requested the CAS to issue an award:

    A. *Rejecting Mr Fernando's prayers for relief.*

    B. *Confirming the Decision under appeal.*

    C. *Ordering Mr Fernando to pay a significant contribution of no less than CHF 50,000 towards the legal fees and other expenses incurred by FIFA in connection with these proceedings.*

22. By letter dated 27 May 2014, the parties were advised that the Panel appointed to hear this appeal was constituted as follows: Prof. Luigi Fumagalli (President); the Hon. Michael J. Beloff QC and Prof. Ulrich Haas (Arbitrators). Mr Beloff and Prof Haas made appropriate disclosures to the parties regarding their independence, but no party raised any objection to the constitution of the Panel.

III. THE HEARING

23. By letter dated 25 August 2014, the parties and their witnesses were called to appear at the hearing to be held on 20 November 2014.

24. On 14 November 2014, the Appellant filed a chronology of events with the CAS. On the same day, the Respondent objected to the filing of the chronology, which it considered an unsolicited filing, in breach of art. R56 of the CAS Code.

25. On 20 November 2014 the hearing in this matter was held at the CAS headquarters in Lausanne. The Panel was assisted at the hearing by Mr Brent J. Nowicki, CAS Legal Counsel, and Ms Louise Reilly, *ad hoc* clerk

26. At the outset of the hearing, the Panel advised the parties that it would accept the chronology submitted by the Appellant into the record as an aide memoire, but that the fact that it did, did not mean that the Panel accepted all the details contained therein.

27. The Appellant attended the hearing in person and was represented by Mr Nithi Murugesu, Mr Anil Tittawella PC, Mr Hodge M. Malek QC, and Mr Andrew Tabachnik. FIFA was represented at the hearing by Dr. Antonio Rigozzi and Mr William McAuliffe.

28. The following witnesses gave evidence at the hearing:

By telephone:
1. E.
2. F.
3. G.
4. H.
5. J.

In person:
6. K.
7. Mr Nithi Murugesu
8. M.

The Appellant was also questioned by the Panel and counsel during the evidential part of the hearing.

A. E.

29. E. has been the General Manager of the Z. Hotel in Colombo, Sri Lanka for 11 years. He made a written statement and gave evidence in relation to invoices regarding payments made by the Appellant, which were apparently settled in cash and amounted to approximately US$ 11,242.46.

B. F.

30. F. owns F. Travels and Tours, a company which specialises in hiring out luxury vehicles. He made a written statement that the Appellant's secretary paid in cash (Sri Lankan rupees) for the hiring of 15 luxury jeeps in April 2009. At the end of F.'s evidence, the Panel clarified that it was common ground that the date of payment was 5 May 2009.

C. G.

31. G. is an accountant by profession. He made a written statement and gave evidence regarding the Appellant's tax returns 2007/2008—2011/2012.

D. H.

32. H. is a wedding planner and works for Explorers Travel and Tours. She made a written statement and gave evidence about the nature and custom of Indian wedding gifts. H. was not involved in planning Y.'s son's wedding, does not know the family and did not know anything about the event in question. Based on cultural traditions in India, she estimates that weddings cost from $1 million to $3 million as they are elaborate 3-4 day celebrations. She testified that it is normal to give gifts in cash to help the family meet wedding expenses and people operate on a cash basis. H. testified that there is no rule on what amount people give but that it would be an insult to be offered a gift and not accept it. Traditionally and culturally it is very rude to say "no" to a gift, and it would be a huge offence to refuse a gift from an important person.

E. J.

33. J. was appointed President's Counsel (Sri Lankan equivalent of the rank of Queen's Counsel in the United Kingdom) in 1991 and is a former director of Holcim Ltd. He made a written statement and gave evidence to provide a character reference for the Appellant. He testified that under the Appellant's tenure, Holcim went "from strength to strength". He is aware of media articles regarding the negative corporate image of Holcim and allegations of corruption against the Appellant, but has no personal knowledge bearing on the truth or otherwise of such reports.

F. K.

34. K. is the Appellant's assistant. He made a written statement and gave evidence that he handled the expenses for A.'s trip to Colombo at the end of April 2009. K. testified that he was mainly involved in planning people's travel details, including sight seeing and shopping. He also dealt with hotels and car hire, although he was not involved in making payments. His job was to collect bills and send the invoices to the Appellant's office. He cannot remember whether he sent the invoices to the football federation of Sri Lanka or Holcim. He collected all of the bills personally in Colombo, except for the invoice for vehicle hire which was faxed to his hotel in Kuala Lumpur. K. testified that he gave the bills to A.'s assistant, X., and asked him to reimburse the Appellant. K.'s recollection was that the invoices amounted to about $20,000.

