ACC/2020/C/062

OFFICE OF THE ATHLETICS CANADA COMMISSIONER

IN THE MATTER OF COMPLAINTS CONCERNING

EVON BUCHANAN

Issued on November 6, 2020

Dr. Frank Fowlie

Michele Krech

Commissioners

I. INTRODUCTION

1. Athletics Canada is the national governing body for track and field, road running, race walking, cross-country running, mountain running and para-athletics in Canada. Its Board of Directors vests the Commissioner's Office with autonomous authority to resolve certain types of disputes, including complaints of violations of Athletics Canada's *Code of Conduct and Ethics*.

2. The present decision concerns complaints brought by two athletes alleging violations of Athletics Canada's *Code of Conduct and Ethics* by their former coach. Each Complainant alleges that the Respondent (sexually) harassed her while the Respondent was performing a massage on her.

II. PARTIES

3. The Complainants, Athlete A and Athlete B, are former members of a track and field Club in Ontario, which is no longer in operation. Their respective identities are anonymized in this decision because of the nature of the complaints and because they were minors and/or teenagers at the time of the alleged conduct.

4. The Respondent, Mr. Evon Buchanan, was formerly a coach of Athlete A and Athlete B at the aforementioned track and field Club no longer in operation. He is presently a coach with the Project Athletics Track and Field Club, which is registered with Athletics Canada and its Member Branch, Athletics Ontario.

5. Mr. Buchanan is therefore an Individual Associate of Athletics Canada, pursuant to Article 3.2 of the *Athletics Canada Bylaws* (July 2020 version):

> Individual Associate - an athlete, coach, manager, official, volunteer or other individual who is directly involved in the sport of athletics, and who is duly registered with the Member and with the Corporation, in accordance with such registration requirements and limitations as the Member or the Corporation may prescribe;

III. POLICIES

6. Athletics Canada's *Code of Conduct and Ethics* (July 2020 version), pursuant to Rule 3.0 therein, applies to the following Individuals:

> Individuals employed by, or engaged in activities with, Athletics Canada, all members and associates including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers of Athletics Canada, event group leaders, Integrated Support Team (IST) staff, team managers, team staff, and suppliers of services.

7. As an Individual Associate of Athletics Canada, and more specifically, a coach, the Respondent is subject to the *Code of Conduct and Ethics*.

8. Rule 6.0 of the *Code of Conduct and Ethics* sets out the responsibilities of the above Individuals, including coaches like the Respondent. These include the following:

> a) Maintain and enhance the dignity and self-esteem of Athletics Canada members and other individuals by:
>
> i. Treating each other with the highest standards of respect and integrity;
>
> …
>
> b) Refrain from any behaviour that constitutes Harassment, Workplace Harassment, Sexual Harassment, Discrimination, or Workplace Violence;

9. Rule 2.0 of the *Code of Conduct and Ethics* describes various general features of Harassment, including the following:

> Harassment is an unwanted behaviour directed at another person that:
> a) Is repeated or pervasive (although a single incident may be viewed as harassment), and
> b) Has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.
>
> …
>
> Harassment may be present in the form of words, gestures, or other actions that alarm, threaten, abuse, demean, intimidate, belittle, or cause personal humiliation, embarrassment or emotional distress to another person.
>
> …
>
> Harassment also includes Workplace Harassment and Sexual Harassment.
>
> Harassment should not be confused with legitimate, reasonable management or coaching functions that are part of the normal work relationship or athlete-coach relationship …

10. Harassment is specifically defined in Rule 3(d) of the *Code of Conduct and Ethics* as follows:

A course of vexatious comment or conduct against an Individual or group, which is known or ought to reasonably be known to be unwelcome. Types of behaviour that constitute Harassment include, but are not limited to:

i. Written or verbal abuse, threats, or outbursts;
ii. Persistent unwelcome remarks, jokes, comments, innuendo, or taunts;
iii. Leering or other suggestive or obscene gestures;
iv. Condescending or patronizing behaviour which is intended to undermine self-esteem, diminish performance or adversely affect working conditions;
v. Practical jokes which endanger a person's safety, or may negatively affect performance;
vi. Hazing, which is any form of conduct which exhibits any potentially humiliating, degrading, abusive, or dangerous activity expected of a junior-ranking athlete by a more senior teammate, which does not contribute to either athlete's positive development, but is required to be accepted as part of a team, regardless of the junior-ranking athlete's willingness to participate. This includes, but is not limited to, any activity, no matter how traditional or seemingly benign, that sets apart or alienates any teammate based on class, number of years on the team, or athletic ability;
vii. Unwanted physical contact including, but not limited to, touching, petting, pinching, or kissing;
viii. Deliberately excluding or socially isolating a person from a group or team
ix. Persistent sexual flirtations, advances, requests, or invitations;
x. Physical or sexual assault;
xi. Bullying;
xii. Behaviours such as those described above that are not directed towards a specific person or group but have the same effect of creating a negative or hostile environment; and
xiii. Retaliation or threats of retaliation against a person who reports harassment to Athletics Canada.

11. Workplace Harassment is defined in Rule 3(d) of the *Code of Conduct and Ethics* as follows:

Vexatious comment or conduct against a worker in a Workplace or against an athlete in an Athlete Workplace that is known or ought reasonably to be known to be unwelcome. Workplace Harassment should not be confused with legitimate, reasonable management or coaching actions that are part of the normal work/training/competition function, including measures to correct performance deficiencies, such as placing someone on a performance improvement plan, or imposing discipline for workplace

infractions. Types of behaviour that constitute Workplace Harassment include, but are not limited to:

i. Bullying;
ii. Workplace pranks, vandalism, or hazing;
iii. Repeated offensive or intimidating phone calls or emails;
iv. Inappropriate sexual touching, advances, suggestions or requests;
v. Displaying or circulating offensive pictures, photographs or materials in printed or electronic form;
vi. Psychological abuse;
vii. Excluding or ignoring someone, including persistent exclusion of a particular person from work or team related social gatherings;
viii. Deliberately withholding information that would enable a person to do his or her job, perform or train;
ix. Personal harassment;
x. Sabotaging someone else's work or performance;
xi. Gossiping or spreading malicious rumours;
xii. Intimidating words or conduct (offensive jokes or innuendos); and
xiii. Words or actions which are known or should reasonably be known to be offensive, embarrassing, humiliating, or demeaning.

