



Judgment of the USC Appeals Board in the matter of:

University of Western Ontario Poker Club v Clubs Governance Board, 2024:8 Clubs

Hearing Date: February 8, 2024

Judgment Released: March 6, 2024

Panel: William Fawcett (Chair), Ann Sony, Lydia Tzianias, Stephen Warner, David Vallillee

Reasons: Warner (Sony, Tzianias, Vallillee); Fawcett dissenting

PART I: INTRODUCTION

1. This is an appeal of a decision by the Clubs Governance Board (“**CGB**”) to deny the application for ratification submitted by Western Poker Club (the “**Club**”).
2. For the reasons that follow, I would allow the appeal and remit the matter back to the CGB for reconsideration.

PART II: FACTS

3. The Club submitted an application for ratification as a USC club in accordance with the *Clubs Ratification Procedure* (the “**Procedure**”).
4. On January 15, 2024, the CGB provided the Club with its notice of ratification decision (the “**Notice**”), in which the CGB identified two reasons why the CGB found that the Club was not suited for ratification. Those reasons were as follows.

- a. The Club’s mandate was student mentoring other students, contrary to section 2.4.6 of the *Procedure*.
 - b. The decision of this Board in *Western Poker Society v Clubs Governance Committee*, 2017:5 (“*WPS*”) precluded the CGB from ratifying the Club.
5. The Notice also included a paragraph devoted to duplication of services. The CGB has also since clarified that the language regarding duplication of services was included with all notice of ratification decisions. Duplication of services was therefore not an issue in this appeal.
6. The Club appealed the Notice under section 5 of the *Procedure*.

PART III: ISSUE

7. The issue is whether the CGB’s decision not to ratify the Club was reasonable.

PART IV: SUBMISSIONS

A. Submissions on Gambling

8. The Club submitted that no gambling would occur during Club events, as no money would be changing hands during any poker games played during Club events. Instead, poker chips without cash value would be provided to participants, with nominal prizes such as certificates or poker chip tokens available to players based on their relative ranking in tournaments but not in any way corresponding to the actual margin of victory or loss. I do not take the CGB to have disputed this fact.
9. The Club further submitted that the Board’s reasoning in *WPS* was flawed. In *WPS*, the Board upheld the decision of the CGB [then called the Clubs Governance Committee] to not ratify a poker club. Two statements of the Board in that decision form the basis of the Club’s submission.

- a. The Board found that on the basis that ratification would amount to the CGB condoning gambling, given that “mathematical and reasoning skills learned through poker in non-gambling contexts ... are likely to be used in a gambling context” (*WPS*, para 3). In other words, the Board found the CGB’s concern regarding risk to be reasonable.
- b. The Board found that by not ratifying the club in that case, the CGB was making a “policy statement” regarding the position of the USC and Western University on gambling activities, and the club would, if ratified, “have a sufficient nexus with gambling to undermine this policy statement” (*WPS*, para 8). In other words, the Board found the CGB’s concern regarding the perception of condoning gambling to be reasonable.

10. The Club took the position that the Board’s reasoning in *WPS* was flawed because it “takes as a foregone conclusion that students *will* abuse what they learn in the club for gambling purposes [emphasis added].” The Club further submitted that the distinction being drawn by the CGB between the Club and the many other USC-ratified clubs in which games are played by members—such as chess, mahjong, and other board games—is the *perception* of gambling that is associated with poker. The Club noted that any of those games *could* be played for money, just as poker *could* be played for money, but at events hosted by those USC-ratified clubs, the games are not in fact played for money.

11. During oral submissions, the Club also submitted that, when considering the perception that follows from ratifying a club, the correct question for the CGB to ask itself is not whether, by ratifying the Club, the CGB would be perceived as condoning gambling. Rather, the correct question is whether, in light of the stringent rules and regulations in place through the USC,

Western University, and the Canadian *Criminal Code*, a reasonable person would understand the approval of a poker club as condoning gambling.