G. Nithi Murugesu

35. Mr Murugesu was part of the Appellant's legal team at the first-instance proceedings before FIFA. He made a written statement and gave evidence regarding a "secret pre-hearing" apparently held the first day of the AC hearing on 8 October 2013. Mr Murugesu testified that the morning of the hearing, he and the other members of the Appellant's legal team were shown into the hearing room. He testified that they were surprised to see three members of the Investigatory Chamber already sitting there and apparently discussing the case with the members of the AC. Neither the transcript nor the oral recording of the hearing reveal the content of such meeting, which a FIFA representative described in subsequent correspondence to Mr Murugesu as being held purely for administrative reasons. The FIFA representative also stated in correspondence that only one of the three members mentioned by Mr Murugesu was present in the room prior to the hearing. Mr Murugesu confirmed that he did not make any objection at the time as he and his co-counsel decided not to run the risk of provoking the AC. However, he believes that this pre-hearing gave rise to a lack of independence or impartiality on the part of the AC.

H. Vernon Manilal Fernando

36. Vernon Manilal Fernando, the Appellant, made a written statement and answered questions of the Panel and counsel during the hearing. In his written statement, the Appellant stated that at the end of April 2009, he organised a banquet in Sri Lanka for A., the purpose of which was for A. to canvass votes for the upcoming election. The Appellant said he bore the costs of the banquet, including hotel accommodation, a banquet on 28 April 2009, and the hiring of jeeps. The Appellant said the cost amounted to approximately US$ 20,000 which he paid and then provided the bills to A.'s assistant, X., for reimbursement. The Appellant said he also paid for return flights for the Tajikistan delegation which amounted to just over US$3,000.

37. The Appellant stated that after the elections in May 2009, he sent an email to A. so that the latter would know who voted for him. In response to a question whether the 12 May 2009 email described as a "puff" was actually an untruth, the Appellant replied that he believed it was harmless. He wanted to prove that the Pakistani (N.) and Afghan (O.) delegates had voted for A., so that those countries would be treated first when it came to aid programmes. The Appellant denied that he gave anyone a mobile phone.

38. The Appellant explained that he and Y. are close friends, but for Y. A. is a "big boss" and Y. would never accept a gift from him. The Appellant stated that he put US$20,000 cash in an envelope and gave it to Y. at a dinner in India between 16-18 May 2009. The purpose of the gift was to help with Y.'s son's wedding expenses. The Appellant referred to the amount of US$20,000 as "peanuts" in his interview with the FIFA Investigatory Chamber, by which he meant that he did not consider US$20,000 to be a disproportionately large sum to give as a wedding gift, and that he could afford to make it. He visited India 5-7 times in 2009. On these visits, he would contact Y. to see how AIFF was faring, and they also met at the Congress in Colombo.

39. In relation to the email of 25 May 2009, the Appellant stated that A. wanted to know how much the Appellant gave as a wedding gift to Y.'s son, because A. wanted to "match it", *i.e.,* give the same amount. The Appellant said he told A. that Y. would be reluctant to take money directly from him, so the Appellant would give Y. $20,000 and A. would reimburse him that amount in July. The Appellant stated that was what he was referring to in his email and that he mentioned the airway bill so that A. would know it was outstanding.

I. M.

40. M. is a Swiss lawyer who co-signed 3 legal opinions on Swiss law and was called as an expert by the Appellant. His area of expertise is sports law. The gist of his evidence is that there is sport disciplinary law in general, which has a legal regime defined by case law, and there rare particular provisions under the FCE. M.'s evidence was that sport anti-corruption bodies do not have more powers than anti-doping bodies, but can compel witnesses and parties to appear and have the power to impose a sanction up to a life ban if a party does not cooperate; he believes that anti-corruption bodies traditionally have more coercive powers than sports bodies. M. stated that where there is a lacuna in any such regime and that it has to be filled with provisions of criminal or civil rules of procedure. Counsel for FIFA pointed out that the only limitation on arbitrators in this regard is procedural public policy, which was not discussed in the legal opinion.

41. M. agreed that fair trial rights in the European Convention on Human Rights ("ECHR") form the minimum standard, and that in principle sports tribunals fall within the first part of art. 6 of the ECHR. However, in his opinion there are basic standards that apply in sports disciplinary cases and that with more coercive powers come more protective rights. M. ventured the opinion that there is a balance to be struck between the interests of sports associations to implement the rules they want and the interests of parties, subject to such rules, to be protected from unfairness.

J. Conclusion of the hearing

42. The Appellant's statement: the Appellant made a statement at the end of the hearing to tell the Panel that the FIFA decision has devastated him professionally. He has become the biggest corrupter in the eyes of the public and cannot work in publicly quoted companies. The decision also affects his family members. He has never before had allegations made against him. He challenged the allegations before every available instance, right up to CAS. He provided all his bank account details to FIFA for 2009-2014 and they did not find a single penny from A. related to football.

43. At the conclusion of the hearing, the Panel directed that the parties file post-hearing legal submissions. On 10 December 2014 the parties filed their post-hearing submissions. On 18 December 2014 the parties filed their reply post-hearing submissions.

IV. SUBMISSIONS OF THE PARTIES

44. The Appellant submits that the relevant standard of proof was that the prosecution must make out its charge to the standard of "personal conviction" (art. 51 FCE) and the burden throughout must be on the prosecution to prove its case (art. 52 FCE) and not on the defence to disprove that case to the requisite high standard.

