

**DECISION 2020/03**

**OF THE**

**BADMINTON WORLD FEDERATION**

**INDEPENDENT HEARING PANEL**

**DEFENDANT(s):** Mr. Ze Young Lim

**PANEL:** Mr. James Kitching (Chair)  
Mr. Rune Bård Hansen  
Mr. Kevin Carpenter

**DATE:** 6 November 2020

Regarding alleged violations of the:

*2012 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results*

*2016 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results*

*Mar 2017 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results*

*Nov 2017 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results*

*2017 Code of Ethics*

## PRELIMINARY MATTERS

### Introduction

1. On 5 August 2020, Mr. Rune Bård Hansen, the President of the Badminton World Federation (“**BWF**”) Independent Hearing Panel (“**IHP**”) appointed the following members to a hearing panel in accordance with Article 18.1 of the BWF Judicial Procedures (19 July 2020) (“**Procedures**”):
  - 1.1. Mr. James Kitching as Chair; and
  - 1.2. Mr. Rune Bård Hansen and Ms. Sylvia Schenk as Members.
2. On 4 October 2020, it was brought to the attention of Bård Hansen by Schenk and Kitching, that due to circumstances existing between organisations with which they were employed or appointed, it would not be appropriate for them to sit together on the same panel.
3. As a result, on the same day Hansen decided to appoint Mr. Kevin Carpenter to replace Ms. Sylvia Schenk. The new formation of the panel was as follows:
  - 3.1. Mr. James Kitching as Chair (“**Chair**”); and
  - 3.2. Mr. Rune Bård Hansen and Mr. Kevin Carpenter as Members (“**Members**”).  
  
(collectively, the “**Panel**”).
4. The Panel was appointed by Hansen to decide on a case involving breaches of the:
  - 4.1. 2012 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results (**2012 Code**);
  - 4.2. 2016 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results (**2016 Code**);
  - 4.3. March 2017 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results (**March 2017 Code**);
  - 4.4. November 2017 Code of Conduct in Relation to Betting, Wagering, and Irregular Match Results (**November 2017 Code**); and
  - 4.5. 2017 Code of Ethics (**CoE**),  
  
allegedly committed by a Malaysian individual, Mr. Ze-Young Lim (“**ZYL**”).

### Parties

5. The parties to this matter are:
  - 5.1. BWF, the international governing body for the sport of badminton, recognised by the International Olympic Committee (“**IOC**”); and

- 5.2. ZYL, a Malaysian individual who at various times was subject to BWF rules by virtue of his accreditation at BWF-sanctioned tournaments and business affiliation with badminton athletes.

### **Procedural and Factual Chronology**

6. This section outlines the key communications and procedural rulings which occurred. Not all communications are recorded for reasons of relevance.

#### Initial Report

7. In June 2014, the BWF was notified by Whistleblower 1 (“**WB1**”) and Whistleblower 2 (“**WB2**”) that they had been approached by ZYL, an employee of the sports brand *[redacted]*, and asked to manipulate matches at the Japan Open 2014 .
  - 7.1. The Panel decided, on request of the BWF (an “*Investigating Party*” pursuant to the Procedures), to redact any identifying features related to WB1, WB2, or any other badminton athlete described in this decision, in accordance with Article 35.5 of the Procedures.
8. The BWF (through its Integrity Unit) opened an investigation into the allegation. The BWF was unable to make contact with ZYL until June 2017.

#### First Interview

9. On 29 August 2017, the BWF invited ZYL to attend an interview as part of an investigation into potential breaches of BWF regulations.
10. On 15 September 2017, an interview took place in Kuala Lumpur, Malaysia (“**First Interview**”).
  - 10.1. The interview was conducted by the BWF Integrity Unit Manager, Mr. Andy Hines-Randle and BWF investigator, Mr. Paul Scotney.
  - 10.2. ZYL was assisted by an independent interpreter, Mr. Najib.
  - 10.3. At the end of the interview, ZYL voluntarily provided his mobile phone for forensic examination.
11. The testimony provided in the interview is set out below in **Part C**.