12. For its part, the CGB submitted that even if there is no actual gambling occurring at Club events, the club's "association with gambling ... can be seen as a risk." The CGB acknowledged that the Club might not be encouraging students to gamble, but submitted that the Club cannot control what students do with the skills they learn at the Club, "making the entire mandate of the club a hazard."

13. Specifically, the CGB rooted its concern in the fact that the USC does not hold a gambling license from the Alcohol and Gaming Commission of Ontario, as required by law, and that the potential gambling skills learned at the Club's events could be used in a non-sanctioned way to put liability on the CGB for gambling events hosted without a license.

14. To be clear, the risk in question, as understood by the CGB, is the reputational risk to the USC should illegal gambling occur and which, as a result of ratification, the USC would be implicated in such illegal gambling by association.

B. Submissions on Students Mentoring Students

15. The Club submitted that teaching students to play poker did not constitute mentoring, and that the CGB's consideration of such activities as mentoring would lead to an unworkable standard when applied in practice.

16. The CGB submitted, as evidence of mentorship, that Club's mandate involved the opportunity for students to "improve" at poker, along with the inclusion of opportunities for

beginner players at Club events so that newer players could “learn the game at an easier pace from well versed and experienced players.”

17. As further evidence of mentorship, the CGB pointed to the Club’s use of words such as “introducing” and “showing” in its submissions as examples of the Club’s attempts, in the CGB’s view, to describe mentorship without using the word “mentoring.”

PART V: ANALYSIS

A. Preliminary Matters

18. This appeal is unique because a party has asked us to reconsider a past decision of this Board. Although the Board typically meets as a Panel of three, the Board elected to sit as a Panel of five, pursuant to section 3.3 of the *Appeals Board Terms of Reference* (the “***Terms of Reference***”) which allows the Board to meet as a larger Panel “in especially serious circumstances.” The Board considers this such a circumstance.

19. Additionally, section 14.4 of the *Terms of Reference* requires that the Board make its decision available “within a reasonable amount of time,” and in any event within five (5) days of the hearing. Recognising the complexity of this particular matter and with the consent of the Parties, the Board notified the Parties that we would likely not meet that requirement in this matter to allow for effective deliberations among the larger-than-normal Panel.

20. Notwithstanding that this case presents novel challenges, the principles buttressing the Board’s standard of review remain the same, and I have articulated them for reference below.

21. The CGB has significant discretion with respect to the ratification of proposed student clubs (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 20).

22. In an appeal of a decision by the CGB not to ratify a club, the role of the Appeals Board is to ensure both the presence of fairness in the decision-making process and adherence to relevant policies and by-laws. The discretionary power to determine whether a proposed club should or should not become a part of the USC community is ultimately within the purview of the CGB. The Appeals Board does not determine whether any proposed club *deserves* ratification, as this lies beyond the scope of an appeal to the Appeals Board (*Western Clay Club v Clubs Governance Board*, 2023:6 Clubs, para 14).

23. Regarding the merits of a decision by the CGB not to ratify a club, the Appeals Board will look to see whether the CGB's decision was reasonable based on the material that was before it at the time that the decision was reached (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 32). The Board must determine if the CGB's decision was transparent, justified, and intelligible and fell within a range of acceptable and defensible outcomes (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 25).

B. The Club's Mandate is not Students Mentoring Students

24. Section 2.4 of the *Procedure* reads, in relevant part, as follows:

2.4 The CGB shall not ratify a club with any of the following conditions;

[...]

2.4.3 A club's mandate is students mentoring other students.

2.4.3 A club's mandate is to teach, train, or tutor any specific academic skills, academic content or other relevant material.