45. The Appellant's submissions, in essence, may be summarised as follows:

A. The Allegation as to photographing ballots for the May 2009 FIFA Executive Committee election

46. The Appellant denies that he exercised undue pressure on O. or N. to photograph their ballots. The Appellant's explanation is that his email of 12 May 2009 is a "puff", designed to give A. comfort that the delegates from Afghanistan and Pakistan voted for him in the election. These soldiers were unlikely candidates to accept instructions from the Appellant.

47. N.'s interview makes it clear that FIFA was looking for evidence against the Appellant. N. was told he was just a witness but he was never asked whether he voted for A. The Chief Investigator carried out a misleading examination of N. by informing him that the Appellant had admitted that he had given N. a phone and had asked him to take a photo of his ballot, whereas in fact he had made no such actual admission. N. denied photographing his ballot and confirmed that he received no money or gifts from the Appellant or A. O. for his part was so indignant at the suggestion that he had photographed his ballot that he wanted to sue the Appellant.

48. There can be no confidence that the evidence was collected fairly or that the Investigatory Chamber carried out its investigation fully. The Appellant submitted it was improbable that two men in senior positions, with no previous convictions would have committed such an offence. Furthermore, it was significant that no proceedings or investigations were opened against them.

49. In the run up to the election there was a rumour that photos would be taken and B. was concerned about cameras above the booths. One could expect certain precautions would be taken, which would have a deterrent effect on anyone who had intended to take photos. No photos of ballots were ever produced and there was no suggestion that the photos were taken. If the events in the email had really happened, the Appellant would have shown A. on his phone at the time at the Congress. Had they all been engaged in improper conduct, there would have been no point in keeping that secret until 12 May 2009.

50. The Appellant's counsel submits that two legal issues arise in connection with this charge: whether there is a proper basis for concluding that there have been violations of art. 13(1)-(4) and /or 19(2) of the FCE; and FIFA's new case (i.e., that even a "puff" constitutes a violation of the FCE) in the alternative. The Appellant's counsel submits that if the factual situation is as the Appellant contends, there is no breach of the above-mentioned articles. The Appellant's counsel relies on *CAS 2009/A/1914* to support his position that FIFA could not bring into this appeal matters (such as its new case) with which the Appellant had never been charged.

B. The allegation as to the payment of US$20,000 to Y. as a reward for voting for A. at the May 2009 AFC Congress

51. The Appellant's counsel submits that the 25 May 2009 email cannot be looked at in isolation, but has to be read in conjunction with or in the context of the evidence of Y., A., the Appellant's own evidence, and other witnesses who spoke of the generosity of the Appellant. The tradition in India is that family and very close friends will give money to help families finance weddings, as there is social pressure to host expensive affairs.

52. The AC Decision states that Y. personally secured the vote for A. However, the unanimous view of the AIFF was that they would support A. and Y. was bound and mandated by his federation to follow their resolution. As regards an email from Y. to A., the Appellant submits there is nothing wrong with Y. saying he supported A., as his whole federation did. The Appellant's counsel pointed out that no attempt appears to have been made to interview R., President of the AIFF, who, the Appellant's counsel submits, would have been a key witness in relation to this charge. R. was a strong supporter of A. and there is no suggestion he was acting improperly in any way.

53. It has never been disputed that US$20,000 was paid to Y.; the Appellant admitted it immediately and explained that it was a wedding gift. The Appellant's counsel submits that bribery cannot occur if the recipient does not realize he is being paid to do something. Both Y. and the Appellant say the US$20,000 was a wedding gift. Furthermore, both Y. and the Appellant are of Indian culture and close family friends going back many years. The Appellant is a wealthy man and to gift US$20,000 to a family friend is within his means. Counsel also points to other evidence of people the Appellant has helped, including a friend who needed a liver transplant to whom the Appellant gave US$50,000. So far as Y. was concerned, the money had nothing to do with the elections. It was not suggested that anyone else was given a payment and there was no evidence why AIFF needed a bribe (as they had already decided unanimously to support A.).

54. Counsel submits that the payment was made when the Appellant went to India from 16-18 May 2009. This trip is evidenced by a stamp in the Appellant's passport which was not disputed. The Appellant's submission is that it is clear that if there was a bribe, the logical time to pay Y. was before the election, and not during the visit of 16-18 May 2009. Counsel submits that if there was no reimbursement from A., there is no bribery as the money was received as a gift. There must be an improper act and Y. must have received the money in expectation of doing a wrongful act. So far as Y. was aware, he was receiving a gift.

55. In relation to the 7 June 2009 email, the counsel submits that it is quite common to reply to the last email received from someone. The Appellant's counsel questions whether a bribe would be sent by a wire transfer given that such transfer is traceable. A bribe could easily be repaid to the Appellant in Doha. The Appellant's case is that US$23,000 was paid in reimbursement of expenses for the event in Colombo at the end of April 2009. Counsel submits that the expenses are proven through the witnesses' evidence.

