



**Arbitration CAS 2016/A/4899 Al Jazira FC Sports Company v. Hugo Garcia Martorell**

Panel: Mr Fabio Iudica (Italy), President; Mr Olivier Carrard (Switzerland); Mr Pieter Kalbfleisch (The Netherlands)

*Football*

*Contract of agency*

*Players' agent entitlement to contractual commissions*

**Considering that one players' agent acted on behalf and for one club's benefit, that said club ratified the activity carried out by the players' agent within the negotiation of a transfer contract and that the club acknowledged its debt towards said players' agent, the agreement signed between the club and the players' agent validly establishes the latter's right to obtain payment of his contractual commissions for the services rendered in the club's favour although in the specific case at stake, the players' agent was not engaged in strict compliance with the provisions of the FIFA Players' Agent Regulations related to the conclusion of representation contracts.**

**I. INTRODUCTION**

1. This appeal is brought by Al Jazira FC Sports Company against Mr Hugo Garcia Martorell with respect to the decision rendered by the Single Judge of the Players' Status Committee (hereinafter also referred to as the PSC) of the Fédération Internationale de Football Association (hereinafter also referred to as "FIFA") on 27 July 2016 regarding a contractual dispute.

**II. THE PARTIES**

2. Al Jazira FC Sports Company is a professional football club with registered office in Abu Dhabi, United Arab Emirates (UAE), competing in the First Division of the UAE Arabian Gulf League, affiliated with the UAEFA (*United Arab Emirates Football Association*), which in turn is affiliated with FIFA (hereinafter also referred to as the "Club" or the "Appellant").
3. Mr Hugo Garcia Martorell is a Brazilian citizen and a licensed football players' agent affiliated with the Confederação Brasileira de Futebol (CBF) at the time of the events giving rise to the present dispute (hereinafter also referred to as the "Players' Agent" or the "Respondent").

(hereinafter jointly referred to as "Parties")

### III. THE CHALLENGED DECISION

4. The challenged decision is the decision rendered by the Single Judge of the FIFA PSC on 27 July 2016, on the claim filed by the Players' Agent against the Club regarding a contractual dispute that arose between the Parties in relation to the transfer of the player L from the Club to the Brazilian Club Gremio FC (hereinafter also referred to as the "Appealed Decision").

### IV. FACTUAL BACKGROUND

5. Below is a summary of the main relevant facts and allegations based on the Parties' written submissions and on the content of the Appealed Decision. Additional facts and allegations may be set out, where relevant, in connection with the further legal discussion. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in the Award only to the submissions and evidence it considers necessary to explain its reasoning.
6. On 10 July 2014, the Club and the Players' Agent concluded an agreement by which the Parties agreed on the remuneration payable to the Player's Agent with respect to the permanent transfer of the football player L. (hereinafter the "Player") from the Club to Gremio FC ("hereinafter the Agreement"), as follows:

*"WHEREAS with the assistance of the AGENT, CLUB and Gremio Football Porto Alegre (GREMIO) entered into a contract in July 2014, for the permanent transfer of the player [L.] from CLUB to GREMIO ("TRANSFER CONTRACT");*

*WHEREAS the PARTIES now wish to agree on the remuneration of the AGENT for his services:*

*Now, therefore, the PARTIES agree as follows:*

- a) *For the AGENT's assistance in the negotiations between the CLUB and GREMIO, which lead to the signature of the TRANSFER CONTRACT, the CLUB shall pay to the AGENT the total amount of Euro 300,000 (two hundred thousand Euros) as follows:*
  - i. *Euro 50,000 (fifty thousand Euros) on the earlier of: (i) the day in which the CLUB receives, from GREMIO, the payment set out in clause 2(b)(i) of the TRANSFER CONTRACT; or (ii) 30 June 2015;*
  - ii. *Euro 35,000 (thirty five thousand Euros) on the earlier of: (i) the day in which the CLUB receives, from GREMIO, the payment set out in clause 2(b)(ii) of the TRANSFER CONTRACT; or (ii) 30 March 2016;*
  - iii. *Euro 40,000 (forty thousand Euros) on the earlier of: (i) the day in which the CLUB receives, from GREMIO, the payment set out in clause 2(b)(iii) of the TRANSFER CONTRACT; or (ii) 30 August 2016;*