25. This Board recently explained the CGB's unreasonableness in confusing teaching with mentoring in *Speak Western v Clubs Governance Board*, 2024:5. In that decision, my colleague the Chair noted the distinction between mentorship and teaching as follows:

39. Given the nature of many USC-ratified clubs, it is necessary that student to student teaching will occur. A juggling club that could not teach beginning members how to juggle, a dancing club that could not teach its members new dances, or a knitting club that could not teach members new knitting techniques would not serve Western students well. Therefore, it would seem that part of the purpose of the clubs system at Western is to provide opportunities for students to try out new interests and to seek to build on existing interests. This necessitates that clubs be able to provide teaching to their members, and it is impractical to expect that clubs will have the resources to permit the regular hiring of non-students to provide that teaching.

...

47. [T]he concerns surrounding the potential for abuse or exploitation present in a mentoring relationship are not, *prima facie*, present in a teaching relationship. There does not exist the degree of trust, nor is there the degree of close personal connection, between someone teaching a skill like juggling, knitting, or dancing and his or her students as exists between a mentor and a mentee.

26. While the CGB did not have the benefit of the decision in *Speak Western* when reviewing the Club's application, its decision in this case is nonetheless similarly unreasonable. A club focused on playing a card game that cannot teach club members how to play that game falls squarely within the examples highlighted by my colleague, the Chair, in *Speak Western*.

C. No Gambling Occurs at Club Events; the CGB was Therefore Unreasonable

27. In effect, the CGB's decision to not ratify the Club on the ground of gambling was rooted in two similar but discrete issues: (i) the Board's prior decision in *WPS* that supports the position that a "sufficient nexus" exists between a poker club and gambling, such that to ratify the Club

would raise a legitimate perception that the CGB condones gambling; and (ii) the CGB's risk assessment that ratifying the Club would expose the USC to an impermissible risk of gambling occurring.

28. Finding that the CGB's decision was unreasonable therefore requires the reconsideration of past decisions of this Board. While the Board is not strictly bound by its past decision, this is nonetheless a step that should not be taken lightly. To foreshadow my reasons, I find that the Board should not follow the Board's past decisions on this issue. As such, it is important to carefully parse the issues relevant to the question of gambling to ensure that this Board does not go further than necessary in overturning a past decision.

29. It is important at this stage to reiterate that it is agreed fact by both parties to this appeal that no actual gambling would occur at Club-run events. Merriam-Webster defines "gambling" as "the practice or activity of betting" and "the practice of risking money or other stakes in a game or bet." As noted in the Club's submissions, although it intends to offer nominal prizes to tournament winners, those prizes would not be commensurate with the scale of a given win or loss in the way that a bet or stake would be.

(i) *It is reasonable for the CGB to consider the perceptions that flow from ratification, but it was unreasonable to conclude that a club that does not gamble raises perceptions of gambling*

30. As noted, the Board in *WPS* held that a "sufficient nexus" existed between poker and gambling such that, by ratifying the club in that case, the CGB would be seen as condoning gambling. This statement connotes two points: (a) that the CGB is entitled to consider, as a matter of discretionary policy not covered in the *Procedure*, the signal that ratifying any given club will

send to the wider Western community; and (b) that ratifying a poker club would send a signal with respect to the CGB's position on gambling that was inconsistent with the CGB's actual position.

31. It is worth noting at this junction that, although both the CGB and the Club relied only on *WPS*, the Board decided *Western Fantasy Sports Club v Clubs Governance Committee*, 2019:4 Club in much the same way and with the same underlying logic.

32. From these cases, I agree that the CGB is entitled to consider the perceptions that arise from its decision to ratify—or not ratify, for that matter—any given club. This authority is not based in the *Procedure*, but logically flows from the CGB's position as a decision-maker operating with compulsory student funding.

33. Where I part ways with the Board in both previous decisions and with the CGB in this decision is on the question of what kinds of perceptual issues reasonably arise when reviewing a poker club. I agree with the Club in this case that the relevant question for the CGB was not about the public's view of the relationship between poker and gambling, writ large. Indeed, members of society can and do have vastly differing views on the relationship between poker and gambling for any number of reasons. On that basis, it would have been reasonable for the CGB to find that some people might have a strong association between poker and gambling, while some others may not.