56. Counsel also points to a letter from A.'s lawyers date 9 November 2012, which he submits is clear evidence from A. why the US$23,000 was paid. The only payment identified from A. was

US$23,000. If is correct that the reimbursement was for a bribe, then it would follow that the Appellant was never reimbursed for the expenses incurred in April 2009.

57. The Appellant's counsel submits that for a case of bribery to exist, the undue payment and/or promise must be committed before the wrongful act; there must be a purposive link. The Appellant's counsel also points out that there is no equivalent of art. 21(3) in the 2006 FCE, and therefore that no violation can be found pursuant to art. 3 of the FCE. In any case, the Adjudicatory Chamber found no breach of art. 21(3) of the FCE and there was no appeal to the AC: as a result, CAS has no jurisdiction in relation to the relevant charge.

C. The allegation as to alleged false statement to FIFA investigators in September 2012

58. Charge 4 alleges that the Appellant made three false statements:

1. Denied giving mobile phones;
2. Not reimbursed for gift to Y.; and
3. Did not know that P. was associated to A.

59. Counsel submits that this all falls short of proving that the Appellant lied. Counsel also submits that the way in which the Appeal Committee dealt with the P. allegation was disturbing, as the AC had no jurisdiction over it. The Appellant's counsel submits that the fact that FIFA is requesting a sanction under art. 21(3) – even though there was no appeal on this point and no offence under the 2006 FCE – is unfair, duplicitous, and offends the principles of due process. It goes against the principles of art. 6 of the ECHR for someone to be charged with both a substantive offence and also an offence of denying the charge. Counsel submits that the Appellant was a suspect from the outset of the FIFA investigation and should have been made a party. In short he was the victim of an ambush.

60. Counsel referred to M.'s opinion that if someone does not realize he is being been treated as a suspect, any adverse information collected at that time cannot be used against him.

61. Counsel submits that this charge should be dismissed for being a violation of the right against self-incrimination. Counsel also questions whether the AC had jurisdiction to consider this charge, and accordingly, whether CAS has jurisdiction in this respect.

D. The Appeal Decision was the result of a flawed investigation by the Investigatory Chamber and/or a flawed and unfair process before the Adjudicatory Chamber and Appeal Committee

62. The Appellant submits that his affirmation to FIFA dated 28 September 2012, was given after he was interviewed under compulsion. He was not told that he was a suspect, even though FIFA believed the emails were conclusive of his guilt. The Appellant's first right of defence was infringed; he should have been made a party if FIFA had inculpatory material against him. If that had happened, the Appellant could not have been prosecuted for giving a false answer and he would have had legal representation.

63. Counsel submits that the manner in which O. and N. were questioned by the Investigatory Chamber was misleading, and that the treatment of Y.'s interview was also selective and unfair.

E. Sanction

64. Counsel submits that the life ban imposed was based on a finding of bribery and that if bribery is not proved, time served would be more than a sufficient punishment. The sentence imposed is the harshest sentence possible. Counsel submits that the charges are not at the most severe level and do not deserve the most severe sentence. Before the Adjudicatory Chamber hearing, the Appellant was offered a plea bargain of 5 years if he did not contest the charges.

65. Football is central to the Appellant's life. He has worked tirelessly for football. Since his sanction, he has been shunned and treated like a leper. He does a vast amount of charitable work. He accepts that the "puff" was a stupid thing to send. On any view, the Appellant has not himself received anything as a result of any misconduct – the votes were for A.

66. In the Appellant's case, there is no risk of a repetition. He realises he will never return to the FIFA Executive Committee. His future and legacy is in the Panel's hands. The Appellant requested that the Panel take into account the conduct of the proceedings and the consequences of the ban.

67. FIFA's submissions, in essence, may be summarised as follows:

68. FIFA submits that Y. is a good friend of the Appellant's and his family, and that for such reason he backed the story that the US$20,000 gift was not related to the election. The Appellant tries to undermine the role of Y. in the vote, but Y. was central as far as the vote was concerned. FIFA referred to emails in February and March 2009, in which Y. mentioned the AIFF voting for A. and arranged that Y. would attend the Congress in Kuala Lumpur as the AIFF's voting delegate. Y. met A. in advance of the election and assured him that he supported him.

69. In relation to the email of 25 May 2009, FIFA submits that it now seems clear that the claim for the reimbursement for the air tickets was correctly made. However FIFA submits that the entire wedding gift theory to explain the rest of the email is not convincing and is a desperate excuse. FIFA also submits that the e*x post* production of invoices, which magically add up to about US$20,000, must be considered in context and assessed for what it is. FIFA's case is that the invoices are particularly convenient and coincidental. FIFA submitted that the Panel would have to assess based on the evidence heard during the hearing whether it was even convinced that the invoices were legitimate.

