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***Via email***

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Karl Ainscough-Gates, Chairman  
International Gay Rugby  
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Re: IGR Inquiry Report (March 11, 2020) and Loss of Confidence in  
Gus Ventura and Mark Jordan Memorandum (March 12, 2020)

Dear Mr. Ainscough-Gates:

This letter is in response to International Gay Rugby's ("IGR") letter dated August 10, 2020, IGR's Inquiry Report ("Report") issued by IGR's Inquiry Committee ("Committee") dated March 11, 2020 and the Loss of Confidence in Gus Ventura and Mark Jordan Memorandum to the Board of Directors of IGR ("Memorandum") issued separately by certain Committee members ("Memorandum Signatories") dated March 12, 2020. I have been retained by Dr. Gustavo Ventura, the former IGR Trustee representing North America, to address the allegations and findings made in the Report and Memorandum. First, I apologize for not responding sooner. The COVID-19 pandemic and its effects both here in the United States and the United Kingdom did not permit for a more timely due diligence and response. Second, I thank you as Chairman of the new Board for the opportunity to address Dr. Ventura's concerns with the allegations and findings reached in the Report and Memorandum.

Although I do not represent or speak for Mr. Jordan, I cannot adequately address the allegations against Dr. Ventura without discussing Mr. Jordan's complaint which, in part, are intertwined with the allegations against Dr. Ventura. Let me begin by saying that the Report is woefully deficient and leaves much to be desired. Frankly, it failed to address Mr. Jordan's complaint. It was not objectively written, and neither fair nor accurate. The investigation on which the Report is based was neither complete nor impartial. Further, the investigation cannot be called an

“independent” investigation; this was a trustee-driven investigation. The very Trustees whose conduct is at issue had influence, or the appearance of influence, over the investigation and subsequent Report. The Trustees clearly were conflicted, and should have recused themselves from the investigation. The Committee members were selected by Ben Owen, the Trustee whose conduct was the subject of, and the Trustees, whose conduct and actions are called into question as a result of, Mr. Jordan’s complaint.

Nevertheless after reviewing the applicable laws and regulations in the United Kingdom (in particular, the Charities Act 2011, the Companies Act 2006, the Equality Act 2010, and the Defamation Act 2013); conversations with the Charity Commission and solicitors in the United Kingdom on the appropriate processes and case law; and with LGBTQ organizations in the United States and United Kingdom; and IGR’s Report; I find the action taken by the Committee against Dr. Ventura troubling, and the Report and the Memorandum issued by the Memorandum Signatories unwarranted and unsubstantiated. Further based on my review of the record, I believe the allegations and actions against Mr. Jordan and William Howell are likewise unwarranted and unsubstantiated.

#### **I. Inquiry Report (March 11, 2020)**

##### **Introduction**

Before delving into the substance of the Report, I think that it is important to briefly discuss internal investigations. I think we both would agree that a properly conducted internal investigation is essential in determining whether any laws, regulations or internal policies of an organization are violated. Further, in order to be an effective and credible investigation the investigation should clearly articulate the laws, regulations or internal policies that were violated, the factual support that a violation occurred, and the appropriate basis for the recommend course of action. Conversely, a poorly conducted investigation can place an organization, and its directors and officers, in a worse position than they would have been in the absence of an investigation and possibly result in unnecessary and unwanted litigation and publicity. While every internal investigation has its own unique characteristics, to be effective it should be thorough, accurate, fair, objective and credible. The Report drafted by the Committee fails on all counts. In the Report, there is no discussion or analysis of the basis on which the Committee made its findings. It merely credits (or better put, parrots) the testimony of Mr. Owen, the accused in the complaint. I question the objectivity of the investigation and resulting Report. The conclusions reached should be based on the most accurate facts and lead to conclusions that are sustainable under legal scrutiny. The search for truth (or at least, some semblance thereof) is the goal of any investigation. There is no recognition, investigation, analysis or finding related to Mr. Jordan’s actual complaint. Simply put, the Report (as well as the Memorandum) is a conclusory sleight of hand post-hoc rationalization of why the racism issue that recently exploded within IGR had gone unnoticed for so long.

## IGR's Constitution

The Report is defective both procedurally and substantively. Procedurally, it does not appear that the Trustees adhered to the Constitution of IGR which states that the Executive Committee may delegate its authority to a committee; however, if it chooses to do so, it “**must** determine the terms and conditions on which the delegation is made.” See ¶ 18.1 of the Constitution, Delegation by IGR Executive Committee (emphasis added). The Report is silent on the terms and conditions of the investigation. Other than the four alleged complaint items identified, which were no more than Mr. Jordan’s opinion on what is textbook racism, there is no reference in the Report which states the terms and conditions of the investigation.

The Report does not state what provisions of IGR’s Constitution that Dr. Ventura, as well as Mr. Jordan, are alleged to have violated, nor does it provide the record support that establishes such violations. The Report also does not reference any IGR written policies that Dr. Ventura and Mr. Jordan violated. Further there is no vote, or written or electronic resolution adopting the Report, in whole or part. See ¶¶10.1 - 10.3 of the Constitution. Last, in order for the Report (a formal document) to be deemed valid, the Constitution requires that it be signed by at least two trustees. See. ¶21 of the Constitution. There are no signatories provide in the Report by any Trustee associated with the Report.

The Constitution also states that acts and proceedings **must** be brought to the attention of the IGR Board as a whole as soon as reasonably practical. See ¶18.2 of the Constitution. (emphasis added). The word “must” means that is mandatory or required. It means something more than a mere formality. It implies that the Board will act in some way on the action or matter brought to its attention. It requires that the Board be engaged and know what actions are taking in the name of IGR. Thus, the Board has a duty to ensure that the action taken is in the best interest of IGR. While the Board, in accordance with the Constitution, may delegate particular functions to the Trustees, and to trust their competence and integrity to a reasonable extent, the exercise of the power of delegation does not absolve the Board of their duty to supervise the discharge of the delegated functions. The Board have a responsibility to do more than passively receive information.

There is an expectation that the Board will actively monitor the affairs of IGR, including overseeing and implementing internal controls on an internal investigation. A lack of oversight would have the unintended consequence of the Board abrogating its fiduciary duty; something I seriously doubt the Board would knowingly do. Based on the above, I question whether the Trustees fulfilled their obligation as required under the Constitution to bring the investigation and subsequent Report before the Board for its consideration and review. The initial scope of the investigation approved by the Board was Mr. Jordan’s complaint that Mr. Owen lied. It was subsequently revised to an accusation of racism and then to the four items that were the subject matter of the Report. The Report does not show the Board’s approval of this change in scope.