*iv. Euro 35,000 (thirty five thousand Euros) on the earlier of: (i) the day in which the CLUB receives, from GREMIO, the payment set out in clause 2(b)(iv) of the TRANSFER CONTRACT; or (ii) 30 March 2017;*

*v. Euro 40,000 (forty thousand Euros) on the earlier of: (i) the day in which the CLUB receives, from GREMIO, the payment set out in clause 2(b)(v) of the TRANSFER CONTRACT; or (ii) 30 August 2017”.*

7. In fact, on the same date, the Club, Gremio FC and Player concluded a contract by which they agreed on the permanent transfer of the Player from the Appellant to Gremio FC (hereinafter the “Transfer Contract”), for a transfer fee of EUR 1,900,000.00 (one million nine hundred thousand Euros), net, to be paid as follows:

*“Clause 2 (b)*

*(i) Euro 500,000 on or before 15<sup>th</sup> of July 2014;*

*(ii) Euro 350,000 on or before 10<sup>th</sup> of March 2015;*

*(iii) Euro 350,000 on or before 10<sup>th</sup> of August 2015;*

*(iv) Euro 350,000 on or before 10<sup>th</sup> of March 2016;*

*(v) Euro 350,000 on or before 10<sup>th</sup> of August 2016”.*

8. On 27 March 2015, the Players’ Agent lodged a claim with the FIFA PSC against the Club submitting the following requests:

- that the Club be condemned to pay him the amount of EUR 50,000.00 corresponding to the first instalment due under the Agreement, which allegedly fell due on 16 July 2014, *i.e.*, the date on which the Club received payment from Gremio FC under Clause 2 (b)(i) of the Transfer Contract, as it emerged from a payment order of EUR 500,000.00 submitted by the Players’ Agent in support of his claim;
- to order the Club to pay any further instalments that would become payable in the course of the proceedings in accordance with the deadlines established under the Agreement.

9. In its response, the Club rejected the Players’ Agent’s claim on the basis of the following arguments:

- the Club contested FIFA’s competence to hear the relevant dispute since it alleged that the claimant lodged the claim after 1 April 2015, and therefore, he was not a party entitled to seek redress before FIFA’s decision-making bodies according to the applicable FIFA rules;

- irrespective of the above, the Club argued that even if the claimant had standing to lodge the relevant claim according to FIFA rules and regulations, the Players' Agent was not entitled to receive any payment as long as the Club had not received the instalments due by Gremio FC under the Transfer Agreement.
10. On 7 April 2016, after the investigation phase before the FIFA PSC was closed, the Players' Agent amended his claim and finally requested payment of EUR 200,000.00, corresponding to the total amount of the agent's fee under the Agreement, plus 5 % interest *per annum* as from each due date until effective payment. In this respect, the claimant produced copy of the payment order from Gremio FC to the Club dated 31 March 2016 for an amount of EUR 1,400,000.00, as the balance for the entire transfer fee according to the Transfer Contract.
  11. On 25 April 2016, the Club reiterated its previous contentions with respect to the lack of jurisdiction by the FIFA PSC to decide over the present dispute and further argued that the claimant "*did not exert the expected effort to receive the agent fee which he is claiming*" and therefore, that the Players' Agent was not entitled to any payment whatsoever. In the alternative, case, the Club requested FIFA to reduce the commission payable to the Players' Agent, if any.
  12. On 27 July 2016, the Single Judge of the FIFA PSC rendered the Appealed Decision by which the Players' Agent's claim was upheld and the Club was ordered to pay the amount of EUR 200,000.00, plus interest, as follows:
    - 5% *p.a.* over the amount of EUR 50,000.000 as from 1 July 2015 until the date of effective payment;
    - 5% *p.a.* over the amount of EUR 150,000.00 as from 1 April 2016 until the date of effective payment.
  13. Moreover, the FIFA PSC ordered the Club to pay the final costs of the proceedings amounting to CHF 20,000.00, of which CHF 15,000.00 in favour of FIFA and CHF 5,000.00 in favour of the Players' Agent.
  14. The grounds of the Appealed Decision were served by fax to the Parties on 15 November 2016.