70. In relation to the email of 12 May 2009, FIFA submits that by the Appellant's own admission, taking a picture of ballots is interfering with the democratic process. If there was a picture of a ballot, that is a violation of the FCE. FIFA submits that there is contemporaneous evidence that photos were taken. FIFA questions why the Appellant needed to "puff" about the vote if the previous vote of Afghanistan and Pakistan was clear. FIFA submits that there was no reason to come up with a "puff", particularly if by doing so one is making a false statement that can cause trouble for other people.

71. FIFA notes that the email was carefully drafted, the email was structured, and it was marked "confidential". It sets out who definitely voted for A., who might have and who did not. FIFA questions why the Appellant would take the risk to incriminate two delegations and himself. In relation to N. and O., FIFA submits that their status as military men is irrelevant to the plausibility of the allegations made as to their involvement.

72. On the issue of sanction, FIFA submits that if the Panel accepts Charge number 2, there can be no discussion but that this is a life ban. FIFA compared the case to CAS 2010/A/2172, no. 74 et seq. where a life ban was confirmed.

73. FIFA submitted that it offered cooperation for N. and O. to attend the hearing, but it was never followed up by the Appellant. FIFA requested that the Panel look at the evidence and put aside as immaterial arguments based on fairness. The Appellant had the opportunity to give an explanation and the case does not turn on the burden of proof, but rather with assessment of the evidence.

V. ADMISSIBILITY

74. The grounds of the Appeal Committee decision were notified to the Appellant on 11 March 2014. On 28 March 2014, the Appellant filed his appeal, *i.e.*, within 21 days of receipt of the challenged decision. The Respondent has not raised any issue with the timeliness of this appeal. Pursuant to art. R49 of the CAS Code, the Panel is satisfied that the appeal was filed in due time and is admissible

VI. JURISDICTION

75. The Appellant relies on art. 67(1) of the FIFA Statutes as conferring jurisdiction on the CAS. Both parties signed the Order of Procedure, by which FIFA confirmed that it did not contest the jurisdiction of the CAS. Accordingly, pursuant to art. R55 of the CAS Code, the Panel is satisfied that it has jurisdiction to hear this case.

VII. APPLICABLE LAW

76. The Panel shall decide this dispute according to the applicable FIFA rules and regulations, pursuant to art. R58 of the CAS Code. The Appellant is charged with breaching various provisions of the FCE. An issue raised by the Appellant is that art. 21 of the FCE, which deals with bribery, is substantially different from art. 12 of the 2006 FCE, which was the rule in force when the alleged bribery took place. The text of both rules is set out in full:

Article 12, 2006 FCE—Bribery

Officials may not accept bribes, in other words, any gifts or other advantages that are offered, promised or sent to them to incite breach of duty or dishonest conduct for the benefit of a third party shall be refused.

Officials are forbidden from bribing third parties or from urging or inciting others to do so in order to gain an advantage for themselves or a third party.

Article 21, FCE—Bribery and corruption

1. Persons bound by this Code must not offer, promise, give or accept any personal or undue pecuniary or other advantage in order to obtain or retain business or any other improper advantage to or from anyone within or outside FIFA. Such acts are prohibited, regardless of whether carried out directly or indirectly through, or in conjunction with, intermediaries or related parties as defined in this Code. In particular, persons bound by this Code must not offer, promise, give or accept any undue pecuniary or other advantage for the execution or omission of an act that is related to their official activities and is contrary to their duties or falls within their discretion. Any such offer must be reported to the Ethics Committee and any failure to do so shall be sanctionable in accordance with this Code.

2. Persons bound by this Code are prohibited from misappropriating FIFA assets, regardless of whether carried out directly or indirectly through, or in conjunction with, intermediaries or related parties, as defined in this Code.

3. Persons bound by this Code must refrain from any activity or behavior that might give rise to the appearance or suspicion of improper conduct as described in the foregoing sections, or any attempt thereof.

77. The Panel notes that in general the point of departure is the rule in force at the time the alleged offence was committed: any new rule, in force at the time of any proceedings based on that alleged offence, does not apply retroactively unless the *lex mitior* principle so commands. In other words, under such traditional perspective, the new rule does not apply unless it is more favourable to the accused. Conversely, the FCE prescribes that it applies retroactively, unless its rules are less favourable than those previously in force: FIFA starts with the rule in force and looks at whether the previous rule is more favourable. The Panel considers that there is no material difference between the substance of the previous and the present rules as regards the charges in question, but rather of the proper interpretation of either (see below para. 84).

VIII. MERITS

78. In order to determine this appeal, the Panel must decide which of the evidence produced during these proceedings and outlined above it prefers bearing in mind always that the burden of proof lies upon the Respondent to make good the charges to the appropriate standard discussed below.