Additionally, it was totally inappropriate for a Trustee, whose actions are under review, to seek to broaden, however innocently, the scope of the inquiry to include issues (such as code of conduct) that would possibly bias the investigation and its conclusions. Issues that were not only self-serving and in the best interest of the Trustees (and not IGR's), but issues that would explicitly or implicitly speak to the conduct of Dr. Ventura and Mr. Jordan. I see nothing to indicate that Board approved the change in the scope of the investigation or the findings in the Report.

### **Mark Jordan's Alleged Complaint**

Shifting to the substance of the Report, the Report states that it addressed four complaint items allegedly raised by Mr. Jordan, namely that the Trustees are: "(1) [p]eople on the Executive Board [Ben Owens] muddying the water, (2) [c]onfusing the situation to drive a narrative, (3) [c]reating a strategy to silence the minorities, and (4) [f]inding a happy "minority to discredit the complaint." See, Report, page 4. When Mr. Owen announced the inquiry to the Board, the inquiry complaint was Mr. Jordan's accusation that the Trustees were racists. It was subsequently agreed that Mr. Jordan's complaint would be revised and represented by the four complaint issues above. However, these items or statements were not the crux of Mr. Jordan's complaint and neither was racism, although the issue of racism looms large over the investigation. Unfortunately, the Report missed the mark. Mr. Jordan's complaint was simply that Ben Owen lied as to what Mr. Jordan said during a January 14, 2020 Trustee Call when he said that Mr. Jordan "was adamant that Mr. Owen and another Trustee [Neil Pyper-Hobson] were racists." The Trustees knew this.

The Trustees are fiduciaries, meaning they hold positions that require trust, confidence, the exercise of good faith and candor. A Trustee can be held responsible for a breach of fiduciary duty, if the breach is due to recklessness or willful misconduct. I submit that the Trustees' action, or lack thereof, was both reckless and willful. Each Trustee had a fiduciary responsibility to act honestly and to put IGR's best interest ahead of their fellow Trustee's or own interests. If something, which if not corrected would be materially misleading, the Trustees had a duty to correct it. They did not. In the Trustees' minutes of the January 14<sup>th</sup> Trustee Call, it reveals that, "Mark Jordan stated directly that he does not believe the folks on the Board are racists." In fact, Mr. Jordan repeated time and again to the Trustees that he did not think Mr. Pyper-Hobson, Mr. Owen or anyone on the Board were racists. See, January 11, 14, and 17, 2020 Trustee Calls. The Trustees in their silence gave life to the lie. Mr. Owen's statement is defamatory and his fellow Trustees were complicit in his malicious behavior.

As for Dr. Ventura, we can agree to disagree as to whether the tenor or tone of his comments was appropriate. His exhortation was that Mr. Jordan's actual complaint was not being addressed. And, it still has not been addressed. With IGR's history of inaction on matters of race, the Trustees handling of the Flag Debate, and their "circling the wagons" around Mr. Pyper-

Hobson, the former Secretary of IGR, -- the only way to be heard was to shout and bang on the table. The Trustees quite frankly were tone-deaf on the issue of racism and its manifestations. Dr. Ventura's behavior was a reflection of his frustration with the failure of his fellow Trustees to hear and address the complaints and grievances of IGR members of color, and in this instance, Mr. Jordan's actual complaint, i.e., that Mr. Owen lied. He was further frustrated that his fellow Trustees failed to come to grips with the signals that this was sending to IGR members and allies and the damage it could do to the IGR brand. As a Trustee he had a duty to exercise independent judgment, knowing that he could be held individually accountable for each breach of duty made by the Trustees even when taking part in a collective decision-making process. In shining a light on an issue that was long overlooked, Dr. Ventura believed, and still does, that he was acting in the best interest of IGR and an ideal it espouses - "diversity and inclusion."

As to the first and second alleged complaint items, the Trustees did in fact "muddy the water" and "confuse the situation to drive a narrative." The narrative being that on the issue of racism, the Trustees would have acted had they known. But because of the failure of Dr. Ventura, Mr. Jordan and the Diversity and Inclusion Working Group ("DIWG"), the Trustees were in the dark, left unable, although always willing, to address the concerns of people of color. That is the Trustee's narrative in a nutshell, plain and simple. What is particularly troubling, is that the Trustees may have abrogated their fiduciary duty by letting Mr. Owen drive the narrative, the result of which they are now viewed as complicit in his duplicitous behavior. Again, I think it bears repeating, Mr. Jordan's complaint was not about race.

Inexplicably, the Committee found that Mr. Owen's duplicitous and dishonest statement that Mr. Jordan allegedly told him [Mr. Owen] that both Mr. Pyper-Hobson and he [Mr. Owen] were racists did not confuse the situation to drive a narrative. Then, why didn't the Committee understand and address Mr. Jordan's quite specific complaint; instead, it attacked the efforts of Mr. Jordan, Dr. Ventura and the DIWG. The issues as framed by the Committee, in consultation with and approved by the Trustees, had nothing to do with Mr. Jordan's grievance. Committee member Simon Law knew this, Committee member Delan Ellington knew this, and probably some of the other Committee members knew as well. I don't think you can call this a coincidence, not when Mr. Jordan repeatedly told Mr. Owen and the Trustees that his complaint was not about race. What was the purpose of this hurtful allegation, i.e., that Mr. Jordan found Mr. Pyper-Hobson and Mr. Owen racists? It served no purpose but to obfuscate any real investigation of Mr. Owen's conduct.

Couple Mr. Owen's statement (that Mr. Jordan called the Trustees racists), with his assertions on the January Trustee Calls that he was unaware that IGR may possibly have a racism problem, his criticism that the DIWG were the ones who "dropped the ball" and his condemnation of Mr. Jordan's performance as a member of the DIWG stating, "you were the person in charge of the working group and did nothing," the Committee could reach only one sensible conclusion. On what basis did it conclude that Mr. Owen and his fellow Trustees did not "muddy the water" and

“confuse the situation to drive a narrative”? Where is the discussion in the Report on how the Committee reached this determination?

Mr. Owen (and the Trustees) was allowed to shift the focus and change the narrative from Mr. Jordan’s actual complaint to why didn’t Dr. Ventura, Mr. Jordan, and the DIWG inform the Trustees that racism was possibly a problem within IGR. But IGR and the Trustees knew that racism was a problem. It was right there in the reports Dr. Ventura provided, in his capacity as the North America – East Regional Representative, about the ongoing tensions in Columbus that eventually led to the formation of the Columbus Kodiaks (founded 2016) as a result of members leaving the Columbus Coyotes (founded 2011). It was right there when the Trustees were made aware of a member of the Baltimore Flamingoes’ conduct in Columbus in 2019. It was right there when members of the Baltimore Flamingoes broke away and formed the Charm City Knights. It was right there when Mr. Owen was made aware of Charles Abernathy’s and Phil Vinson’s allegations of racism. It was right there when Mr. Vinson had communicated his allegation directly to Mr. Owen a year prior to this investigation. It was right there in the emails Dr. Ventura and Megan Goettches sent to the Trustees during the Flag Debate stating that Mr. Pyper-Hobson comments were problematic, and yet no action was taken. It was right there; right there in front of the Trustees. The issue of racism within IGR had been brought to the IGR’s attention repeatedly since 2014. Yet what do the Trustees say, that the DIWG did not raise the issue “loud and clear.” What is clear is that Mr. Owen purposely confused what really was the issue to drive a narrative. The narrative being that the Trustees were not at fault, instead it was Dr. Ventura, Mr. Jordan and the DIWG who “dropped the ball.”