#### Second Interview

12. On 29 May 2019, the BWF invited ZYL to attend a second interview.
13. On 15 June 2019, an interview took place in Kuala Lumpur, Malaysia. ZYL was assisted by an independent interpreter, Ms. Jacqueline Ho.
14. The testimony provided in the interview is set out below in **Part C**.

#### Requests for information

15. On 26 June 2019, the BWF sent ZYL a “*Formal Request for Further Information*”.

16. On 19 September 2019, the BWF sent ZYL a “*Final Request for Further Information*”. No further information was received.

#### Request to Referral Officer

17. On 2 June 2020, the BWF Secretary General referred the case relating to ZYL to the BWF Referral Officer, Mr. Alexander McLin, for review in accordance with Article 6.3 of the Procedures.
  - 17.1. The purpose of a referral under the Procedures is for the Referral Officer, an independent party, to review the evidence and decide whether to refer the case to the IHP.
18. On 21 June 2020, the Referral Officer confirmed that he had decided to refer the case against ZYL to the IHP.
19. Although this referral was made pursuant to the previous edition of the Procedures, the provisions of which are effectively identical, for ease of reference the Articles mentioned above are to the current edition of the Procedures.

#### Charges

20. On 10 August 2020, the BWF notified ZYL in accordance with Article 13.4 of the Procedures (“**Charge Notice**”) that:
  - 20.1. he was charged with several violations of the 2012 Code, 2016 Code, March 2017 Code, November 2017 Code and CoE;
  - 20.2. he had various rights pursuant to the Procedures;
  - 20.3. the time frame to respond, as well as for a hearing and its related procedures, would be conveyed in due course; and
  - 20.4. a link was provided to download the evidence pertaining to the case as well as the “*Charges*” and “*Case Summary*” prepared by the BWF.

#### Submissions and pre-hearing matters

21. On 15 August 2020, the Chair provided until 7 September 2020 for ZYL to file his defence to the Charge Notice. No defence was filed by ZYL.
22. On 17 September 2020, the Chair provided ZYL with a further seven (7) days to file his defence.
23. On 22 September 2020, ZYL responded and stated “*my lawyer need 30days extra to appeal. tq*”.
24. On 23 September 2020, the Chair provided until 30 September 2020 for ZYL to file his defence.
25. On 23 September 2020, ZYL requested to be notified of the potential sanctions involved.
26. On 23 September 2020, the BWF referred ZYL to the relevant sections of the Procedures.

27. No defence was ultimately received from ZYL.
28. On 19 October 2020, the Chair, following consultation with the Panel, decided to hold no oral hearing and adjudicate the matter on the basis of the written file.
29. On 19 October 2020, the Chair provided until 25 October 2020 for BWF to make hypothetical submissions on sanction, given that no oral hearing would take place.

### **Charges**

30. The charges against ZYL state:

#### ***Charge 1***

1. *That in June 2014, ZE-YOUNG LIM sent messages on Facebook to [redacted] and/or [redacted] in which messages:*
  - a. *He induced or encouraged those players to engage in match fixing of badminton matches in breach of §3.2.6 and §§3.2.2, 3.2.4 and 3.2.7 of the 2012 Code, and/or*
  - b. *He engaged in Corruption by offering a gift or payment to those players to influence their efforts in badminton matches in breach of §3.2.9 and §§3.2.2, 3.2.4 and 3.2.7 of the 2012 Code.*

#### ***Charge 2***

2. *That on a date between 1 June 2014 and 31 December 2015, ZE-YOUNG LIM was informed of an attempt to fix the outcome of a badminton match or matches but failed to report that matter to the BWF in breach of §3.2.10 of the 2012 Code.*

