



Judgment of the USC Appeals Board in the matter of:

Western Punjabi Association v Clubs Governance Board, 2024:1 Clubs

Hearing Date: January 18, 2024

Judgment Released: January 26, 2024

Panel: William Fawcett (Chair), Stephen Warner, Lydia Tzianas

Reasons: Fawcett (Warner, Tzianas)

PART I: INTRODUCTION

1. This is an appeal from a decision of the Clubs Governance Board (the “**CGB**”) sanctioning the Western Punjabi Association (the “**Club**”). The sanctions arise from a complaint filed by the senior manager of hospitality services at The Wave regarding a Club event held on October 26, 2023 (the “**Complaint**”). Generally speaking, the Complaint related to problems arising from excessive alcohol consumption by Club members.

2. This was not the first event giving rise to reports of problems arising from excessive alcohol consumption by Club members. There were also reports in evidence related to a March 31, 2023 event at the Marconi Club and an April 1, 2022 event at the Greek Community Centre. Additionally, the Complaint indicated that there were “issues” for a Club event “in the previous school year.”

3. Following a preliminary investigation in accordance with section 4 of the *Club Hearings and Sanctions Procedure*, the CGB delivered a notice of sanctions to the Club on November 30, 2023. The sanctions imposed were as follows.

- a. The Club was placed on probation until December 1, 2024 (i.e., one full year). During the probation period the Club is prohibited from holding any events involving alcohol.
- b. The Club executive was directed to send an apology letter to the senior manager of The Wave.
- c. The Club event scheduled for December 8, 2023 was cancelled.
- d. And the Club was notified that “[f]urther complaints made after the probation is over will result in steps taken to de-ratification.”

4. By the time of the hearing before this Board, sanctions (b) and (c) had become moot. The letter of apology had been sent, and the date for the cancelled event had come and gone. Therefore, the only sanctions being appealed were (a) and (d).

5. For the reasons laid out below, the appeal with respect to sanction (a) is denied. The probation restricting the Club from holding events involving alcohol is reasonable. The appeal with respect to section (d) is allowed. The CGB acknowledged that the wording in its notice of sanctions did not capture the CGB’s intention. Accordingly, the notice of sanctions will be amended such that the sentence quoted in paragraph 3(d) above is replaced with the following: “The Western Punjabi Association is warned that future complaints involving alcohol following

the probation period may result in steps being taken towards de-ratification of the club under the *Clubs De-Ratification Procedure*.”

PART II: FACTS

6. The facts in this matter are not in dispute, and they are laid out in the Complaint and the reports identified above.

7. A security report regarding the April 1, 2022 event at the Greek Community Centre details the following issues:

- a. the Club failed to provide wristbands for the purposes of identifying those who were of legal drinking age and instead used “cheap permanent marker that washed off very easily”;
- b. there was drinking in the parking lot that gave rise to the confiscation of alcohol;
- c. Club members had to be removed from the event for intoxication;
- d. the lack of control by the event staff and Club members resulted in the police being called by security;
- e. drunk drivers leaving the event were apprehended by the police; and
- f. a “very intoxicated male” somehow gained access to a security staff member’s vehicle where he was lying in the back seat and was eventually removed by police.

8. A security report regarding the March 31, 2023 event at the Marconi Club details the following issues:

- a. Club members stole four bottles of alcohol;
 - b. an intoxicated male was removed after vomiting on a table and other attendees;
 - c. an intoxicated female was removed; and
 - d. the deejay played until 2:00 a.m., attendees did not leave promptly, Club “clean up crew” left the majority of the cleaning to the bartenders, and security were kept “longer on site”.
9. The Complaint details the following issues:
- a. extra security guards were required (eight instead of six) because The Wave was aware that “this event has more challenges then [sic] most”;
 - b. “there were a lot of pukers at the event”, and there were seven times that staff were required to clean up vomit;
 - c. alcohol service was stopped because of issues at the event;
 - d. several attendees were “extremely disrespectful with security and some were threatening them”, necessitating special constables being called on several occasions;
 - e. there were numerous attempts by ejected attendees to re-enter The Wave; and
 - f. there were numerous attempts to pass alcohol into areas where alcohol was not permitted (presumably because this was an all-ages event).

10. It appears that a significant percentage of the issues at The Wave arose from excessive pre-drinking. Excessive pre-drinking may have contributed to the issues at the previous events as well.

11. Of particular note is a comment from the senior manager of The Wave in the Complaint.

At events with alcohol we expect a certain level of this behaviour, but we have found with this event and group they are very hard to manage and the amount of intoxication and drinking prior to the event makes matters worse as they are making poor decisions and the lack of compliances increases with the increased level of intoxication.

12. To be clear, not all Club events are events at which alcohol is served. The Club pointed to its Valentine's Day event and game nights as non-alcoholic events the Club runs.