According to the Committee, Mr. Jordan’s alleged last two complaint items were that the Trustees are (3) “[c]reating a strategy to silence the minorities and (4) [f]inding a ‘happy minority’ to discredit the complaint.” As I mentioned previously, in my opinion, these statements were nothing more than Mr. Jordan’s opinion on what he perceived as “textbook racism,” attacking the messenger (in this case, Mr. Jordan) while purposely not addressing the message (his allegation against Mr. Owen).

Regarding creating a strategy to silence minorities, upon review Mr. Jordan’s contention may have some merit. Mr. Jordan’s specific complaint was that Mr. Owen lied. The investigation, however, was framed around racism. The issue that had been framed and was being investigate discuss was no longer the issue as to why he (Mr. Jordan) filed a complaint. The Trustees had taken his issue and voice by saying they were not going to talk about his issue but something else – we’re not going to talk about Mr. Owen’s conduct; we’re going to talk about racism within IGR. He had been silenced. The Trustees used his characterization of textbook racism, made those items the issue, and changed the narrative. The Trustees (with the help of the Committee) were saying that we (the Trustees) decide what issues IGR will address as an organization. The behavior of Mr. Owen was not an issue we (the Trustees) will discuss at this time.

Often people are silenced, because dealing with the truth can be uncomfortable. The voice of the accuser or protester becomes muffled or goes unheard because people in power made the decision to say --- no, we're not going to talk about that. In the early 70's, the news media covered an LGBTQ rights protest in New York City. The protest was about the discrimination faced by the LGBTQ community and a demand for equal rights. On the six o'clock local television news, the newscaster briefly mentioned the specifics of the protest, instead the focus of the news report was that LGBTQ people held a protest without the proper permit (the permit was for a smaller crowd). The protesters were silenced, their message, their voices muffled and unheard. LGBTQ rights was not an issue the news media wanted to bring America's attention at that time, "law and order" was the issue of the day.

The taking down of the posts on the Flag Debate also could be viewed as an act of silencing those who question or speak out against the IGR's policies and practices. In the classic case, the dominant power (IGR) removes a post without first providing any explanation for the action, leveraging its power to make a determination that is unchallenged. Subsequently, the dominant power converse among themselves (here, the Trustees) and note to anyone listening that the rule has always been in existence and applied consistently. Their fallback position is that the conduct and rules of posting should be understood. But not once did the dominant power (the Trustees) make reference to the rules of engagement or conduct at the beginning of or during in the debate. In the mind of the individuals posting, the content and language on the post were necessary, although possibly offensive, and thought to be within the boundaries of a heated debate. The use of offensive language serves to drive home one's anger. The action of the administrator in labelling the post as offensive, however valid, and then to take down the post resonates louder than the statements made during the debate.

The enforcement of standards in reaction to posts becomes viewed as a subjective determination (particularly when it comes in the middle of the debate) rather than objective treatment across board that is applied evenly among the different groups and messages. Studies have shown that people of color are disproportionately censored in the use of language, messaging, and mannerisms. Thus, the basis for Mr. Jordan's concern of censorship is real. The taking down of the posts represented a form of censorship that served to exert a layer of scrutiny that the dominant group (IGR, through it trustees) uses to enforce its dominant status and to reinforce the norm silencing all who fail to conform or acquiesce. This has a chilling effect on those who have been silenced.

As for "[f]inding a happy minority" to discredit the complaint, this is a sensitive issue that I am reluctant to address. This statement was an emphatic and raw statement of Mr. Jordan's feelings about this whole process. The reference to a "happy minority" was part of his definition of textbook racism. He believes that the way the Trustees, and by extension the Committee, were handling his complaint was textbook racism. Mr. Jordan alleges that the Trustees had found their

person of color who would do their bidding and ultimately decide this matter in the Trustee's favor.

The so-called "happy minority" is a character, a stereotype -- that is a vestige of colonialism and slavery. He is the minority who never complains, who won't wipe off that humble submissive smile, and stand up and demand fairness and justice. He is overly critical of his own people and apologetic when it comes to the wrongdoing of the white power structure. The "happy minority" will volunteer for the most thankless task to curry favor with the white power structure. He's well-versed in the "company line;" he knows what needs to be done without being told. The "happy minority" is there to discredit the complaint. Whether the Trustees had found a "happy minority" to discredit Mr. Jordan's complaint, I can't answer that. I would hate to imagine that occurred. The accusation at first blush appears to be a statement made in frustration. However, something or someone obviously made Mr. Jordan feel this way. But what I can say is that, for whatever reason, his complaint has not been addressed.

### **Response to the Comments in the Report's Notes Section**

#### **(a) Behavior of Mr. Howell, Dr. Ventura, & Mr. Jordan**

I understand the need for members of the Committees to maintain the confidentiality of information that they acquired by virtue of them being on the Committee and that the Committee's investigation may possibly suffer otherwise. The Report contended that Mr. Howell breached his duty of confidentiality to the Committee by releasing information to Dr. Ventura and Mr. Jordan. Mr. Howell did not provide any information to Mr. Jordan. He did, however, speak with Dr. Ventura about a Trustee Call video. Mr. Howell contacted Dr. Ventura in attempt to understand the protocols and responsibilities of the Trustees regarding the video, how the video was obtained and how it was released. In doing so, whether he knew it or not, he let the proverbial "cat out the bag." What did the Committee do? It turned around and informed the Trustees, the very people who would be damaged by the release of the video (because it showed that they lied) that the video was now known to Mr. Jordan. What does Chair of the Committee, Ian Royer, say -- that he believed their [the Trustees] discussions should be under separate cover now that you're aware of how we [the Committee] are proceeding. He told the Trustees that they didn't have to include the Committee in on the Trustee's internal discussion, but you could get back to them afterward. It's all there in an email (dated February 29, 2020) from Mr. Wide to Mr. Owen. There is nothing independent about this investigation. Let's not talk about breach of confidentiality, let's talk about secrecy -- the intentional hiding of relevant information. Breach of secrecy -- this is what the Committee wants to punish Mr. Howell for and it's shameful.