#### ***Charge 3***

3. *That, in breach of §3.2.7 of the 2016 Code and/or March 2017 Code, in the period between 13 June 2016 and 15 September 2017, ZE-YOUNG LIM bet and/or solicited or facilitated another person to bet on an Event or a Badminton Competition including:*
  - a. *Thailand Masters 2017*
  - b. *All England Open 2017*
  - c. *Malaysia Open 2017*
  - d. *Finnish Open 2017*
  - e. *European Championship 2017*
  - f. *Asia Championship 2017*
  - g. *Australia Open 2017*
  - h. *World Championships 2017, and/or*
  - i. *Vietnam Open 2017.*

#### ***Charge 4***

4. *That in the period between 2 June 2017 and 14 June 2019 ZE-YOUNG LIM harassed [redacted] by threatening to expose his gambling activity and/or indebtedness and did so with intent to scare [redacted] in breach of §4.3 of the Code of Ethics.*

**Charge 5**

5. *That in the period from:*

- a. *26 July 2019 and continuing, having received a Notice from the BWF dated 26 June 2019 sent pursuant to §6.1.9 of the November 2017 Code, ZE-YOUNG LIM failed to provide the information requested, in particular his bank records and accreditations for the period between 1 January 2017 and 31 May 2019 in full, and thereby is in breach of §6.1.8.3 of the November 2017 Code, and/or*
- b. *17 October 2019 and continuing, having received a Notice from the BWF dated 19 September 2019 sent pursuant to §6.1.9 of the November 2017 Code, ZE-YOUNG LIM failed to provide the information requested, in particular his bank records, betting records and accreditations for the period between 1 January 2017 and 31 May 2019 in full, and thereby is in breach of §6.1.8.3 of the November 2017 Code.*

## **B. APPLICABLE RULES**

### **Jurisdiction**

31. Article 31 of the BWF Constitution recognises the IHP as a judicial body of the BWF.
  - 31.1. The IHP is authorised by Article 29 of the BWF Constitution to “*penalise a Member, player, coach, competition official, or other person for infringement of the Statutes, for misconduct during competition, or for actions that bring the game of Badminton or the Federation into disrepute.*”
32. In accordance with Article 7.5 of the Procedures, the IHP has jurisdiction to decide matters, *inter alia*, regarding alleged breaches of the “*Code of Ethics*” and the “*Code on the Prevention of the Manipulation of Competitions (BWF Statutes, Section 2.4)*”.
  - 32.1. The 2012 Code, 2016 Code, March 2017 Code, and November 2017 Code are the equivalent version (albeit with a different name) in force at the time of the alleged violations.
  - 32.2. This jurisdiction extends to “*Participants*” (2012 Code), “*Covered Persons*” (2016 Code, March 2017 Code, November 2017 Code), and “*any other person who receives accreditation at any BWF Sanctioned Tournament*” (CoE). For the reasons set out in Part D below, the Panel considers that ZYL was subject to BWF rules for most charges identified in the Charge Notice.
33. Pursuant to Article 15.4 of the Procedures, the case against ZYL was referred to the IHP following consideration of the evidence by the Referral Officer.
34. As such, the Panel has jurisdiction to hear this matter as described above. In any event, ZYL never disputed the jurisdiction of the Panel.

### **Burden of proof and standard of proof**

35. Article 32.2 of the Procedures provides that the “*burden of proof regarding an allegation of breach rests on the Investigating Party*”.
36. Article 32.1 of the Procedures states that the “*standard of proof...shall be the balance of probabilities...a matter will be found proved if it is more likely to have occurred than not*”.