12. An Athlete Workplace is defined in Rule 3(c) of the *Code of Conduct and Ethics* as follows:

> Any place where an Individual, who is an athlete, participates in social or media functions, or training/competition related activities such as the athlete's daily training environment, competitions environments, training camps, and camp-related or competition-related travel.

13. Sexual Harassment is defined in Rule 3(f) of the *Code of Conduct and Ethics* as follows:

> A course of vexatious comment or conduct against an Individual in a Workplace or Athlete Workplace because of sex, sexual orientation, gender identify or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advance to the Individual or Athlete and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. Types of behaviour that constitute sexual harassment include, but are not limited to:
>
> i. Sexist jokes;
> ii. Threats, punishment, or denial of a benefit for refusing a sexual advance;
> iii. Offering a benefit in exchange for a sexual favour;

iv. Demanding hugs;
v. Bragging about sexual ability;
vi. Leering (persistent sexual staring);
vii. Sexual assault;
viii. Display of sexually offensive material;
ix. Distributing sexually explicit email messages or attachments such as pictures or video files;
x. Sexually degrading words used to describe an Individual;
xi. Unwelcome inquiries into or comments about an Individual's gender identity or physical appearance;
xii. Inquiries or comments about an Individual's sex life;
xiii. Persistent, unwanted attention after a consensual relationship ends;
xiv. Persistent unwelcome sexual flirtations, advances, or propositions; and
xv. Persistent unwanted contact.

14. The *Code of Conduct and Ethics* further stipulates, in Rule 2.0:

> While Harassment is generally a course of conduct or comment, even single acts of Harassment may be sufficiently serious to violate this Policy and satisfy the test for Harassment.

15. The present complaints allege conduct by a coach towards his athletes in the years 2003 and 2004. Based on a purposive interpretation of the *Code of Conduct and Ethics*, we determine that its provisions apply retroactively to this period. The purpose of this policy is stipulated in Rule 4.0:

> The purpose of this *Code of Conduct and Ethics* is to ensure a safe and positive environment within Athletics Canada's programs, activities, and events by making Individuals aware that there is an expectation, at all times, of appropriate and respectful behaviour consistent with Athletics Canada's core values of physical and emotional health and fitness, individual excellence and personal growth, individual development beyond sport, inclusiveness, and integrity.

16. The Preamble of the *Code of Conduct and Ethics* similarly explains the aim:

> Athletics Canada views ethical conduct as a cornerstone in the fair administration of the sport of athletics. Everyone participating in athletics, including, but not limited to, an athlete, coach, IST, administrator, volunteer, or staff member is entitled to participate in an environment that is free of Harassment and Discrimination. Athletics Canada recognizes that it has a role in ensuring that a respectful environment exists at all times, specifically in training, in competition, and in the workplace. Athletics Canada further expresses that it is imperative for the sport that participants conduct themselves with the highest level of ethical conduct.

17. Ensuring a safe and harassment-free environment requires, in our view, fairly responding to complaints of harassment whenever the conduct is reported and whenever the conduct is alleged to have occurred, particularly when the individual alleged to have engaged in harassment continues to be involved in the sport. Otherwise, complaints of violations would go unresolved to the potential detriment of both complainants and respondents, as well as the broader athletics community. This would frustrate the purposes of Athletics Canada's *Code of Conduct and Ethics* as described above.

18. At the time of the conduct alleged in the present complaints, the Respondent was a coach with a Club that, according to its Head Coach, was registered with Athletics Ontario – a Member Branch of Athletics Canada. While Athletics Canada's registration records do not cover the years 2003 and 2004, the Respondent does not refute that he was affiliated with the Club, the Branch, or Athletics Canada at this time. The conduct alleged in the present complaints, which occurred in connection with the practice sessions of the Club, therefore falls within the scope of the *Code of Conduct and Ethics*, as set out in Rule 5.0:

> This *Code of Conduct and Ethics* applies to Individuals' conduct during Athletics Canada's business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Athletics Canada's activities, Athletics Canada's office environment, and any meetings.

19. In 2003 and 2004, Athletics Canada had in place a different procedure for investigating alleged violations of its rules and policies and for applying sanctions as appropriate. It has since vested such authority, with respect to alleged violations of the *Code of Conduct and Ethics*, in the Commissioner's Office. It is therefore the duty of the Commissioner's Office to consider the present complaints.

II. JURISDICTION

20. The present complaints were brought to the Athletics Canada Commissioner's Office pursuant to the relevant Rules found in the *Commissioner's Office – Terms of Reference* (July 2020 version). Rules 1.0 and 8.0 grant the Commissioner's Office specific authority to deal with complaints of violations of Athletics Canada's *Code of Conduct and Ethics* or *Harassment Policy*:

> 1.0 Purpose
>
> Athletics Canada's Commissioner's Office was established to make informed decisions in the following areas of Athletics Canada operations – support program selection, representative team selection, eligibility, Athlete Agreements, and complaints of violations of Athletics Canada's *Harassment Policy* or *Code of Conduct and Ethics*. Athletics Canada's Board of Directors vests the Commissioner's Office to be the autonomous

> authority in these areas and to resolve disputes within Athletics Canada efficiently, effectively, and fairly.
>
> 8.0 Procedures – Complaints
>
> …
>
> The Commissioner's Office is empowered to receive complaints of violations of Athletics Canada's *Code of Conduct and Ethics* and to resolve such complaints.

21. The jurisdiction of the Commissioner's Office over such complaints is further delineated in Rule 8.2 of the *Commissioner's Office – Terms of Reference* and in Rule 3.0 of Athletics Canada's *Harassment Policy* (July 2020 version):

> … the Commissioner's Office has jurisdiction over complaints that contain allegations of Harassment, or any other alleged violation of the Code of Conduct and Ethics, in the following situations:
>
> (a) Incidents that occur during Athletics Canada's business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with Athletics Canada's activities, Athletics Canada's office environment, and any meetings; and
> (b) Incidents that occur during any Club or Branch business, activities, or events including, but not limited to, competitions, practices, tryouts, training camps, travel associated with a Club or Branch's activities, a Club or Branch's office environment, and any meetings, except where, at the time of the filing of the complaint with the Commissioner:
>
> - the claimant has registered the same or similar complaint with the relevant Club or Branch;
> - that Club or Branch has in place a Code of Conduct and/or harassment policy that applies to the complaint; and
> - the complaint is under ongoing review pursuant to that Code of Conduct and/or harassment policy.