#### **(b) Dr. Ventura's Alleged Attempt to Circumvent Inquiry**

The Report also contended that Dr. Ventura "made several attempts to disband the inquiry." Nothing could be further from the truth. Where is the Committee's support for such an egregious allegation? A review of the email exchanges between Dr. Ventura and his fellow Trustees will



reveal that Dr. Ventura attempted to have the Trustees and the investigation: (1) comport with requirements of the Constitution and (2) address Mr. Jordan's actual complaint, i.e., whether Mr. Owen lied. In his email exchanges with his fellow Trustees, Dr. Ventura continuously stated that, in his opinion, the investigation did not adhere to the requirements stated in the Constitution, namely the Trustees needed to clearly state the terms and conditions under which the Trustees were authorizing the inquiry and second, that the Trustees need to inform the full Board of Directors of its proposed actions. Dr. Ventura also was concerned that any invalid finding could be challenged in court and cost IGR its status as a licensed charity with the UK Charity Commission. Additionally, he stated his concern that negative press would have a devastating effect on the IGR brand. Dr. Ventura stated that he had an obligation, a duty to protect the interest of IGR. The Constitution states that it is the duty of each trustee:

To exercise his or her power and to perform his or her functions as trustee and as a member of the IGR Executive Committee in the way he or she decides in good faith would likely further the purposed of IGR.

See, Constitution, §12.1a, Function and Duties of IGR Executive Committee.

Dr. Ventura did just that. The duty of loyalty also requires that Trustees act honestly and in good faith in the best interests of IGR. This duty is a personal duty and cannot be delegated. The duty of care requires Trustees to deal honestly with the organization, to exercise their best judgement and to comply with all applicable laws and organization governing documents. Dr. Ventura's conduct was nothing more than a good faith effort to protect the interest of IGR.

### **Behavior of Mr. Jordan**

I am perplexed why, in the interest of transparency, the Committee would be opposed to Mr. Jordan's request that the calls and meetings being recorded for the record. The Committee said it was uncomfortable recording its calls and meetings. Why would the Committee not provide IGR members, or at minimum the Board, with access to its meetings, records, vote and deliberations so that in the event some aspect of their deliberations is called into question it had a record? All he was asking, was that the Committee be transparent in its actions. One would think that the Committee would be mindful of the controversy surrounding the failure to preserve the Flag Debate posts, i.e., the anger and loss of trust of some IGR members. I also understand that Mr. Jordan made no threats. He pointed out that most players of color were considering boycotting Bingham because they were upset over how poorly IGR has handled this issue. He also noted that sponsors and others would be dismayed by the continued poor handling of the racism issue. That was not a threat; it was a fact. The Committee clearly showed a lack of understanding of the complete dynamics of their undertaking, internally and externally, outside of IGR.

### **(c) Leveraging of the Ottawa Wolves & Bingham Cup**

The Members can point to no evidence that Dr. Ventura threatened IGR or the Bingham Cup. In fact, what Dr. Ventura did was to inform the Trustees of the consequences of its action on the IGR brand and its corresponding effect on the Bingham Cup. He was concerned that the Trustees' conduct was putting the Bingham Cup at risk. He never stated or implied that he would hold the Bingham Cup hostage; he supported Ottawa when they put forth their bid for the Bingham Cup in Amsterdam. Threatening the IGR and Bingham Cup makes no sense. Let's look at exactly what Dr. Ventura said. In an email to his fellow Trustee members, dated February 27, 2020, he said, " I find it extremely disturbing that we [the Trustees] are willing to put (sic) Bingham Cup and the Ottawa host committee at financial risk by allowing this to continue much longer. The negative press about this could affect our members' ability to raise funds to attend Bingham Cup and may cost the loss of charitable donations to their clubs. We don't want to be the Board of Trustees that allowed this to happen."

### **II. Loss Of Confidence in Gus Ventura & Mark Jordan Memorandum**

Neither the Trustees nor the Board rebuked or expressed disapproval of the Memorandum Signatories' action. The Trustees' and Board's silence is taken to be tacit endorsement of the Memorandum. A Memorandum that is highly prejudicial and fraught with legal concerns and implications. This Memorandum is like a hearing examiner filing a "friend of the court" brief on the decision the examiner just prepared on behalf of the administrative tribunal. This Memorandum is outside the scope of the investigation, or is it?

#### **Loss in Confidence in Gus Ventura as Trustee**

##### **Charm City Knights ("CCK")**

The Memorandum Signatories chastised Dr. Ventura for not informing Mr. Pyper-Hopson of the status of the Charm City Knights ("CCK") and his allegedly calling Mr. Pyper-Hopson a racist. The Memorandum stated that Dr. Ventura "... initiated a discussion calling [Mr. Pyper-Hobson] racist." Dr. Ventura did not initiate the discussion. It was Mr. Pyper-Hobson who initiated the discussion when he announced in a group chat with fellow Trustee members that CCK had "... officially folded. So we need to run a board vote to remove them." Thereafter, Dr. Ventura questioned the validity of the source of that information. The Memorandum Signatories can point to nothing in the record where Dr. Ventura called Mr. Pyper-Hobson a racist. A closer look at the Facebook messenger exchange between Dr. Ventura and Mr. Pyper-Hobson will show that Dr. Ventura stated that he was tired of Mr. Pyper-Hobson's latent racism.

A further review of the record will show that Dr. Ventura has specifically stated that "he didn't know Neil [Mr. Pyper-Hobson] well enough to call him racist." See, January 17<sup>th</sup> Trustee Call. Despite his and Mr. Pyper-Hobson's differences, Dr. Ventura's concern was that Mr. Pyper-Hobson's actions and comments would reflect negatively on IGR. The fact that Mr. Pyper-Hobson

would take the word of a rivalry club to shut down its adversary was troubling. Dr. Ventura used the term “latent racism” not “racist” to describe Mr. Pyper-Hudson’s conduct. What is latent racism? The definition of latent is “hidden,” “presently inactive,” or “potentially existing but not yet realized.” Latent racism is the sort of racism that exist in society, not necessarily with the intent of keeping a particular race subordinate to another, but conversely, it is the side effect of the embedded or institutional practices that affects race; or the beliefs of person shaped by those institutional practices. Again, the record will show that, time and again, Dr. Ventura has said that Mr. Pyper-Hobson’s behavior lent itself to being latently racist. Dr. Ventura explained that “Mr. Neil Pyper-Hobson’s focus on CCK after posting a list of voting issues for a club is an example of how latent racism is perceived by others.”