### **Violations**

37. ZYL is charged with violating the following provisions:

#### 2012 Code

- 3.1 *All participants are obligated to safeguard the integrity of sport by refraining from any attempt to influence the elements of a competition in a manner contrary to sporting ethics;*
- 3.2 *The following will be considered an offence related to betting and wagering by a Participant:*
  - ...
  - 3.2.2 *Not using one’s best efforts to win a match.*

- ...
- 3.2.4 *Failing, for reward, to perform to one's abilities or manipulation of sports results/match fixing;*
- ...
- 3.2.6 *Inducing, instructing or encouraging any participant to breach any of the established offences;*
- 3.2.7 *Ensuring the occurrence of a particular incident, which is the subject of a bet and for which he/she expects to receive or has received any reward;*
- ...
- 3.2.9 *Using any 'Inside Information' for betting purposes, including disclosing 'Inside Information' to any person (with or without reward) where the athlete might reasonably be expected to know that its disclosure could be used in relation to betting;*
- 3.2.10 *Failing to disclose information to the competent BWF authority (without undue delay) full details of any approaches, invitations to engage in conduct, or incidents that would amount to a breach of the IFs Rules related to betting;*

2016 Code and March 2017 Code

- 3.2.7 *No Covered Person shall, directly or indirectly, solicit or facilitate any other person to Bet or Wager on the outcome or any other aspect of any Event or any other badminton competition.*

*For the avoidance of doubt, to solicit or facilitate to Wager shall include, but not be limited to: display of live badminton betting odds on a Covered Person website or mobile telephone or device; writing articles for a badminton betting publication or website, Facebook or other social media; conducting personal appearances for a badminton betting company; and appearing in commercials encouraging others to bet on badminton.*

November 2017 Code

- 6.1.8. *A Covered Person who is subject to an investigation carried out by the BWF must not;*

...

6.1.8.3. *Fail to comply with a requirement imposed on them;*

CoE

- 4.3 *All forms of harassment, be it physical, psychological, professional or sexual harassment, are strictly prohibited. The welfare of people under the age of 18 is particularly important so as to give them protection from unprofessional practice, abuse and bullying.*

38. The relevant regulatory scope of each code is provided below:

2012 Code

- 1.2.4 *Participants: means all accredited individuals including but not limited to players, referees, umpires, line judges, other Technical Officials, BWF and*

*Member employees, Member elected officials, families, the event organising committee and the entourage of players (including but not limited to coaches, team officials, doctor and physiotherapist) of all participants.*

...

2.4 *Each Participant shall be bound by this Code until a date 6 months following his last participation or assistance in a BWF sanctioned tournament. Each Participant shall continue to be bound by this Code in respect of his participation or assistance in BWF sanctioned tournaments taking place prior to that date.*

#### 2016 Code, March 2017 Code, November 2017 Code

1.1.6 *Covered Person: refers to any Player, Related Person, or Tournament Support Personnel.*

...

1.1.18 *Related Person: refers to any coach, trainer, therapist, physician, management representative, agent, family member, tournament guest, business associate or other affiliate or associate of any Player, or any other person who receives accreditation at an Event at the request of the Player or any other Related Person or a BWF Member.*

...

2.1 *This Code shall apply to all Covered Persons who participate in, assist in or prepare Players to participate in Events. Each Covered Person shall be automatically bound by, and be required to comply with, this Code by virtue of such participation, assistance or preparation.*

#### CoE

2. *This Code of Ethics covers anyone defined in clause 30.1.1 to 30.1.5 of the BWF Constitution which includes BWF, its Members and any party that deals with the BWF, or shares in its activities and includes any party who:*

...

b) *is a Player's management representative, agent, Player family member, Tournament guest, business associate or other affiliate or associate of any Player, or any other person who receives accreditation at any BWF Sanctioned Tournament;*

## C. PROCEDURAL REQUEST(S), EVIDENCE, POSITIONS OF THE PARTIES

39. Below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence. Additional facts and allegations found in the written submissions, pleadings and evidence may be set out, where relevant, in connection with the findings at **Part D**.