34. Rather, the relevant question for the CGB to consider in this case was whether ratifying a poker club, in light of both the rigorous ratification requirements and sanction policies imposed by the CGB, as well as applicable Canadian law, might reasonably give the perception that the CGB condones gambling. With these important qualifications in mind, the CGB's decision becomes unreasonable.

35. In other words, while it is reasonable for the CGB to consider perceptions that follow from its ratification decisions, in order for its conclusions to be reasonable, the range of those perceptions must be rooted in the actual facts related to ratification. In this case the CGB's failure to consider the perceptions arising from ratification of the Club in their proper context led to an unreasonable conclusion.

36. Finally, I wish to address the argument raised by the CGB and expanded upon by my colleague the Chair in dissent: that part of what creates the "sufficient nexus" between poker and gambling is the mere fact that the game being played by the Club is poker and not, say, chess. My colleague the Chair highlights the existence of various professional gamblers whose game of choice is poker as demonstrative of the "sufficient nexus" between poker and gambling that does not exist between, for example, chess and gambling. This is, with respect, a misunderstanding of the relevant issue. The Club has not proposed to bring in guest speakers who have a reputation for gambling, nor has the Club proposed to host events where participants watch or learn from any of the individuals named by my colleague the Chair. In other words, by highlighting these individuals, my colleague the Chair creates, using new facts not available to the CGB, a nexus that would not exist but for those facts.

(ii) *It is reasonable for the CGB to consider risk, but as the Club is not engaging in gambling, there is no risk*

37. It is clear that the CGB has the authority to consider risks that a given club may pose. Section 2.1.1.3 of the *Procedure* requires that clubs seeking ratification explain "the physical, financial, and other risks associated with the club." Moreover, the CGB's consideration of risk allows it to approve clubs notwithstanding the risks they may pose. This is evidenced by the numerous policies, both those captured in the *Procedure* and in other formal policy documents,

that govern the conduct of USC-ratified clubs. A non-exhaustive list of these examples includes section 4.1 of the *Procedure*, requiring an assumption of risk waiver form for clubs hosting events that require off-campus travel; section 3.2 of the *Procedure*, authorising the USC to impose additional restrictions on clubs for high-risk events; and the *USC Student Organization Best Practices* document, outlining various topical restrictions imposed on club-hosted events in a wide variety of scenarios.

38. These regulations share a common feature in that all of them govern the conduct of club activities. To list but one example, the *USC Student Organization Best Practices* document notes that the use of time-limits and cars are prohibited when clubs host a scavenger hunt event, as those event features would, in the USC's view, increase the risks of those events to an intolerable level.

39. I will emphasize again at this stage that it is an agreed fact that the Club, in this case, is not engaging in gambling. Without having to finally decide the issue in this appeal, it would at a minimum be reasonable for the CGB to consider the risks inherent from a club that wished to engage in gambling, including the fact that Canadian law requires a gambling license be obtained.

40. However, as the Club and CGB agree that there is no gambling occurring at Club events, there is simply no risk with the Club's events as articulated. While it is true that the Club could break the rules at its events and nonetheless engage in gambling, that is a risk inherent in any club conducting any event. The CGB is certainly entitled to advance an argument that a club's executive is acting in bad faith with respect to its desire to act in compliance with rules, but the CGB took the position in this appeal that it saw no ill intentions on the part of the Club. Moreover, the CGB correctly has a policy in place—the *Clubs Hearing and Sanctions Policy*—to address the scenario that a ratified club breaks USC rules.

41. The CGB's submissions on the risk of gambling can therefore more accurately be described as concern about the risk of a risk of gambling.