22. The alleged violations in both of the present complaints occurred during Club activities, namely, during massage sessions associated with the Complainants' practice sessions and training programs at their former Club. Neither complaint has been registered anywhere else. There is no indication that either complaint is frivolous or vexatious. The Commissioner's Office therefore has jurisdiction to review and resolve the complaints.

III. PROCEDURAL BACKGROUND

The Complaints

23. On July 4, 2020, Commissioner Fowlie received a written complaint from Athlete A against Mr. Buchanan. In her complaint, Athlete A also provided information concerning Athlete B. On July 17, 2020, Athlete B provided a separate written complaint against Mr. Buchanan. Each complaint alleged that Mr. Buchanan had touched them in an unwanted sexual manner, in violation of Athletics Canada's *Code of Conduct and Ethics*.

24. Both Complainants were minors and/or teenagers at the time of the alleged conduct that forms the basis of their complaints.

25. Pursuant to Rules 8.7 to 8.11 of the *Code of Conduct and Ethics*, Commissioner Fowlie determined that the violations alleged by the Complainants constituted major infractions. Therefore, on July 18, 2020, Commissioner Fowlie advised Mr. Buchanan of the complaints and provided him with copies of the complaints as well as the relevant Athletics Canada policies.

26. On July 2, 2020, Athletics Canada confirmed that Mr. Buchanan was an active Individual Associate of Athletics Canada.

27. On July 20, 2020, both Complainants confirmed to Commissioner Fowlie that they had not previously made the same or similar complaints to either the relevant Club or Branch.

28. Pursuant to Rule 8.4 of the *Commissioner's Office – Terms of Reference*, Commissioner Fowlie offered the Parties the opportunity to mediate the complaints. This offer was rejected.

29. On July 30, 2020, pursuant to Rule 8.6 of the *Commissioner's Office – Terms of Reference*, Commissioner Fowlie appointed Sheri Miesmer, a member of the Sport Dispute Resolution Centre of Canada (SDRCC) Investigations Unit Roster, as the independent Investigator to investigate the two complaints.

30. On September 8, 2020, Commissioner Fowlie received the Investigator's Report. This Report indicates that Investigator Miesmer interviewed the following individuals: Athlete A; Athlete B; a witness to whom Athlete A claims she made a spontaneous and contemporaneous declaration about the alleged violation; a witness to whom Athlete B claims she made a spontaneous and contemporaneous declaration about the alleged violation; the President of the Complainants' former track club; and Mr. Buchanan.

31. In the Report, Investigator Miesmer analyses each complaint and then finds as follows:

> Based on the above, the allegation that Evon Buchanan sexually harassed [Athlete A] is founded. The behaviour described is contrary to Athletics Canada Code of Conduct and Ethics Policy Section 129.02 as well as the Athletics Ontario Harassment Policy Section 5 (e) and (h). Evon Buchanan also committed the criminal act of Sexual Assault and Sexual Exploitation contrary to Section 271 and 153 of the Criminal Code.
>
> Based on the above information, the allegation that Evon Buchanan sexually harassed [Athlete B] is founded. The behaviour described is contrary to Athletics Canada Code of Conduct and Ethics Policy Section 129.02 as well as the Athletics Ontario Harassment Policy Section 5 (e) and (h). I also find that Evon Buchanan committed the criminal act of Sexual Assault and Sexual Exploitation contrary to Section 271 and 153 of the Criminal Code.

32. The provision of Athletics Canada's *Code of Conduct and Ethics* to which Ms. Miesmer refers – section 129.02 – is numbered Rule 3(d) in the latest version of the policy. Its content, which is reproduced above in paragraph 10 of this decision, has not changed; the previous version and the current version of the *Code of Conduct and Ethics* define harassment in the same way.

33. Investigator Miesmer's Report concludes as follows:

> The investigator reviewed policies, procedures, definitions, and emails. The investigator also conducted 6 different interviews and is satisfied of the following:
>
> 1. I am satisfied the failure of [the Club] to establish rules regarding coaching credentials, professional development and volunteer requirements allowed Evon Buchanan to set his own agenda and target vulnerable, young athletes.
>
> 2. I am satisfied Evon Buchanan worked to gain the trust of these athletes to appear benevolent to steer them towards unnecessary treatments (massages) he was not qualified to perform.
>
> 3. I am satisfied Evon Buchanan performed these massages in his home in an effort to avoid the natural surveillance of the track setting and to separate and isolate the victims.
>
> 4. I am satisfied Evon Buchanan used these "special techniques" to camouflage his real intent which was to sexually assault these athletes.
>
> 5. I am satisfied Evon Buchanan used his position as a coach to exert pressure on the complainants to remain quiet and that he did so by

inferring their track opportunities would be limited or somehow in jeopardy if anything was reported.

6. I am satisfied Evon Buchanan contravened the Athletics Canada Code of Conduct and Ethics Policy Section 129.02 as well as the Athletics Ontario Harassment Policy Section 5 (e) and (h). I also find that Evon Buchanan committed the criminal act of Sexual Assault and Sexual Exploitation contrary to Section 271 and 153 of the Criminal Code.

7. I am satisfied that all victims will react differently in the wake of a traumatic event and that certain aspects of the event will remain etched in their mind while other details may fade away.

8. I am satisfied that the sedimentation of their memory and inability to recall specific dates and times does not diminish or discredit their evidence.

34. Given the seriousness of the alleged incidents – including the young age of the Complainants at the time and the Respondent's position of authority over them – and with Safe Sport principles in mind, on September 9, 2020, Commissioner Fowlie exercised his authority under Rule 8.5 of the *Commissioner's Office – Terms of Reference* and suspended Mr. Buchanan from Athletics Canada, its Branches, and Clubs, on an interim basis "until such time as the complaint procedure ACC/2020/C/62 is concluded and a decision into this matter is published. This decision will be released in the shortest possible delay, and not later than November 30, 2020."

35. On September 8, 2020, Commissioner Fowlie sent Mr. Buchanan a copy of the Investigator's Report by email. The email stated the following:

> Dear Evon,
>
> You will please find attached to this email the investigation report concerning your complaints to the Commissioners' Office. I urge you to take your time in reading it, and to fully consider the findings of the investigator.
>
> I have also attached the Terms of Reference for the Commissioners' Office. We are now at item 11, on page 9, and the process from this point forward will follow in order as you see it in the terms of reference.
>
> 11. In cases where the Commissioner's Office has determined that a major infraction has allegedly occurred, the Respondent will be provided with a copy of the complaint and instructed to submit a response to the Commissioner's Office.