Mr. Owen demanded that Mr. Ventura provide support for his comment about Mr. Pyper-Hobson’s actions being latently racist. Mr. Owen stated that he was developing a dossier on Mr. Pyper-Hobson’s resignation to present to the Board. Dr. Ventura agreed that the request was reasonable and necessary in order for the Board to fully understand everything. Dr. Ventura sent Mr. Owen an email, dated February 4, 2020, with screenshots which included the requested information which supported Dr. Ventura’s comment. Mr. Owen intentionally omitted the February 4<sup>th</sup> email from the dossier he posted to the Board. The Trustees were well aware that this email existed. The Trustees were, once again, complicit in Mr. Owen’s duplicitous action disregarding their fiduciary duties as Trustees. The complete February 4<sup>th</sup> email (with all attachments) must be included in the dossier so that there is a complete account of what transpired. Further, any language in the dossier that claims Dr. Ventura bullied Mr. Pyper-Hobson into resigning must likewise be removed. The record speaks for itself.

As to why Dr. Ventura didn’t inform Mr. Pyper-Hobson that CCK was going on hiatus until 2020, why would he? The Memorandum Signatories state in their Memorandum that Mr. Pyper-Hobson was aware that CCK was on going on hiatus. So why was there a need for Dr. Ventura to tell him the same again? Additionally, that was tangential issue to whether the club was defunct. The fact that a club is taking a brief hiatus doesn’t mean that it is defunct. The question was not whether CCK was on hiatus, but whether they were defunct. Michael McCarthy of the Baltimore Flamingos contended that that CCK were defunct and not in good standing with USA Rugby. A screenshot posted by Trustee Cyril Leroy stated that a search showed that “they’re (CCK) [were] still registered with USA Rugby. See January 11<sup>th</sup> Facebook Screenshot of Cyril Leroy. Since August 2018, CCK had experienced six verified credential checks, a highly unusual number that neither Dr. Ventura nor Ray Fritz had been asked to do for any other club in North America-East.

The question to ask is, what is proper protocol for requesting a credential check? IGR’s protocol was for Mr. McCarthy to contact Ray Fritz, IGR’s North America - East Regional Representative. He was the face of IGR leadership for clubs in the North America – East region; the next step, if necessary, was to contact Dr. Ventura, the Regional Trustee. Mr. McCarthy did not follow IGR established protocol and do either. Mr. Pyper-Hobson should have known this. He also knew that

this was not the first time Mr. McCarthy had insisted that CCK was defunct. Each time, however, he was informed that the CCK were still in existence. What happened between Dr. Ventura and Mr. Pyper-Hobson was unfortunate. Mr. Pyper-Hobson unwittingly allowed himself to be used to circumvent or disregard established IGR protocol.

The Trustees' explanations for Mr. Pyper-Hobson's behavior by referencing Mr. Owen's Barcelona and Chile interactions with Mr. Pyper-Hobson does not negate the fact that neither Mr. Pyper-Hobson nor Mr. McCarty followed IGR protocol. Further, the fact that Mr. Pyper-Hobson asked Mr. Owen to confirm Barcelona's status has no relationship or bearing on how the CCK were being treated. Last, Mr. Pyper-Hobson had already concluded in his mind that the CCK were defunct based on a conversation with Mike McCarthy. A Facebook Thread from January 11, 2020 read: "Neil Pyper-Hobson --- Just heard from Michael McCarthy that Charm City Knights have officially folded. So, we need to run a board vote to remove them." See, January 11<sup>th</sup> Facebook Screenshot of Neil Pyper-Hobson. The Trustees seem to gloss over this and allege that all Mr. Pyper-Hobson was asking Mr. Ventura to do was to investigate whether CCK was defunct. It was only after being challenged by Dr. Ventura did Mr. Pyper-Hobson ask for an investigation.

## **(2) Threats to IGR and Bingham**

See, Response to Comments in the Report's Notes, # 1(c) above, Leveraging of the Ottawa Wolves & Bingham Cup.

## **(3) The Exchange of Confidential Information (by Dr. Ventura, Mr. Howell & Mr. Jordan)**

See, Response to Comments in the Report's Notes, #1(a) above. Behavior of Mr. Howell, Dr. Ventura, and Mr. Jordan.

## **(4) Mr. Ventura acted in a manner which was not consistent with his role as a Trustee or Member of the Executive Committee.**

Once again, the Memorandum Signatories provide no reference for the basis of its conclusory statement. Nevertheless, Dr. Ventura's fiduciary duty is to IGR. Fulfilling the IGR's mission is the overriding fiduciary duty. The role of a Trustee or member of the Executive Committee is to act in the best interest of IGR. However, the Members feel about Dr. Ventura as an individual, it cannot be said that he did not act in good faith and in the best interest of IGR.

## **(5) It is clear that records and confidential details were leaked outside of the Executive Committee.**

The Memorandum provides no specific references as to these allegations. I believe the issue here relates to Dr. Ventura informing Mr. Jordan of Mr. Pyper-Hobson's resignation as a secretary and the credential check involving the CCK. I understand the importance and need for confidentiality of board room discussions and the fabric of trust and collegiality that should exist among directors. However, Dr. Ventura was Trustee for North America. Mr. Jordan was a member of the

Executive Leadership Team as the regional representative for the World Barbarians. Although Ray Fritz was doing an outstanding job as the North American – East Regional Representative, he did not have the relationship with the leadership of the CCK that Mr. Jordan had. Mr. Jordan was the only person of color on the Executive Leadership Team for the entire North America and he had developed an invaluable rapport with the CCK. Mr. Owen had chastised Dr. Ventura that it was his job to represent North American clubs and their issues. And Dr. Ventura made every effort to be better informed on the issues of people of color.

What the Trustees appeared more concerned with is that Dr. Ventura's conversation with Mr. Jordan had exposed the failing of the Trustees with people of color. Mr. Owen even stated that had Mr. Pyper-Hobson's comment about CCK not been made public, this [racism] would never have become an issue." See, January 17<sup>th</sup> Trustee Call. The Trustees go through great length to cloak this as a matter of confidentiality, when it appears to be a matter of secrecy. The Trustee did not want anyone to know that they were "asleep at the switch." It happens. And when it does happen, the better path is to take ownership of the lapse and move forward and tackle the issue head on.

Although the Trustees view Dr. Ventura's conversation with Mr. Jordan as more than a harmless error; Dr. Ventura's constituents in North America already knew of the reputation of the Flamingoes, and the relationship between the Flamingos and the CCK. Dr. Ventura's disclosure did not cause IGR irreversible harm. To the contrary, it was an opportunity for IGR to address "the challenges of diversity, inclusion and cultural understanding." See, Mission Statement of DIWG. IGR by assuming a defensive posture failed miserably.

Neither the Committee nor the Memorandum Signatories recognize and acknowledge that Mr. Owen also "took a private conversation outside." They subjectively focused the breach of confidentiality on Dr. Ventura, Mr. Howell and Mr. Jordan. However, Mr. Owen shared alleged sensitive and confidential information with a third party. He acknowledged that he discussed and sought guidance from a co-worker on how he should handle the matter between Dr. Ventura and Mr. Pyper-Hobson. Did not the duty of confidentiality apply to Mr. Owen as well? Or are there degrees of confidentiality? The Committee's selective enforcement of what is a breach of confidentiality is troubling.