42. A risk, in the context of the USC clubs system, might be understood as including the risk of physical injury to a member attending a club that plays a particular sport, or following the consumption of alcohol served at a club event. Another example might be the financial risk that could arise if a club assumes for its budget that a certain number of tickets will be purchased to a club event when that number is not guaranteed. The use of the phrase "and other risks associated with the club" in section 2.1.1.3 of the *Procedure* demonstrates that the CGB is not limited to considering simply physical and financial risks.

43. A risk of a risk, however, can arise when considering potential occurrences that go beyond the scope of the activities actually contemplated by the club. To extend the previous examples, there might be a risk of a risk that a member of a sports-based club eventually develops a repetitive strain injury, or that a student consuming alcohol at a club event might develop an alcohol addiction. To put it another way, while there may be risks associated with the specific activities of a club *at the time those activities occur*, there may also be risks associated with those activities in general, *regardless of whether the activity occurred at a club event or otherwise*. The risk of a risk in this case, as I have already outlined, is that Club members might use their skills in poker to gamble at hypothetical future "underground" events not actually contemplated or sanctioned by the Club or the CGB.

44. I need not decide in this case whether the CGB is entitled to consider the risk of a risk to find that it was unreasonable for the CGB to have concluded in this case that there was an

intolerable risk of a risk arising from ratifying the Club. By its very nature, the threshold for an unacceptably high risk of a risk would be higher than the threshold for an unacceptably high risk.

45. In this case, the risk of a risk highlighted by the CGB involves hypothetical, illegal gambling events occurring on USC or Western University property, outside of the USC clubs system and not sanctioned by the USC, that could occur regardless of whether the Club is ratified or not. To be clear, I agree that, logically, there is an increased risk that such hypothetical, illegal gambling events would be more likely to occur as a result of the Club's ratification than if the Club was not ratified. However, there is no evidence to suggest that the increase would be sufficient to negate the fact that the gambling events in question remain, regardless of the Club's ratification both hypothetical and already illegal under Canadian law.

46. I would therefore find this ground of the CGB's decision unreasonable.

D. Disposition

47. In sum, given that there is in fact no gambling occurring at Club events, it was not reasonable for the CGB to have concluded that ratifying the Club would lead to the perception that the USC condones gambling, nor was it reasonable for the CGB to have concluded that there was an impermissibly high risk of hypothetical, illegal gambling that would occur as a result of ratifying the Club.

48. For these reasons I would allow the appeal. In accordance with the Board's consistent past practice, the Board directs that the Club's application for ratification be remitted to the CGB for reconsideration in accordance with these reasons. However, given the extensive evidentiary record available through this appeal, the CGB is not entitled to raise new issues regarding perceptions nor

risk, and the Club is not entitled to enter any new submissions on those items. The CGB is, of course, entitled to consider other factors allowed for by the *Procedure* as part of its reconsideration.

S. Warner

A. Sony

L. Tzianias

D. Vallillee

PART VI: DISSENTING ANALYSIS

49. I have read the careful and deliberate reasons of the other panelists above, with which I regrettably cannot agree. For the reasons outlined below, I would dismiss the appeal and uphold the initial decision of the CGB not to ratify the Club.

50. Regarding the issue of students mentoring students, I agree that the materials submitted by the Club on the application for ratification do not indicate that the Club's mandate will be students mentoring students. Students teaching students is permissible, unless the teaching involves academic skills, academic content, or other relevant material (*Speak Western v Clubs Governance Board*, 2024:5 Clubs, para 38).

51. Regarding the gambling issue, in my view, there are two considerations at play. The first is whether the CGB may reasonably conclude that the USC would suffer reputational harm if the Club were ratified. The second is whether the CGB may reasonably conclude that the USC would suffer harm if the Club resulted in gambling activities among some of its members. I will deal with

each of these considerations in turn, but first I review two previous decisions of this Board that impact on this appeal.