> I am instructing you to submit a response to me within the next 14 days, or by the close of business on September 22, 2020 by email to commissioner@athletics.ca.
>
> I also remind you that by previous email on August 31, 2020 (attached) I have requested that you a vulnerable persons records check. Please confirm that you have started this process.
>
> I am happy to answer any questions you may have.

36. On September 9, 2020, Commissioner Fowlie sent Mr. Buchanan a copy of the Interim Suspension by email.

37. On the same day, Commissioner Fowlie sent hard copies of the Interim Suspension, the Investigation Report, and the emails referenced at paragraphs 35 and 36 above by registered mail to Mr. Buchanan's address found on his Athletics Canada profile.

38. On September 22, 2020, Commissioner Fowlie received the following response by email from Buchanan:

> Good day Dr Frank Fowlie,
> I am sorry for the late response in this matter. I have been waiting and is still waiting on the police check you requested. I will send it to you as soon as I receive it. I have read the report that was sent to me. It seems to me that I have been found guilty already. The report really have me looking as if I am, and if I didn't know who I am and what I am about, I probably would believe it too. You see, all my years of coaching I have never disrespect, utter inappropriate words, make any inappropriate comments or advertisements towards my athletes. I have been very supportive and incouraging to them. I do my best to help them achieve their goals. In saying that I believe that this is all a big misunderstanding. If my actions towards these ladies caused them to believe that I was trying to take advantage of them I am very sorry. It was never my intention to cause them pain. My actions were purely on a perfessional basis. In the process of trying to help them obtain their goals. I realize that I was not thinking of the possibilities of this sort of thing to happen when I had them come to my house for the treatment. I had no idea that I had made them uncomfortable or even that they taught that I had tried to assaulted them until I received the email from you. I was very shocked and it is still very shocking to me. If while massaging them I was anyway inappropriate, it was not my intention at all. It deeply hurt me to know that they have been carrying this burden for 16 years. I am truly sorry. I had no idea that they felt and think the way they did. I have been stressed out about this every day since I found out, and I pray everyday that they will receive healing and peace of mind for the burden they carry. I pray that God will cover them.

39. On September 22, 2020, Commissioner Fowlie replied to Mr. Buchanan as follows:

> Dear Evon
>
> Thank you for your reply to my email.
>
> Please let me assure you that no finding has been made in this case. You have received the Commissioner's Term of Reference, and you have been directed to the complaints procedures.
>
> We are presently at the point in the process where you have the opportunity to provide a rebuttal to the investigation report. This is an important step and I think you should be very prudent in providing it.
>
> It seems apparent to me that you may be unsophisticated in this sort of process. You may wish to seek out some advice and support in helping you with this rebuttal.
>
> You may wish to contact the Sport Law Clinic at Western University to see if they can assist you, or direct you to another resource.
>
> https://law.uwo.ca/legal_clinics/sport_solution_clinic/index.html
>
> In order to be fair to you and to provide you with the opportunity to consult with appropriate resources I will extend the due date for your rebuttal for an additional two weeks, being October 6, 2020 at close of business.
>
> Should you not wish to avail yourself of the opportunity to seek advice from others, please let me know that.
>
> Have you been provided with a date when the vulnerable sector check will be complete?
>
> Please confirm receipt of this email.

40. On September 24, 2020, Commissioner Fowlie provided Mr. Buchanan with information about the SDRCC Pro Bono lawyers list.

41. On October 5, 2020, Commissioner Fowlie wrote to Mr. Buchanan as follows:

> Dear Evon,
>
> I am writing to remind you that your submission is due tomorrow. I am also confirming that I have provided you information on resources from both the

> SDRCC Pro Bono lawyer list, and the Sport Law Clinic at Western University.
>
> Thank you

42. Mr. Buchanan did not provide a written submission as instructed. His only email correspondence, reproduced at paragraph 38 above, did not include any specific responses to, or rebuttals of, the complaints. An oral hearing was therefore scheduled to ensure all Parties had a full opportunity to make submissions for consideration by the Commissioners.

43. On October 9, 2020, Commissioner Fowlie advised all Parties that a hearing was scheduled for October 25, 2020 and would be conducted via Zoom with a panel of two Commissioners: Commissioner Fowlie and Commissioner Krech.

44. Both Complainants indicated that they would attend the hearing. So too did the Respondent in an email to Commissioner Fowlie on October 15, 2020:

> Good day Frank, I am just getting caught up on things. I have been dealing with a lot and was swamped with work. I have received your messages and emails. I will make myself available on the 25th at 5pm. Thank you for your effort to contact me and keep me updated.

45. All Parties participated in the hearing as scheduled on October 25, 2020.

The Criminal Code Conviction

46. In his interview with Investigator Miesmer on August 30, 2020, Mr. Buchanan informed her that in 2006 or 2007, he was charged with sexual assault of a young woman on whom he had performed a massage in his home. Mr. Buchanan indicated that he had pled guilty, as a self-represented party, to common assault.

47. On August 30, 2020, Investigator Miesmer informed Commissioner Fowlie of the *Criminal Code* conviction reported by Mr. Buchanan.

48. Pursuant to Rule 9.0 of the *Commissioner's Office – Terms of Reference*, Commissioners have the duty to expel any individual associated with Athletics Canada who is convicted of certain offences under the *Criminal Code* of Canada, including assault:

> If the Commissioner's Office becomes aware, via a submitted complaint or by other means, of an individual associated with Athletics Canada being convicted of any of the following Criminal Code offences, the individual will be expelled from Athletics Canada, expelled from the applicable Club or Branch, and/or removed from competitions, programs, activities, and events at the sole discretion of the Commissioner's Office:

- Child pornography offences
- Sexual offences
- Offence of physical or psychological violence
- Offence of assault
- Offence involving possession or trafficking of illegal drugs

