

**IN THE MATTER OF PROCEEDINGS BROUGHT  
UNDER THE ICC ANTI-CORRUPTION CODE**

**Between:**

**THE INTERNATIONAL CRICKET COUNCIL (“ICC”)**

**-and-**

**MR JAYANANDA WARNAWEERA**

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**DECISION**

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**Introduction**

1. The ICC is the international governing body for the game of cricket and as such is responsible for the development, co-ordination, regulation and promotion of cricket worldwide.
2. As part of its regulatory role and as part of the ICC’s continuing efforts to maintain the integrity, public image and popularity of cricket, the ICC has adopted and implemented the ICC Anti-Corruption Code for Participants (the “Code”) which sets out a framework of rules to provide: (a) an effective means to deter any participant from engaging in any form of corrupt conduct; and (b) a robust disciplinary procedure pursuant to which all matters of corrupt conduct can be dealt with fairly, with certainty and in an expeditious manner<sup>1</sup>.
3. Mr Warnaweera is a Sri Lankan national who played international cricket for Sri Lanka between 1986 and 1994 and more recently held the role of Pitch Curator at Galle International Cricket Stadium and was a member of the Sri Lanka Cricket Interim Committee from 1 April 2015 until he resigned his position on 2 October 2015.

**Facts**

4. At all material times, through his position as Pitch Curator at Galle International Cricket Stadium, Mr Warnaweera constituted a Participant for the purposes of the Code. As such, he was bound by the Code and agreed (1) not to engage in conduct that would constitute a breach of the Code and to comply with the requirements of the Code, and (2) to submit to the jurisdiction of the ICC to investigate apparent or suspected Corrupt Conduct (as defined in the Code) that would amount to a violation of the Code.
5. Code Article 4.2 provides:

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<sup>1</sup> Unless otherwise indicated in this decision, words in italicized text are defined terms and their respective definitions are set out in the Code.

*"The ACSU<sup>2</sup> may at any time conduct an investigation into the activities of any Participant that it believes may have committed an offence under the Anti-Corruption Code. Such investigations may be conducted in conjunction with, and/or information obtained in such investigations may be shared with, National Cricket Federations and/or other relevant authorities (including criminal, administrative, professional and/or judicial authorities). All Participants and National Cricket Federations must cooperate fully with such investigations, failing which any such Participant shall be liable to be charged with a breach of the Anti-Corruption Code pursuant to Articles 2.4.6, 2.4.7, 2.4.8 and/or 2.4.9 (and it shall not be a valid basis for failing or refusing to cooperate or a valid defence to any such subsequent charge for a Participant to invoke any privilege against self-incrimination, which privilege is deemed to have been waived by the Participant). The ACSU shall have discretion, where it deems appropriate, to stay its own investigation pending the outcome of investigations being conducted by other National Cricket Federations and/or other relevant authorities."*

6. Code Article 4.3 provides:

*"As part of any investigation, the ACSU General Manager may at any time (including after a Notice of Charge has been provided to a relevant Participant) make a written demand to any Participant (a "Demand") to provide the ACSU, in writing and/or by answering questions in person at an interview (as the ACSU General Manager elects), with any information that the ACSU General Manager reasonably believes may be relevant to the investigation, including (without limitation) (a) copies or access to all relevant records (such as current or historic telephone records, bank statements, Internet services records and/or other records stored on computer hard drives or other information storage equipment or any consent forms related thereto); and/or (b) all of the facts and circumstances of which the Participant is aware with respect to the matter being investigated. Provided that any such Demand has been issued in accordance with this Article, and subject to any applicable principles of national law, the Participant shall cooperate fully with such Demand, including by furnishing such information within such reasonable period of time as may be determined by the ACSU General Manager (but, save in exceptional circumstances, no earlier than fourteen days of the Participant's receipt of the Demand). Where appropriate, the Participant may seek an extension of such deadline by providing the ACSU General Manager with cogent reasons to support an extension, provided that the decision to grant or deny such extension shall be in the discretion of the ACSU General Manager, acting reasonably at all times."*

7. Code Article 2.4.6 provides that the following amounts to an offence under the Code:

*"Failing or refusing, without compelling justification to cooperate with any investigation carried out by the ACSU in relation to possible Corrupt Conduct under the Anti-Corruption Code (by any Participant), including (without limitation) failing to provide accurately and completely any information and/or documentation requested by the ACSU (whether as part of a formal Demand pursuant to Article 4.3 or otherwise) as part of such investigation."*

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<sup>2</sup> Since publication of the Code, the ACSU has been renamed the ACU.