PART III: ISSUE

13. The issue on this appeal is whether the sanctions imposed by the CGB (specifically, those identified as sanctions (a) and (d) above) were reasonable.

PART IV: SUBMISSIONS

14. In its oral submissions, the Club focussed on the commitment of its executive team towards changing Club members' attitudes toward alcohol. For example, the Club's executive decided to make their own enjoyment of the event at The Wave secondary to their attempts to ensure that the event went smoothly despite problems at past events with alcohol. After the Complaint was filed, the Club's executive wanted to take responsibility and had conversations with representatives of The Wave and with the USC about how to improve.

15. The Club's president, who presented the Club's oral submissions, does not drink. She acknowledged the importance of the Club promoting Punjabi culture without a reliance on alcohol and the importance of community engagement. She is concerned that imposing a probationary

period with a ban on serving alcohol at events will potentially increase tensions between Club members and the USC. While she acknowledges that incidents of the sort that transpired during the event at The Wave are not to be condoned, she submitted that they are not out of the ordinary when it comes to student events. The Club is concerned that the sanction prohibiting wet events for one year will decrease member participation in the Club.

16. The main thrust of the Club's submissions was that there is no guarantee that the sanctions imposed by the CGB will have the desired effect of reforming Club members' attitudes toward alcohol. The Club would prefer to take a different approach where the executive would engage in dialogue with Club members regarding the need to adjust their behaviour. The Club suggests that a warning about potential de-ratification might be just as effective as the sanction imposed by the CGB.

17. The CGB's submissions focussed on the connection between the issues with alcohol and the sanction imposed. While the CGB cannot prevent Club members from pre-drinking before events – which, it was agreed by the parties, is a significant issue – it can prevent the sale of alcohol at events themselves. The length of the probationary period arises from an intention on the part of the CGB for the probation to affect multiple club cycles (as club executives change from academic year to academic year). Given the seriousness of the problem, the CGB believes that more than one club cycle will be necessary for addressing the underlying issues.

PART V: ANALYSIS

i. Preliminary Matter – Timing of the Appeal

18. Section 8.1.1 of the *Club Hearings and Sanctions Procedure* provides that a club has five days to request an appeal after being informed of the CGB's decision regarding the imposition of sanctions. The Club's appeal was submitted after this five-day period had lapsed.

19. During oral arguments, the CGB adopted the position that, notwithstanding section 8.1.1, this appeal was to be decided on its merits. The CGB also indicated that, since the notice of sanctions was sent to the Club in this matter, it has adopted the practice of indicating the relevant appeal period in its decision letters. While this Board is aware of no USC policy or procedure requiring the CGB to indicate the relevant appeal period in its decision letters, this does appear to be a sound practice to adopt. Given the CGB's position that this specific case was to be heard on its merits notwithstanding the provision in section 8.1.1, this Board declines to make any findings with respect to this section.

ii. Sanction (d) – The Wording of the Notice of Sanctions Shall be Amended

20. The CGB admitted during oral arguments that part of the wording of the notice of sanctions did not accurately reflect its intentions. This wording relates to sanction (d), as described above. As written, the wording seems to suggest that future complaints, no matter how minor, would result in de-ratification of the Club, which would appear not to be in conformity with the process laid out in the *Clubs De-Ratification Procedure*. During questioning, the CGB explained that it had intended to convey to the Club that the probation period is not intended to be a "period of

dormancy” after which the *status quo* is restored. Instead, if the underlying problems with alcohol are not addressed, the Club may face de-ratification.

21. In oral arguments, the CGB acknowledged that the following wording would accurately reflect its intentions: “The Western Punjabi Association is warned that future complaints involving alcohol following the probation period may result in steps being taken towards de-ratification of the club under the *Clubs De-Ratification Procedure*.” This Board orders that the notice of sanctions is amended accordingly, which resolves the appeal with respect to sanction (d).

iii. Sanction (a) – The Probation is Reasonable

22. The starting point of this Board’s analysis is section 2.2.2 of the *Clubs Code of Conduct* (seemingly incorrectly referred to as the *Club Hearings and Sanctions Procedure* in the CGB’s notice of sanctions). This section reflects the expectation that members of all USC clubs will “[u]phold the reputation of the club, the USC and Western University by maintaining a high standard of integrity and ethical behaviour.”

23. Because USC-ratified clubs are affiliated with the USC, the behaviour of club members at club events is reflected on the USC. Sanctions under the *Club Hearings and Sanctions Procedure* are one means by which the USC, through the CGB, can attempt to control behaviour that reflects badly upon it. Should those sanctions not prove to be effective, de-ratification under the *Clubs De-Ratification Procedure* is a further option available by which the USC, through the CGB, can disassociate itself from the improper behaviour.

24. This Board’s analysis is also informed by the *Appeals Board Terms of Reference*. Section 2.3 directs this Board to “apply the reasonableness standard when reviewing all appeals.”