49. On August 31, 2020, Commissioner Fowlie wrote to Mr. Buchanan:

> Dear Evon,
>
> I am writing to you today concerning the possibility that you may have a Criminal Record, which may impact your eligibility to maintain membership in Athletics Canada. You are presently an athletics coach who deals with vulnerable persons. I am therefore requesting that complete your local police service vulnerable persons and criminal records check, including a fingerprint check if necessary. You will please take a upload of this email to the police web site so that they can understand why you are requesting this check. Please request a summary conviction check for the last 15 years, as we believe that if you have a criminal record, that it may emanate from before 2010. They may reach me by telephone at 778-879-8975 should they have any questions.
>
> I understand that you live in the jurisdiction of the Durham Regional Police jurisdiction, and I have included the link to the instructions on how to obtain this check.
>
> https://members.drps.ca/OnlineClearance/PVSC_Main.aspx
>
> The application for the report is done online. You will please send me a copy of the acknowledgement of the request sent to your from DRPS. You will please scan and email me a copy of the vulnerable persons and criminal records check report from Durham Regional Police. I understand for their website that the report should be produced in 10 days.
>
> For your information, I am including a copy of the Athletics Canada Terms of Reference for the Commissioners' Office, and I included the relevant section of the policy below. [reproduced as in paragraph 48 of this decision]

50. Apart from Mr. Buchanan's disclosure to the Investigator, Commissioner Fowlie was able to verify that in 2006, Mr. Buchanan was charged with sexual assault (York Criminal Court Information No.: 4911-998-06-02753-00). A guilty plea was registered for assault, and Mr. Buchanan was sentenced to probation and a suspended sentence.

51. As noted at paragraph 38 above, Mr. Buchanan indicated that he has applied for a vulnerable sector/criminal record check, however, he has not provided the results of

that check to the Commissioner's Office. The expected 10-day timeframe for producing such a check has well expired.

52. Based on Mr. Buchanan's disclosure and the verbal confirmation received from the relevant court office, Mr. Buchanan has a *Criminal Code* conviction for assault, arising from his performing a massage on a young woman who is neither Athlete A nor Athlete B. This matter will be disposed of as required by Rule 9.0 of the *Commissioner's' Office – Terms of Reference* in our decision below at paragraphs 107 to 109.

53. As this conviction only came to light at the end of the independent investigation process, the Commissioners considered it to be in the interests of fairness to complete the procedure for addressing the complaints of Athlete A and Athlete B. Simply closing the matters on the basis of Mr. Buchanan's *Criminal Code* conviction would deprive the Parties of the opportunity to be fully heard and to have these matters resolved after having already participated in the investigation, which resulted in findings and conclusions as set out above.

IV. THE PARTIES' POSITIONS

54. Athlete A and Athlete B each complain that Mr. Buchanan, their adult coach, touched them in an unwelcome sexual manner while performing massages on them. The incident alleged by Athlete A occurred during the spring or summer of 2004, at which time she was a minor (i.e. under the age of 18). The incident alleged by Athlete B occurred during the spring or summer of 2003 or 2004. Athlete B originally recalled the year of the incident as being 2004, but later amended this to 2003 because she recalls being 17 years old at the time.

55. Athlete A and Athlete B expressed agreement with the findings and conclusions of the independent Investigator that respectively pertain to them, as summarized in paragraphs 31 and 33 above. Mr. Buchanan expressed general disagreement with these findings and conclusions.

Athlete A's Complaint

56. According to Athlete A, Mr. Buchanan indicated to her that he was a massage therapist and invited her to receive massages from him at his home. On the second of two such occasions, Athlete A says that Mr. Buchanan instructed her to remove her clothing, with the exception of her underwear; he told her to remove her bra so that he could massage her back. While Mr. Buchanan was out of the room, Athlete A undressed, lay down on the massage table, and covered her body in a sheet.

57. Part way through the massage, at Mr. Buchanan's direction, Athlete A turned over onto her back with the sheet still covering her. Athlete A says Mr. Buchanan slid his hands under the sheet and fondled both of her breasts. She says this could not have been accidental because Mr. Buchanan kept his hands/palms fully on her breasts for an

extended period of time, as well as because he touched her nipple piercing and made a comment about the piercing while doing so.

58. Athlete A says that when this all occurred, she froze and did not say anything because she was in shock. According to Athlete A, after leaving Mr. Buchanan's house, she called a teammate/friend and told her what had happened. Athlete A says she knew what had happened was wrong, but she felt ashamed about it. She did not report the incident because she thought this might affect her ability to further pursue athletics and earn a scholarship.

Mr. Buchanan's Response to Athlete A's Complaint

59. Mr. Buchanan says he did invite Athlete A to receive a massage at his home because he had not had the chance to massage her at the track centre, where he usually performed massages.

60. According to Mr. Buchanan, he did perform a massage on Athlete A and his technique did involve putting his hands under the sheet covering, but he did not fondle her breasts. He told the Investigator that he may have been working "in that area" but when doing so he is "fast and to the point". He added that it is possible that his hand brushed up against her breast, leading him to comment on her nipple piercing, but if it did, it was unintentional. Mr. Buchanan also said, with respect to Athlete A's allegation that he touched her nipple piercing, "I'm not going to call her a liar, it might have happened, not going to say it didn't". With respect to Athlete A's allegations more generally, Mr. Buchanan said at the hearing, "I'm not going to deny her" because he could not recall his massage of Athlete A in detail.

Athlete B's Complaint

61. According to Athlete B, Mr. Buchanan one day encouraged her to receive a massage from him at his home, rather than at the track as usual, and drove her there after practice. She says he instructed her to remove various articles of clothing, including, at some point, her bra. Athlete B says that Mr. Buchanan remained in the room while she undressed and did not provide a covering sheet.

62. Athlete B says that while Mr. Buchanan was massaging her hamstrings, he moved his hands close to her vagina, which felt less like a massage and more sexual in nature.

63. Athlete B also says that when she, at Mr. Buchanan's direction, turned over onto her back, she covered her bare breasts by crossing her arms over her chest. She says Mr. Buchanan then told her to relax and to lay her arms down at her sides. According to Athlete B, Mr. Buchanan massaged her arms and shoulders and then slowly moved his hands toward the top of her breasts "as if to test her reaction" before moving his hands fully on top of her breasts and massaging them. Athlete B says Mr. Buchanan's hands were on her breasts continuously for too long for it to have been accidental.

64. Athlete B says that she immediately told Mr. Buchanan she wanted to leave and that Mr. Buchanan repeatedly told her to relax, to lay down, and not to freak out. Athlete B says that she insisted on leaving and while she got dressed, Mr. Buchanan suggested that she should not create drama because she had coaches looking at her and she had her whole track career ahead of her.

65. Athlete B says Mr. Buchanan then drove her home and during the ride, she called her then-boyfriend to avoid further interaction with Mr. Buchanan. Athlete B says she later told her boyfriend what had happened, but no one else because high school was nearly over, and she had scholarship offers coming.