### Evidence

40. The evidence provided as part of the Charge Notice is summarised below.

#### Whistleblower reports

41. On 8 October 2019, WB1 declared, in summary:

41.1. on 9 June 2014, he was contacted on Facebook messenger by ZYL. He only knew him from previous Facebook messages as a representative of *[redacted]*;

41.2. ZYL asked questions about the upcoming Japan Open tournament being held in Tokyo, Japan. The following messages formed part of the conversation:

ZYL: *Do you have a good chance. Want to pay players for match fixing are you interested*  
*Sorry for asking but hope this is between me and you. Thank u.*

WB1: *I have no interest in being part of any kind of match fixing. It ruins the sport, so a clear no from me. To be honest I am very disappointed to be asked.*

ZYL: *Yes I just helping my friend. Sorry man. Good luck and all the best.*

WB1: *You should not help him. You should report him to the BWF/the authorities instead. Take care.*

41.3. WB1 later sent ZYL a direct link to the Whistleblower form on the BWF website. He has not received any communication from ZYL since.

42. On 6 January 2020, WB2 declared, in summary:

42.1. on 9 June 2014, he was contacted on Facebook messenger by ZYL, who asked several questions about the Japan Open tournament being held in Tokyo, Japan;

42.2. as he did not know ZYL, he did not answer. However, later that day he was in the company of WB1, who mentioned that he had received similar messages and reported it to BWF;

42.3. as a result, WB2 responded to the messages and tried to learn more about ZYL before reporting the matter. The following messages were subsequently sent:

ZYL: *I asking you a very sensitive question as a player. Hope you don't mine.*  
*You can reject me if you are not interested, but just keep it as a secret*

*between me and you. We are paying some players for match-fixing in international tournament. Don't know if you are interested or not.*

WB2: *I don't want any troubles – have any players tried it before?*

ZYL: *Yes of course. Do you have Wechat account or Whatsapp?*

WB2: *No only Facebook. I have never considered doing something like that – do you have any examples on how this is working?*

ZYL: *bookie will pay you and your partner for losing the match. Or win but give out points easily, so the match could be close fight. But this is illegal and our conversation can't let anyone know.*

WB2: *OK but can you give me any concrete examples on how much money or who you have done this with before. Again I have never heard or thought of doing something like this ...*

ZYL: *They will pay around 2300 Euro-3000 Euro for the match. Depends on who your opponent is who also. Its really not convenient to list out those players names. But in Singapore Open there are some matches were fixed. Besides that, bookie will help you bet on it also. The amount will bank in to you every Tuesday because they only get their outline every Tuesday. It's the rule.*

WB2: *Ok I must refuse this as it is against my idea of going sport and im not interested.*

ZYL: *Its ok. Thank you very much.*

42.4. WB2 has not received any communication from ZYL since.

43. The timestamps indicate that ZYL first contacted WB1 and subsequently contacted WB2, both on 9 June 2014.

#### First Interview

44. In summary, ZYL:

44.1. stated that he worked for *[redacted]* and was involved in the sponsorship of players. The brand was owned by his father. He attended tournaments as an accredited person and paid for his accreditation through a senior Malaysian badminton official;

44.2. identified a number of players he had concerns about, which he had learned as a result of travelling to tournaments and mixing with players;

44.3. denied that he had any betting accounts and asking any people for information about matches in tournaments. He only bet informally with friends;

44.4. regarding WB1 and WB2, stated:

- 44.4.1. he was a student in Singapore in 2014, but had received a call from a reporter about the approach to WB1;
- 44.4.2. the reporter had first contacted him on Facebook and had asked for his Singapore telephone number and then called him. He then deleted his Facebook account and opened a new one;
- 44.4.3. his Facebook account had been hacked by someone who had his email and password and used his account to contact the players;
- 44.4.4. he did not know who had done the hacking, but posited that it was someone who was jealous of his having posted photographs of himself with famous badminton players, and his high profile;
- 44.4.5. hacking was easy if you had an email address and a password, and suggested it could have happened on his computer whilst he was studying. His close friends all knew his password. However, he had no idea and did not know who may have done this;
- 44.4.6. he denied having contacted WB1 or WB2 about match fixing, but accepted that he had been in contact with them about sponsorship and had spoken to WB1, but not WB2;
- 44.4.7. when shown screenshots of the messages provided to BWF by WB1 and WB2, stated that his old Facebook account used the name 'Ze-Young Lim' (with a dash) not 'Ze Young Lim' as shown in the screenshots but accepted that photograph was of him. He suggested that his Facebook account may have been created by someone else because the name on the screenshot he was shown does not have a dash; and
- 44.4.8. he was not able to remember if his old account had a dash or not and therefore he could not say whether this was his old account being hacked or whether someone had set up a false account.

#### Further Report

45. In April 2019, whilst conducting a different investigation, the BWF interviewed a current international badminton athlete. He ultimately provided a witness statement on 14 February 2020 which stated that:
  - 45.1. he met ZYL in 2017 through playing in the Malaysian Purple League. They bumped into each other occasionally at tournaments locally and overseas, and became friends on Facebook;
  - 45.2. he could not remember the exact timing, but he asked ZYL for assistance to settle gambling debts. ZYL lent him the money at an interest rate of 20-25%;
  - 45.3. ZYL put pressure on him to repay the debt with a threat that if he did not do so, ZYL would publicise the fact that he had been gambling on social media;

45.4. by July 2019, he had fully repaid the debt. He had little contact with ZYL since.

Content of mobile phone

46. Etienne Petit, BWF Intelligence Analyst, carried out a forensic examination of the content downloaded from the mobile phone. In his statement, Petit reported:

46.1. in the period for which data was available (13 June 2016 to 15 September 2017), ZYL accessed betting accounts on hundreds of occasions. In particular ZYL had betting accounts with Max Bet and access to the betting site 1Xbet;

46.2. ZYL placed or facilitated bets on matches, or visited betting websites, during the following tournaments:

46.2.1. Thailand Masters 2017, held 7 to 12 February 2017, visited betting website (web history deleted);

46.2.2. All England Open 2017, held 7 to 12 March 2017, visited betting website (web history deleted);

46.2.3. Malaysia Open 2017, held 4 to 9 April 2017, visited betting website (web history deleted);

46.2.4. Finnish Open 2017, held 6 to 9 April 2017, visited betting website (web history deleted);

46.2.5. European Championship 2017, held 25 to 30 April 2017, visited betting website (web history deleted);

46.2.6. Asia Championship 2017, held 25 to 30 April 2017, visited betting website (web history deleted);

46.2.7. Australia Open 2017, held 20 to 25 June 2017, visited betting website (web history deleted);

46.2.8. World Championships 2017, held 21 to 27 August 2017, placed at least seven (7) bets; and

46.2.9. Vietnam Open 2017, held 4 to 10 September 2017, placed at least three (3) bets.

46.3. ZYL had three (3) separate betting accounts with MaxBet;

46.4. ZYL was in very frequent contact with an individual where they discussed the placing of bets on badminton and the outcomes of those bets by posting screenshots. Review of those messages shows that there is no doubt that ZYL was using his betting accounts to place bets; and

46.5. ZYL had not been truthful in respect of his betting activity in the First Interview.

## Second Interview

47. In summary, ZYL:

- 47.1. stated “*somebody could have grabbed my phone and used my Facebook page or my – because everybody in my team knows my password and I know passwords of other players*”;
- 47.2. confirmed he was employed by *[redacted]* and which sponsored several players;
- 47.3. regarding the Facebook account used to contact WB1 and WB2, stated that he had not given the matter much thought since the First interview but thought that it was just people using his photo to gain access to players with a false account;
- 47.4. admitted he had bet on badminton but denied using inside information to do so;
- 47.5. admitted that he had bet on matches in which players sponsored by *[redacted]* were playing;
- 47.6. regarding the international badminton athlete:
  - 47.6.1. accepted lending to him approximately two hundred thousand (200,000) Malaysian Ringgit; and
  - 47.6.2. admitted that he had threatened to expose the international badminton athlete if he did not repay him on time.