A. Review of the Relevant Prior Decisions of the Appeals Board

52. This Board has addressed two similar cases in the past. Although this Board is not bound by its past decisions, I have found both decisions to be helpful, and I would decide this appeal in a manner consistent with the reasoning in these two decisions.

53. The parallels between this case and *Western Poker Society v Clubs Governance Committee*, 2017:5 (“*WPS*”) are apparent from the name of the prior case. In the earlier decision, the prospective poker club was clear that it did not intend to engage in gambling activities (*WPS*, paragraph 13). It also highlighted “the transferability of skills learned through playing poker to non-gambling scenarios” (*WPS*, paragraph 3). The Club makes similar submissions in this case.

54. However, the CGB – then the Clubs Governance Committee – denied ratification on the basis that the USC and Western do not approve of gambling activities and do not permit clubs to participate in gambling activities. The Appeals Board upheld the CGB’s decision. While the Board accepted that the club founders’ intention was not to teach members to become better gamblers, it was “reasonable to conclude that an individual who joins the WPS may use the club for this purpose.” The Board also held that there was a “sufficient nexus” between poker and gambling such that non-gambling policy of the USC and Western would be undermined if the club were to be ratified (*WPS*, paragraph 8). The Board also held that the CGB’s concern that the club could become a “training ground” with respect to gambling activities was reasonable (*WPS*, paragraph 15).

55. The underlying facts in *Western Fantasy Sports Club v Clubs Governance Committee*, 2019:4 Club (“*WFSC*”) were similar. In that case, the prospective club was focussed around fantasy sports. Although the prospective club “emphasized that it wished to create a club which had no affiliation with gambling activities” and instead “wished to create a community for those with a passion for sports, and to inform members about statistics in the sports world”, the CGB took the position that the risk of gambling-related activities within the club prevented the CGB from ratifying the club (*WSFC*, paragraph 9). The Board upheld the CGB’s decision, agreeing that there was a “tangible connection between fantasy sports and gambling” (*WSFC*, paragraph 12).

B. Ratification of the Club Would Result in Reputational Harm

56. The Club’s submission is that its ratification would not result in reputational harm to the USC. Its argument is that a rational observer, knowing that the Club had been ratified, would conclude that the Club was legitimate, on the up and up, and acting in conformity with the high standards set by the USC. I have no reason to doubt that there would be some people who would see the Club in this manner, but this is not determinative of the matter.

57. On the other hand, the CGB’s submissions focussed on the risk that a rational observer, seeing that the CGB had ratified a club devoted to poker, would conclude that the USC condoned gambling. I have no reason to doubt that there would be some people who would see the Club in this manner.

58. I agree with the finding in *WPS* that there is a nexus between poker and gambling – the phrase “tangible connection” used in *WFSC* expresses the same idea in different phraseology. In saying this, I am not saying that all playing of poker is gambling – there is no doubt that many people play poker recreationally, which is the intention of the Club. However, it cannot be denied

that poker is closely associated with gambling. One need look no further than television coverage of the World Series of Poker and the World Poker Tour, or made-for-television high stakes games involving personalities like Daniel Negreanu, Vanessa Selbst, Phil Ivey, Phil Helmuth, or Doyle Brunson, to name just a few.

59. Because of this nexus between poker and gambling, it is reasonably foreseeable that some individuals would view the ratification of the Club as the USC condoning gambling. Some rational observers would reach this conclusion. It was reasonable for the CGB to consider the reputational harm the USC would suffer among these individuals in deciding not to ratify the Club. The CGB is not required to ratify the Club because other rational observers would reach a different conclusion. It is reasonable not to ratify the Club because some individuals would reasonably view the ratification of the Club as the USC condoning gambling.

C. Ratification of the Club Would Expose the USC to Risk

60. Because of the nexus between poker and gambling, it is reasonable for the CGB to be concerned about possible harm to the USC from gambling by Club members. It is also reasonable for the CGB to be concerned about the potential harm to the USC if Club members were to suffer from the problematic effects associated with gambling.