## **V. SUMMARY OF THE APPEALED DECISION**

15. The grounds of the Appealed Decision can be summarized as follows:
16. First of all, the Single Judge established that, considering that the Players' Agent's claim was lodged on 27 March 2015, 2008 edition of the FIFA Players' Agent Regulations is applicable to the matter at hand, concerning a dispute between a players' agent licensed by the Confederação Brasileira de Futebol and an Emirati club, regarding an allegedly outstanding commission.
17. Furthermore, with regard to his competence, which was contested by the Club, the Single Judge pointed out that, since the Players' Agent's claim was actually lodged on 27 March 2015, FIFA

still had jurisdiction on matters relating to licensed players' agents (*i.e.* on those individuals who hold a valid players' agent license issued by the relevant member Association), in accordance with art. 6, par. 1 of the 2015 edition of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter the "Procedural Rules").

18. With regard to the substance of the matter, it was acknowledged that on 10 July 2014, the Parties concluded an agreement in relation to the transfer of the Player to Gremio FC, under the terms of which the Players' Agent was entitled to receive a commission amounting to EUR 200,000.00, payable in several instalments according to the deadlines set forth under Clause 1 (a) of the Agreement.
19. The Single Judge also observed that, on the same date, the Club and Gremio FC signed an agreement for the transfer of the Player from the Club to Gremio FC for a transfer fee amounting to EUR 1,900,000.00.
20. According to the FIFA fact-finding, although the Club argued that the claimant did not make any effort in order to receive his commission, the Agreement clearly established the Club's obligation to pay to the Player's Agent the sum of EUR 200,000.00 in several instalments, either when the Club would receive the respective instalments related to the transfer fee for the Player's transfer to Gremio FC or, at the latest, on certain specific deadlines as from 30 June 2015 until 30 August 2017.
21. In this context, the Single Judge recognized that Gremio FC had undisputedly paid the full transfer fee to the Club on 31 March 2016 in connection to the transfer of the Player and therefore, the condition envisaged under the Agreement for the payment of the commission to the Players' Agent was fulfilled.
22. Furthermore, the Single Judge observed that at that time, the first instalment of the agent's fee due under the terms of the Agreement was already outstanding, *i.e.* on 30 June 2015, and the balance of EUR 150,000.00 became immediately due on 31 March 2016.
23. As a consequence, the Club was imposed to pay to the Players' Agent the amount of EUR 200,000.00, plus interest at the rate of 5% *p.a.* on the amount of EUR 50,000.00 as of 1 July 2015 and on the amount of EUR 150,000.00 as of 1 April 2016.
24. Moreover, taking into account that the Players' Agent's claim was entirely upheld, the Single Judge concluded that the Club had to bear the entire costs of the relevant proceedings.

## **VI. SUMMARY OF THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

25. On 6 December 2016, the Club filed an appeal before the Court of Arbitration for Sport (hereinafter the "CAS") against the Players' Agent as well as against FIFA with respect to the Appealed Decision, by submitting a statement of appeal in accordance with articles R47 and R48 of the Code of Sports-related Arbitration, Edition 2013 (hereinafter referred to as the "CAS

Code”). In its statement of appeal, the Appellant nominated Mr Olivier Carrard as arbitrator and chose English as the language of the present procedure. In addition, the Appellant requested the CAS Court Office to be granted an extension of the time-limit to file its appeal brief until 26 December 2016.