Mr. Buchanan's Response to Athlete B's Complaint

66. Mr. Buchanan states that he has no memory of Athlete B whatsoever. He told the Investigator, "I'm not saying she's lying, but everything I do I try to do in a professional way." During the hearing, he stated that he always covered athletes with a sheet when massaging them, so Athlete B's account is out of line with his massage protocol.

Mr. Buchanan's Response to Both Complaints

67. As noted above, Mr. Buchanan did not provide a written submission in response to the Investigator's Report other than the email reproduced in paragraph 38 above, which does not specifically address either complaint or the Investigator's findings in any detail.

68. As also noted above, Commissioner Fowlie gave Mr. Buchanan a two-week extension to prepare his written submission and referred him to pro bono sport-focused legal services to assist him in this regard. Mr. Buchanan indicated during the oral hearing that he had called two lawyers from the pro bono list provided, but neither answered and he did not leave a message because he was at work at the time. The following therefore summarizes the oral submissions made by Mr. Buchanan during the hearing regarding both complaints together.

69. According to Mr. Buchanan, he did not harass either complainant; he simply applied the techniques he had learned during a massage course. He says he did not massage the complainants' breasts – only their shoulders, chest area, and under their armpits. He also says that he did not intentionally place his hand on their breasts for a long period of time. He says that if he did touch the complainants' breasts, it was unintentional and purely professional. His intention was always to help athletes, not to bring them down. He believes there has been a misunderstanding.

70. Mr. Buchanan also says that he never used his power as a coach against his athletes. Therefore, he says, if the complainants felt that he wronged them, they should have said something earlier because he gave all his athletes that opportunity. If there has ever been something his athletes have not liked about what he does, they have always been free to come talk to him. Further, Mr. Buchanan says that he would never use threats to try to pressure or demean an athlete.

V. ANALYSIS

71. The independent Investigator made the following general comments regarding the Complainants' evidence:

> I have assessed both complainant's credibility in their interviews and compared it to their emailed complaints to Athletics Canada. Their verbal evidence was consistent with their written complaints and corroborated by independent witnesses. Their evidence was simple, compelling and persuasive. I find the delay in reporting is uniquely attributed to their youthfulness along with their inability to understand and identify what had happened to them. Both reported fears of not being believed and being viewed as less credible in the face of a trusted male adult coach. They also reported concerns over the cascading impact this could have on their own track opportunities and those of their teammates. They were hesitant to come forward, stating they had buried the traumatic experience so that they could move on with their lives. They indicate their only motivation in coming forward is to prevent the potential victimization of other athletes. Their evidence was assessed and viewed as being both credible and reliable.

72. The Investigator made the following general comments regarding the Respondent's evidence:

> The respondent was agreeable to being interviewed and was cordial and cooperative throughout the investigative process. He gave general information, and at times elaborate and unrelated responses to questions asked. The respondent described personal struggles that amounted to making his memory fuzzy around certain issues and certain time periods in his life, including the time frame of this investigation.
>
> The respondent identified himself as the person providing the massage to [Athlete A] and identified the location of this occurrence. He stated he could not recall [Athlete B], or ever giving her a massage. In his evidence he frequently referred to "special techniques" he learned as the basis for qualifying himself to perform massages. This information cannot be confirmed, corroborated, or legitimized in anyway.
>
> In evaluating the respondent's evidence, I find he has tried to reconstruct the information, with little precision, to reflect a more benign involvement. His evidence falters in the face of the complainants' and is less convincing.

73. In summary, the Investigator found the evidence of the Complainants to be overall more credible, reliable, and convincing than that of the Respondent. We have found no reason to question this general assessment based on our consideration of the Investigator's Report and the oral submissions of the Parties.

74. The evidence given by each Complainant is supported by that given by another individual in each case – someone to whom each Complainant says she made a spontaneous and contemporaneous statement about Mr. Buchanan's alleged misconduct. Athlete A's former teammate says Athlete A called her immediately after the massage during which the alleged harassment occurred, and over time continued to express an aversion toward, and a desire to avoid, Mr. Buchanan because of it. Athlete B's then-boyfriend says that he could immediately tell something was wrong based on how Athlete B was acting on the phone during the ride home from the massage during which the alleged harassment occurred, and that Athlete B told him what had happened afterwards. The account of each witness generally matches the account given by the corresponding Complainant.

75. The evidence also suggests that both Athlete A and Athlete B avoided Mr. Buchanan following the alleged incidents. One left the sport completely and Mr. Buchanan says he noticed years later that the other, as well as at least one other athlete he used to coach, seemed to be avoiding him, although he did not think this was related to his massages. Both Athlete A and Athlete B also report, and the two witnesses corroborate, that they have experienced certain negative psychological impacts since the alleged incidents. This evidence supports the Complainants' respective accounts that Mr. Buchanan violated their trust in some way.

76. No evidence before us suggests any ulterior motive on the part of either Complainant. Athlete A says that she felt triggered after running into Mr. Buchanan many years later and became worried when she saw him coaching another female athlete. She says concern for the safety of other young athletes and a sense of responsibility, combined with her recent realization of the long-term effects of the experience, led her to decide to submit a complaint. Athlete A and Athlete B had not remained close friends after leaving their former track club, but Athlete A decided to reach out to Athlete B on social media to ask if Mr. Buchanan had ever acted inappropriately toward her. Athlete B says that up until that point, she believed she was the only one who had had such an experience. After learning that this was not the case, she decided to submit a complaint as well.

77. The evidence provided by Mr. Buchanan at the oral hearing did not, for the most part, directly rebut the complaints made against him. During the hearing, he said he "can't say yay or nay" as to whether the conduct alleged by either Complainant occurred. Rather, Mr. Buchanan repeatedly emphasized that his intention was always to help his athletes, and never to wrong them. He was adamant that he never intended to harass the complainants. This aligns with his position as expressed to the Investigator, which also focused on his lack of intention to cause harm.

78. Pursuant to Rule 2.0 of Athletics Canada's *Code of Conduct and Ethics*:

> It does not matter whether there was intent to offend. The test for Harassment is whether the person knew or should have known that the comments or conduct were unwelcome."

Therefore, Mr. Buchanan's submissions as to absence of malicious intent do not directly challenge the evidence provided by the Complainants.