61. In its submissions, the Club stressed the measures it would put in place to prevent gambling at Club events. It also highlighted the possibility that gambling could occur within any USC-ratified club. For example, members of a chess club could place wagers on games. I would go even further and suggest that members of a crafting club could place wagers on who could weave a basket the fastest. People who want to gamble can find a way to gamble on just about anything.

62. While it is true that individuals can find a way to bet on seemingly any activity, there is a difference between chess and basket weaving on the one hand and poker on the other. There is no nexus between gambling and chess or between gambling and basket weaving. There is a nexus between gambling and poker. While it is possible that an individual could gamble on chess or basket weaving, it is not reasonably foreseeable that individuals will do so. However, it is reasonably foreseeable that individuals may gamble on poker. It is reasonable for the CGB to be concerned about this risk.

63. The CGB's submissions focussed primarily on two foreseeable risks: the risk that Club members would gamble together (what was referred to in *WPS* as "meet[ing] individuals with which to gamble on poker"), and the risk that a Club member's poker playing would progress to gambling (what was referred to in *WPS* as a "training ground"). With regard to the first risk, the Club suggests that poker players who wanted to gamble would not be attracted to a club where gambling was not permitted. The Club suggests that there are many other opportunities for poker players who wish to gamble to do so, and those individuals would prefer those opportunities over the Club. While some individuals who gamble while playing poker may prefer other opportunities, it is foreseeable that others may join the Club. It is foreseeable that they may use the Club tournaments as an opportunity to gamble – it would be a simple matter, for example, for a group of gambling Club members to contribute to a prize pool to be collected by the highest finishing player in a Club tournament. If that were to come to light, the fact that the USC had ratified a Club that facilitated gambling is likely to create reputational harm.

64. The second risk is even more concerning. Given the nexus between poker and gambling, it is foreseeable that some Club members who begin playing poker at the Club may continue to play poker for money. Many may not, but it is foreseeable that some will. Like all gambling activities,

some poker players who play for money are able to play the game in a healthy way, while others are not. If an individual were to begin playing poker at the Club, were to progress to playing for money, and were to suffer the foreseeable losses common to those who do not play in a healthy way, there could be significant harm to the USC. One can easily imagine the headline, “Western Dropout Loses All After Getting Start at USC Poker Club,” and the reputational harm that would arise from this. However, the risk here goes beyond potential bad press. If the USC were to ratify the Club, the USC could face potential lawsuits by individuals who started playing poker with the Club and go on to play in an unhealthy way.¹

65. To reduce the issue to its essence, the Club focusses on the positive impact that the Club can have on its members who enjoy the game of poker and want to play the game without gambling. The Club’s representative eloquently and passionately described his positive experience with the game and a similar club at the University of Waterloo. I have no doubt that many, perhaps the vast majority, of Club members would have similar experiences if the Club were to be ratified. However, in evaluating the risk, one needs to consider the foreseeable harms that may arrive, and part of the CGB’s role in deciding whether or not to ratify a club is to evaluate the risk. This involves considering not the foreseeable positive outcomes of ratification but rather the foreseeable negative outcomes.

66. I would follow the principle in *WSFC*:

It is not the role of the Appeals Board to determine the degree to which risks should be taken in the club-ratification process. It is plausible that this [i.e., gambling] could happen, and that it might cause legal and reputational damage to the USC.

¹ I make no prediction as to the potential for success of such a lawsuit, but the need to defend such a lawsuit would be a harm in and of itself.

The fact that the [CGB]' decision was grounded in this legitimate risk makes that decision reasonable.

67. The harms identified above are reasonably foreseeable, and the CGB's decision that it does not wish to take on the risk of such harms is transparent, justified, and intelligible and, as such, is entitled to deference.

68. For these reasons, I would deny the appeal and find that the CGB's decision not to ratify the Club was reasonable.

W. Fawcett