8. On 3 September 2015, the ACU General Manager, Mr Y P Singh, pursuant to Code Article 4.2, authorized the opening of an investigation into allegations that Mr Warnaweera may have engaged in conduct in breach of the Code.
9. As part of the investigation, Mr Alan Peacock and Mr Colin Tennant, Senior Investigators at the ACU, arranged to interview Mr Warnaweera at 11 am at the Hilton Hotel in Colombo on 7 September 2015.
10. Mr Warnaweera was informed of the arrangements for the interview by Mr Lakshman De Silva, Manager of the Anti-Corruption and Security Unit at Sri Lanka Cricket, on 6 September 2015 (by both telephone and SMS) and was asked to call Mr Tennant if he was unable to attend the interview.
11. At 10:30 am on the day of the scheduled interview, Mr Tennant called Mr Warnaweera on his mobile telephone to find out when he would be arriving at the hotel for the interview. Mr Warnaweera informed Mr Tennant that he would not be attending the interview as he was some 200 kms away from Colombo. This was the first time Mr Warnaweera had informed anyone that he would not be attending. Despite Mr Tennant offering to send a car to collect Mr Warnaweera and bring him to the interview, or for Mr Tennant to travel to where Mr Warnaweera was, Mr Warnaweera said this would not be possible. As a result, the interview on 7 September 2015 did not take place.
12. The ACU then sought to interview Mr Warnaweera for a second time on 7 October 2015. In this regard, on 1 October 2015, Mr Singh sent Mr Warnaweera a letter pursuant to Article 4.3 of the Code (delivered to him by hand), formally requiring him to attend an interview with Mr Peacock at the Cinnamon Grand Hotel in Colombo on 7 October 2015.
13. Upon receiving this letter Mr Warnaweera signed a copy of the letter confirming his receipt of the letter.
14. On 4 October 2015 Mr Warnaweera sent an e-mail to Mr Singh in which he confirmed that, subject to his ability to bring his own interpreter/translator to the interview, he would attend the scheduled interview.
15. In a subsequent exchange of e-mails between Mr Singh and Mr Warnaweera over the period 4 to 6 October 2015, Mr Singh confirmed that while the interpreter/translator arranged by the ACU would act as the official interpreter/translator for the interview, Mr Warnaweera was entitled to bring his own interpreter/translator to confirm the accuracy of the ACU's interpreter/translator. The proviso to his attendance at the interview was therefore agreed to by the ACU.
16. Mr Warnaweera did not, however, attend the scheduled interview on 7 October 2015 and did not advise anyone in advance that he would not be attending. Further, while attempts were made to contact Mr Warnaweera by both Mr Peacock and Mr De Silva on the day of the interview to find out why he had not attended, he was not able to be contacted. The ACU therefore does not know why Mr Warnaweera did not attend the interview.