A. Evidence and standard of proof

79. It is for FIFA to prove that the Appellant committed the alleged offences (art. 52 FCE).

80. The applicable rules provide that the hearing body needs not establish the objective truth in relation to a certain fact for the latter to be or not to be found. Rather – and in line with Swiss Civil procedure (see art. 157 CCP) – the applicable rule (art. 51 FCE) provides that judgments and decisions must be taken "on the basis of the personal convictions" of the members of the body hearing a case under the FCE. In other words, the FCE, in the same way as Swiss law,

makes reference to the "subjective truth", i.e. to the perception of the member of the hearing body of the truth of an assertion. The question, however, is what degree of personal conviction is necessary in order to accept a certain fact as given or not (i.e., standard of proof). The applicable rules do not describe the applicable standard of proof. However, the FIFA Statutes provide that Swiss law applies subsidiarily (art. 66 para 2). According to Swiss law, the standard of proof in civil matters is defined as follows:

Ein Beweis gilt als erbracht, *"wenn das Gericht … von der Richtigkeit einer Sachbehauptung überzeugt ist und ihm allfällige Zweifel als unerheblich erscheinen. Ausnahmen von diesem Regelbeweismass der vollen Überzeugung ergeben sich einerseits aus dem Gesetz und sind andererseits durch Rechtsprechung und Lehre herausgearbeitet worden. Danach wird eine überwiegende Wahrscheinlichkeit als ausreichend betrachtet, wo ein strikter Beweis nicht nur im Einzelfall, sondern der Natur der Sache nach nicht möglich oder nicht zumutbar ist und insofern eine ‚Beweisnot' besteht"* (SFT 4A_37/2010, E. 4.2; ATF 133 III 153, E. 3.3; 132 III 715 E. 3.1).

Free translation: Proof of a fact is deemed to be shown *"if the court is persuaded of the existence and correctness of a fact and any existing doubts are qualified as irrelevant. Exceptions from this normal standard of proof (or strict standard of proof) may follow on the one hand from statutory provisions and on the other hand from jurisprudence and legal doctrine. According thereto the standard of balance of probability suffices, where the application of the strict standard of proof is – irrespective of the individual circumstances of the case – not possible due to the nature of the matter or where the application of such standard would lead to unacceptable results, i.e. in cases where evidence is unavailable…".*

81. As a result, Swiss law in civil matters differentiates (in the absence of different "contractually agreed" standards: e.g., in doping related matters) only between two different standards of proof, i.e. the strict standard of proof (which may be translated to and equated with the standard "beyond reasonable doubt") and the standard of "balance of probabilities", with the former being the "normal" standard. In fact, it must be acknowledged that there are exceptions to the normally applicable Swiss standard in civil matters. This is true, e.g. where the nature of dispute is such that certainty is excluded or not necessary. This is true in relation to disputes regarding the causality of damages or in relation to requests for provisional measures. Another example relates to cases where there is no direct evidence available to the parties to proof the (in-) existence of a specific fact. In such case the enforcement of the law shall not be frustrated by difficulties of gathering of evidence. In order to ensure this, Swiss law will - in limited cases and upon valid justification only - content itself with the standard of balance of probability.

82. When arriving at its conclusions the Panel needs to consider all elements submitted by the parties and adduced at the hearing and to assess and weigh the totality of the evidence, having in mind the particularities of the case. As stressed in a CAS precedent, for instance, while assessing the evidence, this Panel has to bear in mind in mind that *"corruption is, by nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing"* (CAS 2010/A/2172, § 54). In addition, the stage of assessing the evidence only comes into play once a fact is disputed by the parties. The more detailed are the factual allegations, the more substantiated must be their rebuttal. The emails relied on for the charges are, FIFA submits, drafted in clear wording, which must presumptively be given their natural meaning, and it therefore falls to the Appellant to contest the facts and to rebut any inferences which might

otherwise be drawn. The onus of proof remains on FIFA, but the evidential burden of contesting the facts submitted by FIFA and adducing evidence shifts. The Panel accepts this analysis.

B. Procedures before the Adjudicatory Chamber and the Appeal Committee

83. In relation to issues raised by the Appellant regarding the procedures at the lower instances, it is well established in CAS case law that procedural defects before the lower instances can be cured through the *de novo* hearing before CAS. The virtue of a *de novo* hearing is that issues about procedural irregularities in the bodies from whose decisions an appeal is brought *"fade to the periphery"* (CAS 98/208 para. 10). However, this does not mean that the CAS disregards the disciplinary procedures of sports governing bodies. The Panel can envisage situations where the first instance body contaminates evidence, but that is not the case here.

C. Bribery under the FCE

84. The Panel notes art. 13 of the FCE, which is a general rule on ethical conduct and provides that all officers of FIFA are expected to be aware of the importance of their duties and obligations and to behave in a dignified manner. The Appellant appears to accept that if his email of 12 May 2009 is not a puff or a lie, the behaviour referred to in it would constitute an infringement. The Appellant's position seems to be simply that the email does not mean what FIFA says it means. As mentioned above, the Appellant invokes art. 12 of the 2006 FCE, which he submits only forbids officials from bribing third parties, *i.e.*, not other officials. However, the Panel cannot agree with the Appellant's interpretation of art. 12. Such an unlikely reading is not required either by its language or perceptible purpose. The Panel interprets art. 12 to cover bribes given by one officer of FIFA to another officer of FIFA and not only to external third parties. This interpretation applies irrespective of which version of the FCE comes into play.