26. On 15 December 2016, the CAS Court Office invited the Respondents to state whether they consented to the extension requested by the Appellant, also informing that the Respondents’ silence in this regard would be deemed acceptance of the Appellant’s request.
27. By fax letter dated 20 December 2016, FIFA informed the CAS Court Office that, since it was not a party to the present dispute, as it was merely involved as the competent deciding body of the first instance, and since the statement of appeal did not appear to contain any substantial request against it, FIFA cannot be considered as a Respondent in the present proceedings and therefore requested to be excluded from the procedure.
28. On 21 December 2016, the CAS Court Office granted the Appellant a deadline until 26 December 2016 to state whether it maintained FIFA as a Respondent in the present proceedings and, in view of the absence of any objections by the Respondents thereto, confirmed that the Appellant’s time-limit to file its appeal brief was extended until 26 December 2016.
29. On 23 December 2016, the Appellant filed its appeal brief. On the same date, the Appellant informed the CAS Court Office that it did not maintain FIFA as a Respondent in the present proceedings.
30. By fax letter to the Parties on 27 December 2016, the CAS Court Office invited the Respondent to nominate an arbitrator in the procedure at stake within the following 10 days and to file his answer within the time-limit of 20 days.
31. On 9 January 2017, the CAS Court Office informed the Parties that, due to the failure by the Respondent to nominate his arbitrator in the present arbitration proceedings within the prescribed deadline, it would be for the President of the CAS Appeals Arbitration Division to appoint an arbitrator *in lieu* of the Respondent.
32. By fax letter on 20 January 2017, the CAS Court Office invited the Parties to state whether they preferred a hearing to be held in the present procedure or for the Panel to issue an award based solely on the Parties’ written submissions.
33. On 30 January 2017, the Respondent informed the CAS Court Office that he preferred that an award be rendered on the basis of the Parties’ written submissions.
34. The Appellant failed to submit its position with respect to the possibility that a hearing be held in the present proceedings.
35. On 31 January 2017, the CAS Court Office informed the Parties that the Panel appointed to decide the present dispute was constituted as follows:

President: Mr Fabio Iudica, attorney-at-law in Milan, Italy  
Arbitrators: Mr Olivier Carrard, attorney-at-law in Geneva, Switzerland  
Mr Pieter Kalbfleisch, attorney-at-law in The Hague, the Netherlands.

36. By fax letter on 2 March 2017, the CAS Court Office informed the Parties that the Panel had decided to render an award on the basis of the Parties' written submissions.
37. On the same date, the CAS Court Office forwarded the Order of Procedure to the Parties inviting them to return a signed copy to the CAS Court Office within 9 March 2017.
38. The Order of Procedure was returned to the CAS Court Office duly signed by the Appellant on 8 March 2017.
39. On 10 March 2017, the CAS Court Office granted the Respondent a new deadline until 16 March 2017 to sign and return a copy of the Order of Procedure, which was finally submitted by the Respondent on 10 March 2017.
40. With the signature of the Order of Procedure, the Parties confirmed the jurisdiction of the CAS over the present dispute and that their right to be heard has been respected.

## VII. SUBMISSIONS OF THE PARTIES

41. The following outline is a summary of the main positions of the Appellant and the Respondent which the Panel considers relevant for the decision in the present dispute and does not comprise each and every contention put forward by the Parties. The Panel, however, has carefully considered all the submissions made by the Appellant and the Respondent, even if no explicit reference has been made in what follows. The Parties' written submissions, documentary evidence and the content of the Appealed Decision were all taken into consideration.

### *The Appellant's Submissions and Requests for Relief*

42. The Appellant made a number of submissions in its statement of appeal and in its appeal brief which can be summarized as follows.
43. Basically, the Appellant does not object to the facts as they were ascertained by the Single Judge of FIFA PSC in the Appealed Decision.
44. In particular, the Club acknowledges having concluded the Agreement with the Respondent on 10 July 2014 and recognizes that the Parties agreed on the amount of EUR 200,000.00 as commission payable to the Player's Agent with regard to the transfer of the Player from the Club to Gremio FC.
45. Moreover, the Appellant admits that on the same day, a transfer agreement was signed with Gremio FC for the permanent transfer of the Player for a transfer fee of EUR 1,900,000.00.