17. On 12 October 2015, Mr Singh wrote to Mr Warnaweera requesting that he provide an explanation for why he had not attended the interview on 7 October 2015, with such explanation to be provided by 15 October 2015. In this letter, Mr Warnaweera was reminded that it was an offence under Article 2.4.6 of the Code to fail or refuse, without compelling justification, to cooperate with an ACU investigation. Attempts were made to deliver this letter to Mr Warnaweera at his office at Galle International Cricket Stadium (by registered post, courier and by hand) but all copies were returned undelivered as he could not be located in Galle.
18. On 14 October 2015 Mr Warnaweera sent an e-mail to Mr Ashley De Silva, the CEO of Sri Lanka Cricket, informing Mr De Silva that he had left Sri Lanka for a while, but could be contacted by e-mail using the following address: [REDACTED]. In light of his e-mail, Mr Singh's letter dated 12 October 2015 was forwarded to Mr Warnaweera by e-mail on 14 October 2015 by a SLC representative to his specified e-mail address.
19. Mr Warnaweera did not respond to Mr Singh's letter dated 12 October 2015, whether by the deadline of 15 October 2015 or otherwise. The ICC therefore still does not know why Mr Warnaweera did not attend the interview on 7 October 2015.
20. On 22 October 2015, in light of his failure to respond to Mr Singh's letter dated 12 October 2015, Mr Singh wrote to Mr Warnaweera again to offer him one final opportunity to cooperate with the ACU's investigation and confirm that he would make himself available to be interviewed by the ACU. In this letter, Mr Warnaweera was reminded that Article 2.4.6 of the Code makes it an offence to fail or refuse, without compelling justification, to cooperate with an ACU investigation. Mr Warnaweera was asked to respond to the letter by 26 October 2015 confirming that he would make himself available for interview. This letter was sent to Mr Warnaweera by e-mail to [REDACTED] and an automatic delivery receipt confirmed that the e-mail was received by the recipient e-mail server.
21. In Mr Singh's letter dated 22 October 2015, Mr Warnaweera was also required to produce a number of documents to the ACU on or before 1 November 2015. This demand for information was sent pursuant to Mr Singh's power under Article 4.3 of the Code. Once again, Mr Warnaweera was informed that a failure or refusal, without compelling justification, to cooperate with the ACU's investigation by providing copies of the requested documents, amounted to a breach of the Code. Mr Warnaweera was informed that if he was having any difficulties in obtaining any of the requested documents, he should contact Mr Singh immediately.
22. Despite the warnings set out in Mr Singh's letter, Mr Warnaweera did not respond to Mr Singh's letter dated 22 October 2015 in any form.
23. Regular attempts were made to contact Mr Warnaweera by telephone after 22 October 2015, with Mr Peacock attempting to call Mr Warnaweera on his mobile telephone ([REDACTED]) every few days. None of these attempts were successful as Mr Warnaweera's phone appeared to be switched off each time.
24. In addition, Mr De Silva made enquiries in Sri Lanka to find out where Mr Warnaweera may have been. From those enquiries, it appeared that Mr Warnaweera may have left Sri Lanka on or around 14 October 2015 for India and that he had not returned since.



## Disciplinary Proceedings

25. On the basis of the above facts, the ICC issued Mr Warnaweera with a Notice of Charge on 17 November 2015 alleging that he had a case to answer for a breach of Code Article 2.4.6, namely that he had failed or refused to cooperate with an ACU investigation as he had failed to attend the two scheduled interviews, failed to respond to Mr Singh's letters dated 12 October and 22 October 2015 and other communications from members of the ACU, and failed to provide any of the documentation requested by Mr Singh in the Demand letter issued on 22 October 2015.
26. The Notice of Charge was sent to Mr Warnaweera by e-mail, to both the e-mail address that he had specifically asked SLC to contact him on on 14 October 2015 (i.e. [REDACTED] as well as the e-mail address which he had communicated with ACU on in early October [REDACTED]. Automatic delivery notification e-mails were received confirming that the e-mail attaching the Notice of Charge had been delivered to both of Mr Warnaweera's e-mail accounts. Further, attempts were made by a representative of SLC to serve the Notice of Charge on Mr Warnaweera by hand at his residence in Galle, however, it is understood that he left Sri Lanka on 14 October 2015 and has not returned since. A copy of the Notice of Charge was, however, left with Mr Warnaweera's brother, who appears to live in the apartment below Mr Warnaweera's, and who confirmed that he would pass on the letter when Mr Warnaweera returned home.
27. The Notice of Charge, in accordance with Code Article 4.6.6, required Mr Warnaweera to file a formal response to the Notice of Charge within 14 days of receipt of the Notice, i.e. by 1 December 2015 indicating whether he disputed the charge and/or the sanctions proposed against him. In circumstances where Mr Warnaweera failed to provide a response within the stated deadline, pursuant to Article 4.8.1 of the Code he was further advised that he would be deemed to have admitted that he had committed the offence specified in the Notice of Charge, waived his right to a hearing, and acceded to the range of applicable sanctions specified in the Notice of Charge.
28. The ICC received no response from Mr Warnaweera to the Notice of Charge by the deadline of 1 December 2015, or any other form of communication from him, nor did it receive any request for the time to be extended. Various attempts were made by ACU representatives to contact Mr Warnaweera by telephone ([REDACTED]) following the issuance of the Notice of Charge, again without success.
29. Code Article 4.8.1 specifically provides:

*"If the Participant fails to file a written request for a hearing before the Anti-Corruption Tribunal in accordance with Article 4.6.6 (or by any extended deadline that the ICC's General Counsel deems appropriate), then he/she shall be deemed to have:*

  - 4.8.1.1** *waived his/her entitlement to a hearing;*
  - 4.8.1.2** *admitted that he/she has committed the offence(s) under the Anti-Corruption Code specified in the Notice of Charge; and*