25. This Board's analysis is also informed by its past decisions. Two examples are illustrative.

a. In *Western Crafting for a Cure v USC Clubs Governance Committee*, 2016:2, this Board upheld a probation period of eleven months and eleven days, during which the club president was to meet with the Compliance Coordinator or the Associate Vice-president Clubs once per month for review. That sanction arose from the club holding one or more events on campus without first seeking approval as required under the *Club Event Planning and Risk Management Procedure*. In upholding the sanction, this Board held at paragraph 14 that “[t]he Board does not view this requirement [i.e., meeting monthly] as unreasonably heavy-handed or strict. The prohibition imposed by the CGC simply seeks to ensure Western Crafting for a Cure abides by club protocols in the future.”

b. In *University of Western Ontario Vegan Society v Clubs Governance Committee*, 2016:3, this Board upheld a probation period of eleven months and eleven days, during which the club president was required to meet with a representative of the Clubs Governance Committee (now the CGB) once per month and was prohibited from holding off-campus events for part of that probation period. That sanction arose from four complaints made against the club related to on-campus and off-campus events held without first seeking approval as required under the *Club Event Planning and Risk Management Procedure*. In upholding the sanction, this Board held at paragraph 9 that “[t]he sanctions are not unduly harsh, and are aimed at rectifying the issues. In particular, the monthly meetings between the WOVS President and a representative of the CGC are clearly implemented with a goal of resolving any future issues.”

26. From the above, the following principles may be distilled. In reviewing sanctions imposed by the CGB on USC-ratified clubs, this Board will ask whether the sanctions are reasonable. One factor that may be considered is whether the sanctions are unduly harsh, heavy handed, or strict. A second factor that may be considered is whether the sanction is aimed at rectifying the problem giving rise to the sanction. These factors may not be exhaustive.

27. Finally, it is worth remembering that, in determining whether sanctions imposed by the CGB are reasonable, this Board does not ask what decision it would have made in place of the CGB, nor does it seek to determine the ‘correct’ sanction ([*Canada \(Minister of Citizenship and Immigration\) v Vavilov*, 2019 SCC 65 at para 83](#)). When considering the second factor, this Board does not ask whether the sanction is the best way to seek to rectify the problem, only whether it is a reasonable way to seek to rectify the problem.

28. Applying these factors to this case, the sanctions are upheld.

29. First, the length of the probation period is not unduly harsh, heavy handed, or strict, as seen in comparison with the probation periods in the cases cited above. Moreover, the rationale behind the length of the probation period – that it will apply to parts of two club cycles – is reasonable.

30. Second, the restraint imposed on the Club against holding events involving alcohol during the probation period is clearly aimed at addressing the underlying problem. The incidents described in the security reports and the complaint from The Wave are very serious and undermine the reputation of the Club, the USC, and Western University. The connection between these incidents and alcohol consumption is obvious. By prohibiting the Club from holding events with alcohol during the probation period, the CGB is clearly attempting to address the underlying problem.

31. Two further points are worth mentioning.
- a. The submissions made by the Club's president regarding other means by which the underlying problems with alcohol may be addressed were thoughtful and eloquent. Indeed, the president represented the Club admirably before the Board. However, it is not for this Board to ask whether other sanctions might also achieve the same desired outcome; it is sufficient that the sanctions imposed by the CGB in this matter are clearly aimed at rectifying the underlying problem. That said, nothing prevents the Club from also taking the steps laid out by the Club's president in addition to the sanctions imposed by the CGB.
 - b. The Club attempted to portray the incidents described above as being commensurate with the sorts of incidents commonly observed at student events where alcohol is served. This Board does not condone such behaviour; however, it is clear that the incidents in question go significantly beyond what may be thought to be common at student events. The Complaint from The Wave, which is undoubtedly well acquainted with student events, makes clear that the incidents on October 26, 2023 were far beyond what might typically be expected. Additionally, the reports of drunk driving at the Greek Community Centre event are especially distressing. The sanctions imposed by the CGB should serve as a wake-up call that such behaviour cannot be rationalized merely as students being students. The Club's members would be well-advised to use this probation period as an opportunity to recalibrate the manner in which they use, or abuse, alcohol at Club events. The warning from the CGB is clear: failure to do so may result in the de-ratification of the Club.

iv. *Outcome*

32. For the reasons laid out above, this Board directs as follows.

- a. The notice of sanctions against the Club dated November 30, 2023 shall be amended such that the sentence “Further complaints made after the probation is over will result in steps taken to de-ratification” shall be deleted and replaced with the sentence : “The Western Punjabi Association is warned that future complaints involving alcohol following the probation period may result in steps being taken towards de-ratification of the club under the *Clubs De-Ratification Procedure*.”
- b. The balance of the appeal is dismissed.

W. Fawcett

S. Warner

L. Tzianas