Last, the disclosure of Mr. Pyper-Hobson's resignation, although it may have been unfortunate, was not fatal to any Trustee deliberation unless the Trustees had no intention of accepting Mr. Pyper-Hobson's resignation. Mr. Pyper-Hobson provided his resignation in writing on January 11, 2020. It was not until January 27, 2020 did the Trustees accept Mr. Pyper-Hobson's resignation. Dr. Ventura's disclosure of Mr. Pyper-Hobson's resignation created a problem for the Trustees. It effectively thwarted an attempt by the Trustees to reinstate Mr. Pyper-Hobson. They couldn't act as if his letter of resignation didn't exist. There was no breach of confidentiality; Mr. Pyper-

Hobson had resigned. The Constitution explicitly states that Mr. Pyper-Hobson resignation was effective upon receipt.

### **Diversity and Inclusion Committee**

The Memorandum noted with grave disappointment that this situation could have been avoided if the Diversity and Inclusion Committee [the correct name of the committee is the Diversity and Inclusion Working Group] was operating transparently and efficiently. And the same should have been said of the Trustees. The preceding paragraph to this statement in the Memorandum references five different behaviors that the Memorandum Signatories are alleged to have observed. I will assume the situation the Memorandum Signatories are referring to, is the issue of racism that is now before IGR. The Memorandum Signatories ask:

1. **“What was the mandate of the Diversity and Inclusion Committee?”**

A mandate is an official order by an authority giving an entity or person the authority to do a specified act. The Memorandum Signatories credit the statement of Mr. Owen that he provided initial instructions. For purposes of discussion as to what is the mandate, let’s suppose the instructions were the mandate. Where in the record did Mr. Owen provide the Members with a written copy of these instructions? The Memorandum Signatories then state that, according to the Trustees that the mission statement of the DIWG represents its mandate. To the contrary, a mission statement is no more than an aspirational goal statement. The Memorandum Signatories placed the burden of proof on Dr. Ventura to show that the DIWG did not receive a mandate. The Committee should have asked Mr. Owen to provide a copy of the mandate he provided to the DIWG. He didn’t because there was none.

2. **“Who are the sitting members of the committee officially and what are their roles and capacity?”**

It is unfortunate that Mr. Owen experienced selective amnesia when asked this question. Mr. Owen knew or could have found out who were on the DIWG. Mr. Owen was a member of the DIWG Facebook Group along with Messrs. Wide and Verrijdt. Mr. Owen was a member of both the core committee and the general committee. Mr. Owen had access to the private chat group and the open non-private chat group. Who were the sitting members of the committee, what were their roles and capacity; Mr. Owen could have told you if he had only made an effort to go to the Facebook Group site.

3. **“How many reports were given to the Trustees Board from the Diversity and Inclusion Committee on their plan and any action taken?”**

Thirteen reports were provided. Based on how the Committee has conducted this investigation, I take this questions to mean that the DIWG failed some obligation to provide a plan and take some action. Based on the conclusory nature of the Report, this is consistent with the Memorandum Signatories’ and Committee’s attempt yet again to shift responsibility away from

the Trustees. If you read the Report, it reads as if the Trustees have no role or responsibility or knowledge of what the DIWG was doing. The Trustees were informed of the DIWG's activities on the Trustees' Calls. It was an item on the agenda every call. The Trustee Calls were held on Zoom and the transcripts of each DIWG report were available for review. Neither the Committee nor the Memorandum Signatories took the opportunity to watch the videos of the meetings or read the transcripts from the meetings.

Mr. Owen's claims that the only information he remembers being shared regarding racism was with regards to "above-referenced" complaint. I assume he means either the CCK matter or the Flag Debate. However, Mr. Owen was aware of Charles Abernathy's complaint and was contacted directly by Phillip Vinson regarding his complaint. Dr. Ventura had been reporting on these issues since he was elected as the regional representative for North America – East in 2014. The Trustees were aware that alleged racism resulted in a second club being formed in Columbus in 2016. They were aware why the CCK were formed. Mr. Owen did not take issue with Dr. Ventura's assertion that he did raise the issue of perceived racism on the Trustee Calls. Mr. Wide tacitly acknowledges the same in stating that Dr. Ventura did not recommend any action. In a colloquy between Dr. Ventura and Mr. Owen regarding the Flag Debate, Mr. Owen asks that if the Trustees' actions were insufficient that possibly Dr. Ventura should have told the Trustee they need to do more. Again, the Trustees acknowledge they were made aware.

Mr. Owen told the Committee that he would be happy to compile and send the minutes of the Trustee Calls to Committee. Did the Committee or Memorandum Signatories request and review the minutes? Mr. Owen states that no formal reports had been filed. Did Mr. Owen or the Trustees request a formal report or state that one was required to be file? The Memorandum Signatories put the onus on the DIWG to inform the Board and IGR members when in fact the DIWG was reporting up to the Trustees' Executive Committee. But the Committee's and Memorandum Signatories did not ask Mr. Owen why the DIWG's actions or lack thereof, were never reported to the Board. The Memorandum Signatories attacked Dr. Ventura claiming he did nothing to assist CCK when he knew the team needed help. Did the Committee or any Memorandum Signatories reach out to CCK and ask them? Dr. Ventura and Ray Fritz did reached out to the CCK, and let them know that they were there for them. CCK knew, that if anybody was there for them in IGR, it was Ray Fritz and Dr. Ventura.

### **Loss in Confidence in Mark Jordan**

The Memorandum states that "it is abhorrent to only disclose information without context in a manner that is harmful and damaging." See, Memorandum, On Confidentiality Breaches & Public Dissemination of Confidential Data by Mark Jordan, page 3. The Memorandum Signatories provide no citation to what information it is speaking of that was disclosed. I concur that "it is abhorrent to disclose information without context in a manner that is harmful and damaging." But this is precisely what this Committee has done throughout its Report and the Memorandum

Signatories in the Memorandum. The Memorandum Signatories claim that the way the internal investigation was handled by Mr. Howell and Mr. Jordan resulted in breach of confidentiality. The Memorandum Signatories should ask themselves why the Committee coordinated the so-called independent investigation with the Trustees. The Trustees had a clear conflict of interest in this matter. Did the Memorandum Signatories not see that? Loss of Confidence? I think it would be reasonable to lose confidence that this was an independent investigation.