**4.8.1.3** *acceded to the range of applicable sanctions specified in the Notice of Charge.*

*In such circumstances, a hearing before the Anti-Corruption Tribunal shall not be required. Instead, the ICC's Chief Executive Officer (in consultation with ICC's General Counsel) shall promptly issue a public decision confirming the offence(s) under the Anti-Corruption Code specified in the Notice of Charge and the imposition of an applicable sanction within the range specified in the Notice of Charge. Before issuing that public decision, the ICC's Chief Executive Officer will provide written notice of that decision to the National Cricket Federation to which the Participant is affiliated."*

30. As no response was received from Mr Warnaweera to the Notice of Charge, in accordance with Article 4.8.1 of the Code **he is deemed to have admitted that he has committed an offence under Article 2.4.6, to have waived his right to a hearing, and to have acceded to the imposition of a sanction within the range specific in the Notice of Charge.** It is therefore for the ICC to impose a sanction on Mr Warnaweera in respect of the offence charged, within the range specified in the Code.

#### **Sanctions to be imposed**

31. Code Article 6.2 sets out the range of permissible sanctions for a breach of Code Article 2.4.6. In particular it provides that for a breach of Code Articles 2.4.1 to 2.4.6, the permissible period of Ineligibility ranges between *"a minimum of six (6) months and a maximum of five (5) years.*
32. It is acknowledged by the ICC that any sanction imposed must be proportionate. In considering what is proportionate, the ICC is entitled to weigh against the impact of a ban on Mr Warnaweera, not only the importance of the objectives underlying the rules, the seriousness of the particular breach of those rule by Mr Warnaweera, the need to deter others from similar wrongdoing, the need to protect the image of the sport, and above all the need to maintain public confidence in the determination of the sport to stamp out corruption.
33. The ICC notes that in order to seek to adequately and effectively protect the sport of cricket against the threat of corruption, it is of vital importance that Participants provide assistance to, and cooperate fully with, any investigation conducted by the ACU into allegations of Corrupt Conduct. A failure or refusal to cooperate with an ACU investigation can severely hamper or prejudice an ACU investigation and could lead to difficulties in identifying and proving Corrupt Conduct. Mr Warnaweera's actions in failing or refusing to cooperate, in any fashion, with the ACU's investigation therefore constitutes a serious matter.
34. The ICC also notes that, on 4 November 2015, Mr Warnaweera was found guilty by Sri Lanka Cricket of Misconduct pursuant to Article 30 of the Sri Lanka Cricket Constitution (on the basis of his failure to attend two scheduled interviews with the ACU and to assist the ACU with its investigation) and was sanctioned by Sri Lanka Cricket with a suspension of two (2) years from participation in cricket, cricket management and representation.
35. Having carefully considered the facts of the case, the fact that Mr Warnaweera has singularly failed to cooperate in any respect with the ACU's investigation, the sanction already imposed by



Sri Lanka Cricket, the importance of the objectives underlying the Code, the need to deter others from similar wrongdoing, the need to protect the image of the sport, and the need to maintain public confidence in cricket's approach towards fighting corruption, **the ICC has determined that a period of Ineligibility of three (3) years be imposed on Mr Warnaweera for his breach of Code Article 2.4.6, with such period of Ineligibility taking effect from the date of this decision.**

36. During such period of Ineligibility, in accordance with Code Article 6.5, Mr Warnaweera is prohibited from playing, coaching, officiating or otherwise participating or being involved in any capacity in any Match or other kind of function, event or activity (other than authorized anti-corruption education or rehabilitation programs) that is authorized, organized, sanctioned, recognized or supported in any way by the ICC, a National Cricket Federation, or any member under the jurisdiction of a National Cricket Federation, or receiving any accreditation to provide media or other services at any official venue or Match.
37. Mr Warnaweera has a right of appeal against this decision in accordance with Code Article 7.1.
38. The disposition of these proceedings on the terms set out above will be publicly announced by the ICC.

#### Summary

39. **For the reasons given above, and in accordance with Code Article 4.8 of the Code, the ICC has issued this decision which records that:**
  - 38.1 Mr Warnaweera has committed a breach of Article 2.4.6 of the ICC Anti-Corruption Code.**
  - 38.2 A period of Ineligibility of three (3) years is imposed pursuant to Code Article 6.2 in respect of the breach, commencing on the date of this decision.**
  - 38.3 Mr Warnaweera's status during the period of Ineligibility is as detailed in Code Article 6.5.**

Dated 19 January 2016.



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David Richardson  
Chief Executive