79. Both in his interview with the Investigator and during the oral hearing, Mr. Buchanan admitted the possibility that he did touch the breasts of both Athlete A and Athlete B when applying the "special technique" of massage he had learned. Mr. Buchanan stated to the Investigator, "Maybe it's my methods" that have led to the multiple complaints. Similarly, at the hearing, he said, "All I did was … I was applying the techniques that I learned". The evidence thus suggests that Mr. Buchanan's touching of breasts was not inadvertent but rather part of his massage method.

80. We therefore find, on a balance of probabilities, that Mr. Buchanan intentionally touched the Complainants' breasts while massaging them, even if he had no intention to offend them by doing so. This finding is also supported by the fact that, as Mr. Buchanan explained, he was convicted of assault for using the same "special technique" around the breast area when massaging another athlete a couple years later (as discussed in paragraphs 46 and 107).

81. Having made this finding, we must also determine whether Mr. Buchanan knew or should have known that his conduct, and corresponding comments, were unwelcome.

82. A coach, especially a certified coach like Mr. Buchanan, should know that touching the breasts of a female athlete, as well as making unnecessary and unprofessional comments related to her breasts, is unwelcome. This is particularly so when done without consent, when the athletes are young, and when the coach is not formally qualified to administer massages – all of which describe the context of the present complaints.

83. Mr. Buchanan says that the Head Coach of his Club never asked him to be the team masseur and was not aware that he performed any athlete massages at his home. Mr. Buchanan also made misleading representations that he was formally qualified to perform massages. Together, these facts suggest some amount of intended secrecy and therefore knowledge, on the part of Mr. Buchanan, that at-home massages of minor and/or teenage athletes by an unqualified person were outside the norm in terms of his proper functions as a coach.

84. Mr. Buchanan says he performed only one at-home athlete massage – on the occasion described by Athlete A. This assertion is contradicted, however, by both Complainants, by the two witnesses (one of whom says she also received treatments at Mr. Buchanan's home), and by Mr. Buchanan's own evidence that he was convicted of assault arising from a massage he performed on another young woman at his home. The evidence therefore suggests that Mr. Buchanan was somewhat secretive about massaging athletes at his home, which in turn suggests awareness on his part that he might engage in potentially offensive conduct.

85. Mr. Buchanan should also have known that applying, without any formal qualifications, a "special technique" he learned at an unspecified night course – which he says included massaging underneath the sheet covering around the breast area – would be unwelcome on the part of athletes, particularly young female athletes alone with him in his home.

86. We therefore find that Mr. Buchanan knew or should have known that touching the breasts of the Complainants while massaging them was unwelcome, regardless of whether he believed it would be beneficial to the athletes.

87. Mr. Buchanan disputes the Investigator's conclusion that he used his position as a coach to exert pressure on the Complainants. He says he does not operate in that way and he does not give himself any power over his athletes; rather, athletes are always free to talk to him and/or to leave if they are unhappy with his methods.

88. Pursuant to Rule 8.0 of Athletics Canada's *Code of Conduct and Ethics*:

> Coaches must understand and respect the inherent power imbalance that exists in this relationship and must be extremely careful not to abuse it, consciously or unconsciously.

89. Since this power imbalance is inherent, it cannot be avoided. Responsibility therefore rests with the coach, not the athlete, to ensure the coach's position of power and authority is not abused, even unconsciously. Extra care is required when the athlete is young and/or a minor and is alone with the coach.

90. Pursuant to Rule 8.0 of Athletics Canada's *Code of Conduct*, coaches must, among other things:

> a) Ensure a safe environment by selecting activities and establishing controls that are suitable for the age, experience, ability, and fitness level of the involved athletes;
> b) Prepare athletes systematically and progressively, using appropriate time frames and monitoring physical and psychological adjustments while refraining from using training methods or techniques that may harm athletes;
> c) Avoid compromising the present and future health of athletes by communicating and cooperating with sport medicine professionals in the diagnosis, treatment, and management of athletes' medical and psychological treatments;
> …
> g) Act in the best interest of the athlete's development as a whole person;
> …
> o) Recognize the power inherent in the position of coach and respect and promote the rights of all participants in sport. This is accomplished by establishing and following procedures for confidentiality (right to

> privacy), informed participation, and fair and reasonable treatment. Coaches have a special responsibility to respect and promote the rights of participants who are in a vulnerable or dependent position and less able to protect their own rights;

91. Conducting massages on young athletes, alone in one's home, without proper qualifications and thus without recognized professional safety standards in place, falls short of the above responsibilities of coaches. According to Mr. Buchanan, his aim was always to help athletes reach their athletic potential. This is certainly a legitimate goal for a coach, however it must not be pursued without consideration of the above responsibilities.

92. Both Complainants say that their trust in Mr. Buchanan, as their coach, as well as confusion about what was happening during the massages given their young age and relative inexperience, led them to remain in an uncomfortable position longer than they wished to. It is the responsibility of coaches to avoid putting athletes in such positions.

93. In summary, Mr. Buchanan's main submissions – that he did not consciously pressure the Complainants and did not intend to harm the Complainants – do not preclude findings of Harassment. He has offered little else in response to either complaint. His submissions were often unclear, inconsistent, or did not directly respond to the questions asked. The submissions of both Complainants, as summarized by the Investigator and affirmed during the hearing, were comparatively more clear, cogent, and convincing.

94. We therefore find, on a balance of probabilities, that Mr. Buchanan intentionally touched Athlete A's breasts and Athlete B's breasts while massaging each of them, on separate occasions – in 2004 in the case of Athlete A and in either 2003 or 2004 in the case of Athlete B.

95. Further, we find that this conduct constitutes Harassment as defined in Rule 3.0(d) of Athletics Canada's *Code of Conduct and Ethics* (reproduced in full in paragraph 10 above) – that is, a "course of vexatious comment or conduct against an Individual or group, which is known or ought to reasonably be known to be unwelcome."

96. The types of conduct encompassed by this definition include unwanted physical contact, including, but not limited to, touching, petting, and pinching. This describes Mr. Buchanan's conduct toward both Complainants, particularly his touching of their breasts.

97. The types of conduct encompassed in Harassment also include physical or sexual assault, which the Investigator was satisfied the Respondent committed against the Complainants. Assault refers to the intentional application of force – i.e. touching – of another person without their consent.

98. A minor – which Athlete A was, and Athlete B may have been – cannot consent to sexual touching by a person in a position of trust and authority. In any case, neither Complainant consented to Mr. Buchanan's touching of their breasts. Silence does not

equate to consent and consent to a sport massage does not include consent to massaging of one's breasts.