85. In relation to the need for a link between payment and advantage gained, the Appellant submits that the purpose of gaining an actual advantage by the payment to be established. FIFA invokes a purely causal link, arguing that it is irrelevant whether payment is made in advance or after the event. The Panel for its part considers that the timing of promise, not payment is decisive. Bribery occurs when one enters into an agreement to bribe and payment could be agreed to be paid before but actually paid after the event to which it relates.

D. Secret voting

86. In relation to the secrecy of voting, the Panel notes that the fact that delegates are allowed to vote in secret does not preclude them from disclosing afterwards for whom they voted. However, the mechanism of secret voting is to protect delegates' freedom to vote as they wish and to guard them against undue influence. The Panel also considers that while a person may choose to disclose to others how he voted in an election, this is something freely done which has no impact on the individual's right to vote how he chooses. This is not comparable to the situation where a person is influenced to vote in a certain manner and is compelled to take a photograph of his ballot as proof of how he voted.

E. Privilege against self-incrimination

87. The general duty of co-operation is important in disciplinary systems, particularly since sporting authorities find means of proof of offences difficult to come by. For that reason, the Panel acknowledges that sporting bodies can properly put rules and provisions into place for failure to cooperate. While the Panel stresses the importance of people complying with their obligation to cooperate with investigations, the Panel is sympathetic to the notion that ordinarily failure to co-operate so as to avoid self incrimination should not be treated as a separate offence from the substantive offence since this would involve an element of double counting. However, in the present circumstances, as it will be seen, the Panel does not need to determine whether and, if so, to what extent the privilege against self-incrimination applies to disciplinary proceedings.

F. Allegations against the Appellant

88. The Panel considers that of the charges raised against the Appellant, the most serious violation is charge 2, the alleged bribe. For that reason the Panel will consider that charge first.

G. Email of 25 May 2009: the gift

89. It is necessary first to consider what the Appellant's email of 25 May 2009 appears to mean and next to consider the Appellant's explanations that it does not mean what it appears to say.

    a. First, it refers to two items of expenditure already incurred (not future or conditional) by the Appellant and without differentiating between them asks for reimbursement in due course (*"I am in no hurry for **this** money"*).

    b. Second, there has been prior discussion of that *"small matter"*, i.e., the expenditure and its reimbursement with D., one of A.'s closest associates.

    c. Thirdly, item 1 is described as *"a gift of cash",* no less and no more which D., clearly on behalf of A., wanted the Appellant to give to Y.

90. Not only is that the apparent meaning of the email, but it is exactly how it was read by the addressee X., since by bank transfer dated 3 June 2009 drawn on the account of P. (A.'s company) he caused the **exact** sum *i.e.*, as represented by items 1 and 2 to be reimbursed to the Appellant.

91. In summary, concentrating on that element, essential to charge 2, in the Panel's evaluation of the evidence, the Appellant paid at A.'s instigation and on his behalf, *inter alia*, a sum of US$20,000 to Y., who, it appears from emails of 18 February 2009 and 23 March 2009 to have been active in ensuring that India's vote was cast for A. and received reimbursement for the payment because the gift was A.'s and not his.

92. The Appellant has to say that the matching of request and response were pure coincidence. So they were but in the primary, not secondary sense of that word. What the email envisaged would or should happen, did happen. The inference drawn in the previous paragraph is irresistible.

93. The Appellant seeks to counter this by saying that the monies reimbursed over and above for the airline bill were for a series of invoices – travel, banquet, accommodation – incurred in connection with the event in Colombo in April 2009 and discharged by the Appellant. FIFA sought to cast doubt on whether these invoices were even genuine or if they were, were actually discharged by the Appellant. The Panel is content to proceed on the basis that they were genuine, and have been discharged by the Appellant although it notes that if, as the Appellant claims, they were still unpaid by 25 May 2009, the date of the email, they were-oddly- not referred to in it.

94. However, even with all the efforts to attribute roles of exchange rate conversions or bank charges to align the figures represented by the invoices to the payments made, the fit is simply not exact, whereas, as noted above, it is in the case of the gift and the airline ticket expenditure. The Panel is utterly unpersuaded that it should prefer the Appellant's to the obvious explanation as to what the bank transfer represented; nor is it impressed by the suggestion that it is therefore compelled to conclude counter intuitively that the Appellant was never repaid for the hotel bills etc. In what was described by the Appellant as essentially a cash economy, when both he and A. frequently dealt with cash there is no compulsion at all to draw such conclusion.

95. The Appellant also failed to grapple successfully with what he says was his intention to convey in item 1 *i.e.*, that he was merely informing A. of the size of his own wedding gift to Y.'s son because A. had initiated a desire to replicate it. It is simply impossible without rewriting both sentences to convey any such meaning. In any case, the Panel is satisfied, based on the testimony of H., that Y. would have accepted any sum from A., as to refuse a gift from such an important man would have caused huge offence so that he had no need to find a comparator present. Nor do the explanations that the Appellant's first language is not English and that the email was sent at 2am in the morning or that emails are conventionally shorthand suffice. The email is well structured (1, 2 new paragraph for every new thought, description of expenditures, way how to collect the monies, etc.) and written in entirely coherent English. The only ambiguity lies in item 2 which t needs the insertion of commas before the word "only" and after the name "A." to reflect the fact that A. has his own jet and did not travel by Sri Lankan airlines.