The Memorandum Signatories allege that in the Trustees Call between Mr. Jordan, Dr. Ventura and Mr. Owen that Mr. Jordan and Dr. Ventura made highly inflammatory statements about Mr. Pyper-Hobson, “emphatically calling him racist, without providing evidence being shared in public spaces.” I don’t understand what “without providing evidence being share in public spaces” means. Where is the support for the assertion that Mr. Jordan and Dr. Ventura called Mr. Pyper-Hobson a racist? There is none. Mr. Jordan never called Mr. Pyper-Hobson a racist. What Mr. Jordan did say was that Mr. Pyper-Hobson was viewed as a racist because of his posts and comments. In fact, Mr. Jordan said, “he’s a fine person to me, but his posts are terrible.” See, January 11<sup>th</sup> Trustee Call. Further Mr. Jordan said, “I can’t tell you whether Neil is racist or not.” See, Same. Mr. Pyper-Hobson posts were so bad, Mr. Owen shut it down (the available screenshots) and Mr. Pyper-Hobson deleted his comments. Dr. Ventura merely observed what was now apparent, whether IGR liked it or not, Mr. Pyper-Hobson had become the face of racism and obstruction.

### **III. The Trustees’ Lack of Sensitivity and Awareness on Racism**

It was surprising to hear the Trustees allege racism was not the issue in the UK that it was in the United States. Especially when nothing could be further from the truth. After contacting LGBTQ organizations in the UK, I struggle to see how any Trustee could reach this conclusion. I know they are aware of what it means to be “LGBTQ” and the ongoing struggle for recognition and acceptance. People of color are facing discrimination based not only on their sexual and/or gender identification, but also because of their race. And to have to fight against racism within the LGBTQ community is disheartening and fatiguing – “no chocolate, no curry, no spice, no rice.” People of color in the LGBTQ community are acutely aware of their race; society and the greater white LGBTQ community reminds them of it daily.

I read two posts where Trustees allege that they didn’t see color. The South African poet Niyirah Waheed said, “never trust anyone who says they don’t see color. This means to them, you are invisible.” Being allegedly color-blind doesn’t help the problem. You need to see color and life from the point of view of people of color to help eradicate racism. Not seeing color denies systemic racism. Some view the challenges that people of color face on a daily basis as mainly personal or moral failings that can be overcome, not symptoms of a broken system. No, the system is broken. We must understand that no one is immune from inheriting racial, gender, and



sexual orientation prejudices and biases. We also need to understand that ongoing self-examination is critical if we are to eradicate racism.

In my communications with Stonewall, the UK's leading charity for lesbian, gay, bi and trans equality, I was informed that it issued a highly publicized report in 2018, which shows the depth of racism within the LGBTQ community in the UK. In the Stonewall Report, it informed that 51% of LGBTQ people of color have reported having experienced racism in the LGBTQ community and the percentage rises to 61% for Black LGBTQ people. That means one out of every two people of color and three out of every five Black people have felt the sting of racism.

Further, the UK Home Office statistics state that there were 105,090 hate crimes recorded by the police in England and Wales in 2019-2020 (excluding Manchester), an increase of eight percent compared to the year ending March 2019, which had 97,446 offenses recorded. Approximately three-quarters (72%; 76,070) were race hate crimes; while sexual orientation hate crimes increasing by 19 percent (to 8,469) and transgender identity hate crimes increasing by 16 percent (to 2,540). See, Home Office, Official Statistics, Hate Crime, England and Wales, 2019 to 2020, Updated 28 October 2020, Table 2.1. It is much the same in much of the European Union and the rest of the world. Germany has no separate category of offenses for "hate crimes." There "hate crimes" are categorized as "political motivated crimes." As we all know the numbers are probably much higher due to the fact that victims of hate violence are generally reluctant to file charges or report such incidents to the police. I'm perplexed that the Trustees claim that they are unaware of racism problems in the UK or for that matter Europe.

Additionally, racism has garnered a great deal of headlines in the UK press over the years. I will highlight two of the many articles that I was provided on racism in the UK. One was article that appeared in 2015 [Pink News](#) that ran a headline that read; "80% of Black Gay Men Experience Racism in the Gay Community." Another is a June 2020 article in the [Financial Times](#) entitled "Waking Up to the Realities of Racism in the UK," which contended that racism is "a systemic problem and will require a systemic solution." There are many more, but you get the point – racism is a problem that requires our attention.

The Flag Debate merely brought to the surface something the Trustees and IGR members failed to acknowledge and address for years. The Trustees (Messrs. Pyper-Hobson and Owen) deleting posts and shutting down the Flag Debate only ignited the fuse. We know when the issue of racism is raised one of the first responses of white people is defensiveness. This is a difficult and uncomfortable issue; but the unwelcoming experiences of people of color in the LGBTQ community are real. Mr. Pyper-Hobson stated that in posting an image of the new 2018 all-inclusive flag he was asking what people thought of the design and not its symbolism. How can you not deal with the symbolism? Flags are symbols. And symbols should not be disregarded as insubstantial. They denote social value and signify intent.

Mr. Pyper-Hobson stated that he did not know about the Philadelphia flag and that he viewed it like the lesbian and leather pride flags. That was unfortunate and probably in hindsight he wished he had looked into the genesis of the Philadelphia flag. The Philadelphia flag, which was unveiled in 2017, added the black (diversity) and brown (inclusivity) stripes to the traditional rainbow flag to represent people of color who previously felt “marginalized, ignored or excluded” from Pride celebrations. Mr. Pyper-Hobson commented that “the rainbow flag used as a symbol of pride for all was being used to separate people by race.” The flag was not a symbol of pride for all; it was already being used to separate people by race. If everyone felt the flag truly represented all races; there would have been no need to add any colors. People of color feel “marginalized, ignored or excluded.” Instead of objecting to the addition of the black and brown stripes to the IGR flag, the question that should have been asked was why did people of color feel a need to add additional colors? Further like the lesbian and leather pride flags, the IGR Pride Flag, unlike the traditional Pride Flag, represents a distinct group of people (rugby) within the LGBTQ community.

Gilbert Baker, who designed the original rainbow flag in 1978 said the rationale behind the flag’s design was that the “[gay community] needed something to express our joy, our beauty, our power.” He said that “we’re ancient tribe, a wonderful tribe of people.” He later created a nine-color rainbow flag with a lavender stripe added for diversity. For my reading and conversations with members of the LGBTQ community, Gilbert Baker would have wanted his flag to be truly representative of the community he so loved. The pride flag is in a state of constant evolution. According to his estate, he continuously created new versions of the flag to celebrate the total spectrum of the LGBTQ community. The Philadelphia flag represents members of the LBGT community who have not felt accepted, respected and celebrated. The Philadelphia flag may represent an opportunity to not only come together and celebrate not just Pride but also the community that so often get overlooked. It was a chance to stop saying “we’re inclusive” and to actually be inclusive. In 2019 Manchester Pride Festival used the Philadelphia flag instead of Gilbert Baker’s traditional flag to do just that and to show its continuing campaign for equality and acceptance for all.