46. What is contested by the Club, is that the Parties actually failed to enter into a representation contract before the relevant transfer agreement was concluded between the Club and Gremio FC, which is in contrast with the provision of article 19 of the FIFA Players' Agent Regulations which were applicable at the time of the relevant facts giving rise to the present dispute.
47. In this respect, since the Agreement and the Transfer Contract were concluded on the same day, it results that the Players' Agent has acted on behalf of the Club without being previously authorized to do so by a representation contract in accordance with the applicable regulations.
48. Such conclusion derives from the wording of the same Agreement which, in its "Preamble", reads as follows:

*"Whereas with the assistance of the AGENT, CLUB and Gremio Football Porto Alegre entered into a contract in July 2014 for the permanent transfer of the player [L.] from CLUB to Gremio*

*Whereas the parties now wish to agree on the remuneration of the AGENT for his services*

*Now, therefore, the parties agree as follows:*

*For the AGENT's assistance in the negotiations between the CLUB and GREMIO which lead to the signature of the Transfer Contract, the CLUB shall pay to the AGENT the total amount of Euro 200,000 (two hundred thousand Euros) as follows (...)"*

49. Moreover, the Appellant recalls that article 20 of the same Players' Agent Regulations stipulates that *"A players' agent who has been contracted by a club shall be remunerated for his services by payment of a lump sum that has been agreed upon in advance"*, which means that the Parties should have signed a representation contract containing the agreement on the Players' Agent's commission, before the latter started performing his activity in connection with the negotiation of the Transfer Contract.
50. On the contrary, the Appellant objects that the Parties did not enter into a representation contract before 10 July 2014, *i.e.* the date in which the Transfer Contract was actually signed between the Club and Gremio FC through the intermediation of the Respondent and therefore, the latter was not authorized to conduct negotiations on behalf on the Club.
51. As a consequence, the Appellant maintains that the Agreement shall be deemed null and void.
52. In its statement of appeal and in its appeal brief, the Appellant submitted the following requests for relief:

*"Al Jazira FC asks the Court of Arbitration of Sport:*

- *That it withdraw the decision of the Single Judge of the Players' Status Committee, object of the present appeal;*



- *That it reject all claims made as a result by the Respondents against AL JAZIRA FC;*
- *That Mr MARTORELL be obliged to reimburse AL JAZIRA FC's legal expenses of 20,000 €;*
- *That Mr MARTORELL be obliged to pay all expenses, particularly the Court charges and arbitrators' fees".*

### ***The Respondent's Submissions and Requests for Relief***

53. The position of the Respondent is set forth in his answer and can be summarized as follows.
54. The Agreement signed between the Parties clearly establishes the Club's obligation to remunerate the Players' Agent for the services rendered by the latter in relation to the permanent transfer of the Player from the Club to Gremio FC, in the amount and on the deadlines as set forth under clause 1.
55. The Agreement, as well as the agent's fee in the amount of EUR 200,000.00, are not contested by the Appellant which neither denies having received the full transfer fee from Gremio FC, according to the Transfer Contract.
56. Since there is a valid and binding contract between the Parties and since the conditions for payment have been met, there is no justification or legal basis for the Appellant to refuse to comply its obligation towards the Respondent.
57. With regard to the Appellants' arguments that the Agreement would not be valid since it was concluded on the same day when the Transfer Contract was signed, the Respondent objects that they are absolutely specious and groundless, in consideration of the fact that the reason why the Club agreed to pay remuneration to the Players' Agent is that it benefited from the services rendered by the Respondent concerning the negotiation of the Transfer Contract.
58. As a consequence, the Respondent argues that the appeal brought by the Club is only being used as a pretext for dilatory purposes.
59. The Respondent's requests for relief were submitted in his answer and are the following:
60. *"Due to all the above, the Contract being valid and effective, the current appeal must be rejected, and the decision of the Dispute Resolution Chamber [the Single Judge of the PSC, editor's note] shall be upheld in full".*

### **VIII. CAS JURISDICTION**

61. The jurisdiction of the CAS shall be examined in the light of Article R47 of the CAS Code, which reads as follows: *"An Appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded*

*a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of that body”.*

62. The Appellant relies on article 57 and 58 of the FIFA Statutes (April 2016 edition), in accordance with article R47 of the CAS Code. Article 58 of the FIFA Statutes, in particular, reads as follows: *“Appeals against final decisions passed by FIFA’s legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of notification of the decision in question”*. The jurisdiction of the CAS is not contested by the Respondent.
63. Moreover, the signature of the Order of Procedure by the Parties confirmed that the jurisdiction of the CAS in the present case was not disputed. Accordingly, the Panel is satisfied that it has jurisdiction to hear the present case.
64. Under Article R57 of the CAS Code, the Panel has the full power to review the facts and the law and may issue a new decision which replaces the decision appealed or annul the challenged decision and/or refer the case back to the previous instance.