H. Email of 12 May 2009: the "puff"

96. There is no doubt that if the critical passage of this email *i.e.* (*"I am only 100% sure … to me"*, admittedly sent by the Appellant for onward transmission to A.) represented the truth of what occurred the Appellant interfered with the process of secret ballot.

97. The general thrust of the first part of the email was to distinguish with analytical precision and under doubly stressed confidentiality between those who supported A. in the election, and those who did not. As the Appellant conceded this would identify those member states who could expect at least priority in the allocation of any benefits in the gift of the President.

98. The Appellant's rebuttal of any suggestion that he committed such offence did not repose on any legal submission that even if the passage referred to constituted the truth, no offence was revealed, but rather on the factual proposition that the passage was what was euphemistically described as a mere puff, or, in blunter language a lie, enhancing his own role in A.'s success,

and designed obviously to ingratiate himself further with the new President, to whom the Appellant appears to have acted as some form of *consigliore*, praising him to the skies and proposing prompt action in making changes.

99. The Panel had to consider therefore whether to ignore what appeared to be an unambiguous admission of impropriety (establishing to the standard of personal conviction that an offence had been committed) or to accept the Appellant's explanation. There were formidable difficulties in the Appellant's path.

    1. First, given that the Appellant had, on his own averment, been instrumental in A.'s election, there would be no need for a "puff" of this kind.

    2. Secondly, if puff were required, it would be foolish to contrive a story whose falsity (on this hypothesis) could be so easily exposed; what if A. had later spoken to either O. or N. about the alleged episode and discovered that it had never occurred? This would hardly redound to the Appellant's credit.

    3. Thirdly, why, if puff were needed, was this particular puff chosen? The Appellant's purported explanation that he did not think A. was convinced that Pakistan and Afghanistan voted for him so the Appellant decided to tell him about the photos, lacked both cogency and corroboration.

    4. Fourthly, why when FIFA offered to assist the Appellant in producing the attendance of O. and N. at the CAS hearing was the invitation not taken up? The argument that both O. and N. had denied to the investigator that they had done what the email suggested carried little weight; neither would be likely to admit involvement for fear that he might himself become subject of some charge; nor do statements that persons of their standing would not have been likely to succumb to the Appellant's invitation to provide proof of their loyalties to A. assist the Appellant.

    5. The Panel had no opportunity to make inquiries of O. or N. to ascertain whether either validated the Appellants hypothesis. There could be any number of reasons why each might felt the need to consolidate their standing with the likely victor. It also appears from the transcript that O. and/or N. was/were aware of the charges against the Appellant and, thus, was/were not being taken by surprise when being interrogated (but could prepare themselves).

100. Furthermore, the Appellant is an experienced businessman who has carefully planned and pursued his career in and beyond football. Such a person with such a pedigree would be unlikely, in the Panel's view, to contriver a puff directed towards someone, like Mr Bin Hamman, of great importance.

101. Nor could FIFA be blamed for not pursuing enquiries with B., the defeated candidate, who had made a statement suggesting an unawareness of any impropriety after the election, though said to have been apprehensive of it before, and indeed giving an endorsement of the Appellant's good character. He had no direct evidence of what did or did not happen during the ballot and

there are in any event a multitude of possible explanations for his statement, none of which could therefore advance in any material way the Appellant's case.

102. In the Panel's judgment, the Appellant has signally failed for all these reasons to discharge the evidential burden which lies upon him to undermine the obvious inference from his own words.

103. With respect to all issues the Panel is personally convinced that there was clearly a connection between the payment of US$20,000 and the elections. The Panel is therefore likewise convinced that the Appellant is guilty of Charge 2, cash payment to a football official, in violation of art. 13(1)-(4); Article 19(2)-(3); Article 20(1)-(2) and (4); Article 21(1) and (3) FCE; and analogous provisions of the 2006 FCE.

104. The Panel believes that an important message for all members of the sporting community, acting in whatever capacity, is that if one is involved in bribery then one may expect to exile from the sport. For this reason, the Panel believes that a finding of bribery presumptively attracts the maximum sanction and no cogent reason has been advanced why in this case that principle should not be applied Accordingly, the Panel confirms FIFA's decision to impose a life ban on the Appellant from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) for life, from 11 March 2013.

105. Such conclusion makes it irrelevant for the Panel to consider the additional charges brought against the Appellant for other violations of the FCE, as the maximum sanction has in any case to be applied.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Vernon Manilal Fernando on 28 March 2014 against the decision of the FIFA Appeal Committee dated 9 October 2013 is dismissed.

2. The sanction imposed by the decision of the FIFA Appeal Committee dated 9 October 2013 is confirmed.

3. (…).

4. (…).

5. All other motions or prayers for relief are dismissed.