IGR touts its diversity and tolerance. In 2015, IGR entered into agreements with USA Rugby and World Rugby to promote equality and inclusivity in rugby. In 2018, IGR had been selected by U.S. Olympic Committee to participate its Finding Leaders among Minorities Everywhere (“FLAME”) program which focuses on promoting diversity and inclusiveness. In September 2020, USA Rugby came out with a statement in support of efforts to bring about equality, and that racism and bigotry had no place in rugby or society.

Based on what has transpired over the Flag Debate, it is apparent that the culture of IGR does not support true inclusiveness and being able to talk about race, power and privilege. It is apparent that within IGR values related to diversity and inclusion are lacking or not understood or practiced; and that there is no common language for understanding and addressing racism. It is apparent when racism is discussed that the opinion of people of color is not respected and

heard and if heard, minimized. It also is apparent the leadership of IGR is uncomfortable talking about racism; they are inclined to be dismissive or defensive and attempt to shift or avoid responsibility rather than address the issue head on. Yes, it is an uncomfortable issue, but IGR's leadership must rise to the occasion. I think IGR is capable, if it is willing to put in the work. But IGR will continue to fall short of the mark, if its directors continue to "pass the buck" and "keep its head in the sand."

#### **IV. Conclusion**

The Report and Memorandum were not based on an independent investigation. The Report was not accurate, fair, objective or credible. The Report stated conclusions without any underlying reasoning or foundation. The Committee never even attempted to develop a complete factual record on which the Report should have been written. This investigation did not root out bad actors; to the contrary, it allows for the silencing of members who sought to do what was right. Mr. Jordan's complaint was cast aside and the Trustees put forth the narrative that in essence blamed Mr. Jordan, Dr. Ventura and the DIWG for the Trustee's failure to address the issue of racism within IGR. Mr. Jordan's complaint concerned the lie that Mr. Owen told that Mr. Jordan said that the Trustees were racists, when he said no such thing. Mr. Jordan asked for an apology ... a genuine apology. This entire controversy could have been averted if Mr. Owen and the Trustees had directly and publicly acknowledged that he lied. Instead Mr. Owen issued a cagey apology where he avoided directly mentioning that he lied. He and the Trustees should have publicly acknowledge that they lied. That was all Mr. Jordan had asked for.

Dr. Ventura was concerned that IGR was not living up to stated goals. And that the actions, or lack thereof, by the Trustees put the name and reputation of IGR at risk. Dr. Ventura's passion may have been off-putting to some, but his love and commitment to IGR and what it is supposed to stand for, is unquestioned. Dr. Ventura had a responsibility as a Board Member, not necessarily to be convinced with a degree of certainty that a risk of harm (caused by the Trustees' action) would materialize; only that it might do so, is a material risk that IGR should seek to avoid. It is for each director to weigh the likelihood of the risk and the damage that could be done to IGR if it comes to pass and to act accordingly. Trustees should consider factors that do not currently directly affect IGR, if those factors may have a material impact on IGR's future success. Something that give rise to reputational damage, if generally known outside of IGR, is a relevant factor that should be taken into account. These are the things that Dr. Ventura considered.

The fundamental obligation of IGR's Board to ensure that the Trustees, the IGR's management, is acting in the long-term best interest of IGR. Each director must decide which factors he or she should take into account and what weight they should be given, using as a yardstick the duty to act in the best interest of IGR. As a Board Member and Trustee, Dr. Ventura was at all times loyal to the interest of IGR, and believed that his actions would promote the best interest of IGR.

The Report and Memorandum are defamatory. A statement is libelous, if untrue, the publication of which has caused or is likely to cause serious harm to the reputation of the claimant. Legally, Mr. Jordan and Dr. Ventura must only show that: (1) the statement was made and (2) it was defamatory. They need not prove that the statement was false; IGR must prove that the statement was true. I don't believe legal action is worth the damage to IGR's name and reputation. Neither Mr. Jordan nor Dr. Ventura want to damage IGR and air their grievances publicly. Although the Trustees, Committee and Memorandum Signatories willfully damaged their name, Mr. Jordan and Dr. Ventura still hold IGR and its ideal in high regard.

The Trustees, the Report and Memorandum willfully besmirched the names and reputations of both Mr. Jordan and Dr. Ventura. The Report and Memorandum make conclusory pronouncement without support. Mr. Owen and the Trustees knew that Mr. Jordan never complained that the Board was racists. But they lied anyway. Again, Mr. Jordan had requested a real genuine apology and acknowledgement for their purposely misleading actions. With none provided, Mr. Jordan filed a complaint. This set off a chain of events centered on racism and IGR's treatment thereof. For that, Dr. Ventura and Mr. Jordan were vilified and attacked with false and misleading accusations. The Report and Memorandum were posted for the IGR community and their friends and allies to see. Mr. Jordan and Dr. Ventura are looked at with a jaundiced eye and their friendships and relationships have suffered based on the Report and Memorandum. Their names and reputation had been damaged, personally and professionally, when the so-called independent findings of the Report and Memorandum were made public.

Because the Report and Memorandum are fraught with errors and raises more questions than it answers, it does nothing to shore-up the trust and morale of IGR members, especially when the allegations that damage good and faithful members were willfully mischaracterized by IGR's leadership. Because the prior Board failed to show leadership on the issues, you are put in the unenviable position of having to demonstrate that the new leadership has its hands firmly on what is right, what is fair, and what is in the best interest of IGR.

Based on the foregoing, I think it would be appropriate to provide individual written apologies to Dr. Ventura, Mr. Jordan, and Mr. Howell from IGR's Executive Committee. Copies of the apologies also should be sent to any and everyone who had or could have a copy of the Report & Memorandum by virtue of them being an IGR member. This includes the IGR Board of Directors as a whole, the entire membership via direct/individual email and the Bingham Cup 2022 leadership team. In addition, the apologies must be posted on all IGR social media outlets to include the IGR Club ("IGRC") Facebook page, the IGR Official Facebook page, the IGR North American Facebook page, all IGR twitter accounts, all IGR Instagram accounts, and any and all social media platform where IGR maintains an official presence. In addition, it should be posted on USA Rugby and Rugby Canada Facebook pages, and sent to Alice Hoagland, Mark Bingham's mother. The Chairman of the Inquiry Committee, Ian Royer, posted the Report and Memorandum

on the referenced social media platforms. And a Trustee reached out to Mark Bingham's mother to inform and provide her with a copy of the Report.

I thank you for your time and consideration. I look forward to hearing from you at your earliest convenience. Should you have any questions or wish to discuss this matter, I can be reached at 1-(202)-669-0308 or [dla@dlalegal.com](mailto:dla@dlalegal.com).

Sincerely,

*Daryl L. Avery*

Daryl L. Avery

cc: Gustavo M. Ventura