99. Mr. Buchanan did not take any steps to check if the athletes consented to being massaged in particular areas, including around their breasts. Rather, he acted recklessly and ignored indications that the complainants did not consent. This was due at least in part to the face that he was not formally qualified to perform massages, unbeknownst to the Complainants.

100. Having found that Mr. Buchanan touched the breasts, including nipples, of the Complainants without consent, we conclude that his conduct constitutes both physical and sexual assault. This finding is supported by the Investigator's findings that Mr. Buchanan sexually assaulted Athlete A and Athlete B and also by Mr. Buchanan's criminal conviction of assault for using the same massage techniques on another young woman.

101. Pursuant to Rule 2.0 of the *Code of Conduct and Ethics*, the definition of Harassment can be met by a single act:

> While Harassment is generally a course of conduct or comment, even single acts of Harassment may be sufficiently serious to violate this Policy and satisfy the test for Harassment. – sufficiently serious; athlete need not experience this more than once for it to constitute harassment.

102. The single acts carried out by Mr. Buchanan against Athlete A and against Athlete B respectively are each sufficiently serious to violate the *Code of Conduct and Ethics*: they involve interference with the bodily integrity of minors and/or teenagers by a coach acting beyond the scope of his proper role and qualifications, in the context of the inherent power imbalance of the coach-athlete relationship. These individual acts had the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for each Complainant, such that both subsequently sought to avoid Mr. Buchanan.

103. In any event, the repetition of this single act against multiple athletes amounts to a course of conduct that constitutes Harassment, contrary to Athletics Canada's *Code of Conduct and Ethics*.

VI. DECISION AND SANCTIONS

The Complaints

104. For the foregoing reasons, we find that Mr. Buchanan violated Rule 6.0(b) of Athletics Canada's *Code of Conduct and Ethics*, which requires coaches, among others, to refrain from any behaviour that constitutes Harassment.

105. Pursuant to Rule 5.0 of the *Code of Conduct and Ethics*, we have decided to apply sanctions, which correspond with the following factors that we must consider pursuant to Rule 8.15 of the *Commissioner's Office – Terms of Reference*:

i) The severity of the infraction: Harassment and physical/sexual assault are severe infractions, particularly when committed against minors and/or teenagers by a person in authority. The repeated nature of Mr. Buchanan's conduct, toward more than one athlete, also contributes to the severity of the infractions.

ii) The age of the offenders: At the time of the violations, Mr. Buchanan was an adult, 37 or 38 years of age. He was significantly older than the Complainants at the time. He is now 54 years old and has been coaching for approximately 30 years on a volunteer basis. He is not currently coaching, however, and indicated that he is unsure whether he will return to the role, noting that this year or next year may be his last.

iii) The offender's remorse and/or apology: Mr. Buchanan has offered various expressions of apology, both in his email to Commissioner Fowlie on September 22, 2020 (reproduced at paragraph 38 above) and during the oral hearing. He stated that he is "truly" and "deeply" sorry, although without clearly specifying what he is sorry for. He also offered a conditional or limited apology as follows: "If they felt that I have wronged them, I'm truly sorry that they feel that way." He acknowledged the pain of the Complainants and expressed his related pain in his email: "It deeply hurt me to know that they have been carrying this burden for 16 years … I had no idea that they felt and think the way they did. I have been stressed out about this every day since I found out, and I pray everyday that they will receive healing and peace of mind for the burden they carry. I pray that God will cover them." At the hearing he noted that he is "so shaken up" by the accusations. He also stated that he has "the most respect" for the Complainants and that "whatever comes of this, I will not lose any respect for these athletes, or have any ill feelings toward them." We acknowledge these statements of potential remorse and apology, but with the significant caveats that Mr. Buchanan has not admitted any wrongdoing or addressed his apologies directly toward the Complainants.

iv) Any corrective action the offender has already taken: Mr. Buchanan indicated during the hearing that he briefly stopped coaching and also stopped massaging athletes after being convicted of assault. However, his motivations for, and the precise timing of, these decisions are unclear.

106. Considering all of these factors, we determine that expulsion from Athletics Canada, as well as its Branches and Clubs, is the most appropriate sanction for Mr. Buchanan's violations of the *Code of Conduct and Ethics*.

The Criminal Code Conviction

107. At this juncture, we recall that Mr. Buchanan admitted during the course of the investigation into the present complaints, and confirmed during the hearing, that he was convicted of the *Criminal Code* offence of assault in 2006. The conviction arose from a massage he performed on another young woman (who trained with another coach/personal trainer he knew) at his home, a couple years after he assaulted Athlete A and Athlete B. Mr. Buchanan did not, to our knowledge, previously report this conviction, despite his duty, as a coach, to do so pursuant to Rule 8.0(j) of Athletics Canada's *Code of Conduct and Ethics*:

> Coaches and IST staff will:
>
> …
>
> j) Report any ongoing criminal investigation, conviction, or existing bail conditions involving themselves or any other Individual;

108. Pursuant to Rule 9.0 of the *Commissioner's Office – Terms of Reference* (reproduced at paragraph 48 above), any individual associated with Athletics Canada who is convicted of the *Criminal Code* offense of assault is to be expelled from Athletics Canada and from the applicable Branch and Club.

109. Expulsion is therefore also the appropriate sanction for Mr. Buchanan's *Criminal Code* conviction for assault.

VII. ORDER

110. Effective immediately, Mr. Evon Buchanan is expelled from Athletics Canada and all its activities, including involvement with its Branches and Clubs.

111. We direct Athletics Canada to publish this decision on its website and to list Evon Buchanan as a permanently suspended individual on its Safe Sport webpage. The Chief Operating Officer of Athletics Canada is to provide copies of this decision to the Athletics Canada Board of Directors, Athletics Ontario, Project Athletics, the Minister of Canadian Heritage, Sport Canada, and the Coaching Association of Canada.

112. Finally, we draw attention to Rule 6.0 of Athletics Canada's *Harassment Policy*:

> An individual who submits a Harassment complaint to the Commissioner's Office, or who gives evidence in an investigation, may not be subject to reprisal or retaliation from any individual or group. Should anyone who participates in the process face reprisal or retaliation, that individual will have cause to submit a complaint to the Commissioner's Office.

Dated at Richmond, British Columbia this day of November 6, 2020.



Dr. Frank Fowlie
Athletics Canada Commissioner



Michele Krech
Athletics Canada Commissioner