## **IX. ADMISSIBILITY OF THE APPEAL**

65. Article R49 of the CAS Code provides as follows: *“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late”*.
66. More specifically, the Panel notes that article 58 para 1 of the FIFA Statutes determines as follows: *“Appeals against final decisions passed by FIFA’s legal bodies and against decisions passed by Confederations, Members or Leagues shall be lodged with CAS within 21 days of notification of the decision in question”*.
67. The Panel notes that the Single Judge of the FIFA PSC rendered the Appealed Decision on 27 July 2016 and that the grounds of the Appealed Decision were notified to the Parties on 15 November 2016. Considering that the Appellant filed its statement of appeal on 6 December 2016, *i.e.* within the deadline of 21 days set in the FIFA Statutes, the Panel is satisfied that the present appeal was filed timely and is therefore admissible.

## **X. APPLICABLE LAW**

68. Article R58 of the CAS Code provides the following:

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

69. In addition, Article 66 para 2 of the FIFA Statutes so provides:

*“The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law”.*

70. In its Appeal Brief the Appellant refers to the FIFA Players’ Agent Regulations (edition 2008) as the regulations applicable to the present case, while the Respondent does not make any specific reference in his Answer.

71. The Panel observes that according to consistent CAS case law, *“by accepting the jurisdiction of the CAS as established in the FIFA statutes, the parties accept that, pursuant to the above quoted Articles R58 of the CAS Code and 66 para. 2 of FIFA Statutes, CAS panels decide the dispute in accordance with the rules and regulations of FIFA, with additional application of Swiss law on a subsidiary basis”* (see CAS 2014/A/3690).

72. In consideration of the above and pursuant to Article R58 of the CAS Code, the Panel holds that the present dispute shall be decided according to FIFA Players’ Agent Regulations as a first choice, with Swiss law applying subsidiarily.

73. With regard to the applicability *ratione temporis* of the relevant FIFA Players’ Agent Regulations, the Panel holds that the present case is governed by the 2008 edition of same regulations, given that the Player lodged his claim with FIFA on 27 March 2015.

## **XI. MERITS OF THE APPEAL – LEGAL ANALYSIS**

74. With regard to the merits of the present case, the Panel reminds that the Appellant contests that the Respondent is entitled to receive payment of the agent’s commission set forth under the Agreement, amounting to EUR 200,000.00, in connection with the transfer of the Player from the Club to Gremio FC, as it was established by the Appealed Decision.

75. On the contrary, the Respondent insists in claiming the relevant payment based on the Club’s financial obligation deriving from the Agreement.

76. In this respect, in the light of the Parties’ submissions, the Panel observes that the following facts are not disputed, as they are acknowledged or not contested by the Appellant:

- that on 10 July 2014, the Parties signed a contract under which the Club undertook to pay to the Players’ Agent the amount of EUR 200,000.00 as commission in relation with the transfer of the Player from the Club to Gremio FC;
- that on the same day, the Club and Gremio FC concluded an agreement for the transfer of the Player in consideration of a transfer fee of EUR 1,900,000.00;
- that the transfer of the Player was in fact the result of the Player’s Agent’s involvement in the relevant negotiations between the Club and Gremio FC;

- that the Club has received the full transfer fee from Gremio FC.

77. What is disputed by the Appellant, is whether the Players' Agent was validly authorized to act on behalf of the Club in the negotiations of the Transfer Contract and whether he is therefore entitled to receive the agreed commission.

78. In this respect, the Appellant argues that the Agreement and the Transfer Contract were concluded on the same date, and that the Agreement is based on the assumption that the Respondent already rendered his services in the negotiations between the Club and Gremio FC, as it emerges from the wording of the Agreement:

*"Whereas with the assistance of the AGENT, CLUB and Gremio Football Porto Alegre entered into a contract in July 2014 for the permanent transfer of the player [L.] from CLUB to Gremio,*

*Whereas the parties now wish to agree on the remuneration of the AGENT for his services".*

79. Consequently, the Appellant maintains that when the Players' Agent assisted the Club in the relevant negotiations, he had not been previously authorized to do so by virtue of a representation contract; which fact is allegedly in contrast with the Players' Agent Regulations in force at that time.

80. According to the Appellant's position, in fact, since article 19 of the relevant Regulations, establishes, *inter alia*, that "*A players' agent shall be permitted to represent a player or a club only by concluding the relevant written representation contract with that player or club*" and since according to article 20, para 5, of the same Regulations "*A players' agent who has been contracted by a club shall be remunerated for his services by payment of a lump sum that has been agreed upon in advance*", one must infer the following conclusions:

- that the Parties failed to enter into a representation contract before the signing of the Transfer Contract (*i.e.* before the Players' Agent acted on behalf of the Club);
- that therefore, the Respondent was not authorized to act on behalf of the Club when he rendered his services;
- that the Agreement does not meet the requirements set forth under the applicable provisions of the Players' Agent Regulations and shall therefore be deemed null and void.

81. On the other hand, the Respondent points out that by entering into the Agreement, the Club has undoubtedly undertaken the obligation to pay the amount of EUR 200,000.00 and, moreover, it does not deny having received the entire amount of the transfer fee from Gremio FC, which fact triggered the right of the Respondent to obtain the relevant payment.

82. As a consequence, there is no valid reason for the Appellant to refuse the payment of the agreed commission.

83. In this respect, the circumstance that the Agreement and the Transfer Contract were concluded on the same day, is irrelevant in view of the fact that the Club has benefited from the Players' Agent's services and it also undertook to pay the commission.
84. Having considered the Parties' positions as mentioned above, the Panel is not persuaded by the Appellant's arguments for the following reasons.
85. Although the Appellant objects that the Parties failed to conclude a representation agreement at an earlier stage with respect to the signing of the Transfer Contract, in contrast with the applicable FIFA Regulations, it is undoubted that the Club availed itself of the Respondent's services and that the Transfer Contract was ultimately concluded through the intermediation of the Players' Agent.
86. The Club itself confirmed the aforementioned circumstances in its submissions to the CAS.
87. What is more, the Agreement was in fact concluded by the Parties with the purpose of defining the amount of the commission due to the Player's Agent as remuneration for the services rendered by the latter within the negotiations of the Transfer Contract.
88. As a consequence, the Panel believes that, even admitting that the Players' Agent was not engaged in strict compliance with the provisions of the FIFA Regulations with respect of the conclusion of the representation contract, a) the Players' Agent has acted on behalf and for the benefit of the Club; b) the Club has ratified the activity carried out by the Player's Agent within the negotiation of the Transfer Contract; c) the Club has acknowledged its debt towards the Respondent.
89. In conclusion, the Panel is satisfied that, in the specific case at stake, irrespective of the requirements set forth in the FIFA Players' Agent Regulations, the Agreement validly established the Respondent's right to obtain payment of the amount of EUR 200,000.00 as commission for the services rendered in favour of the Club with respect to the conclusion of the Transfer Agreement, plus interest at the rate of 5% on the outstanding amount of EUR 50,000.00 as of 1 July 2015 and on the balance amount of 150,000.00 as of 1 April 2016, as assessed in the Appealed Decision, in accordance with article 104 B of the Swiss Code of Obligation.
90. In the light of the considerations above, the Panel rejects the appeal lodged by the Club and the Appealed Decision is upheld.

## **ON THESE GROUNDS**

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

1. The appeal filed by Al Jazira FC Sports Company is rejected.
2. The decision rendered by the FIFA Dispute Resolution Chamber on 27 July 2016 is upheld.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.