## Other evidence

48. The case file provides photographic evidence that ZYL was accredited for the following BWF-sanctioned tournaments:
  - 48.1. Malaysia Open 2014, held 14-19 January 2014;
  - 48.2. Singapore Open 2014, held 4 to 14 April 2014;
  - 48.3. Singapore Open 2017, held 11 to 16 April 2017; and
  - 48.4. Indonesia Open 2017, held 12 to 18 June 2017.
49. By his own admission, ZYL stated that *[redacted]* was sponsoring:
  - 49.1. a Malaysian badminton athlete at the time of the First Interview (i.e. 15 September 2017);
  - 49.2. another Malaysian badminton athlete which was terminated approximately four (4) months prior to the First Interview (i.e. 15 May 2017); and
  - 49.3. among others, prominent Danish, Hong Kongese, Thai, and Polish badminton athletes at the time of the Second Interview (i.e. 15 June 2019). He remained employed with *[redacted]* during the time between the First Interview and Second Interview.

50. ZYL signed the BWF acknowledgement form for both the First Interview (dated 29 August 2017) and Second Interview (dated 30 May 2019). On both forms, he agreed that he was bound by, and subject, to BWF jurisdiction.

**BWF case against ZYL**

51. In summary, the BWF case against ZYL is that he:

- 51.1. on 9 June 2014, approached WB1 on Facebook and requested he manipulate a match at the Japan Open, a violation of the 2012 Code;
- 51.2. on 9 June 2014, approached WB2 on Facebook and requested he manipulate a match at the Japan Open, a violation of the 2012 Code;
- 51.3. in the alternative to the above, failed without undue delay to report to the BWF an approach to WB1 and WB2, a violation of the 2012 Code;
- 51.4. during the period 13 June 2016 to 15 September 2017, ZYL bet on matches and facilitated betting on matches by an individual (and visited betting websites) for at least nine (9) BWF-sanctioned tournaments, a violation of the 2016 Code and the March 2017 Code;
- 51.5. during the period 2017 to 2019, ZYL harassed an international badminton athlete by threatening to publicly expose his gambling debt, a violation of the CoE; and
- 51.6. following the Second Interview, he failed to respond fully and completely to the requests for information, a violation of the November 2017 Code.

52. The BWF case is predicated on the fact that:

- 52.1. there is no independent evidence that the Facebook account used to contact WB1 or WB2 was either a fake account or a hacked account;
- 52.2. it was extremely unlikely that an individual would seek to embarrass ZYL by making contact with badminton players for the purposes of corruption. That individual would need to select particular players who would be expected to converse with ZYL, know which tournaments they were playing in, and at least have some familiarity with match fixing; and
- 52.3. with respect to all other matters, they were either admitted by ZYL or objectively proven.

## D. FINDINGS

53. While the Panel has carefully considered all the facts, evidence, allegations and arguments submitted, the Panel refers in these findings only to the submissions and evidence it considers necessary to explain its reasoning.
54. The Panel noted the jurisprudence of the Court of Arbitration for Sport (CAS) when dealing with the assessment of evidence in corruption matters.
55. On several occasions, the CAS has recognised that special attention must be given to the paramount importance of fighting corruption of any kind in sport and to the nature and restricted investigatory powers of sport governing bodies compared to state authorities (see e.g. CAS 2009/A/1920 *FK Pobeda et al v. UEFA*; CAS 2014/A/3832 *Vanessa Vanakorn v. FIS*).
56. In this respect, various CAS panels have recognised that corruption is “*by its nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoings*” (CAS 2010/A/2172 *Oleg Oriekhov v. UEFA*).
57. Consequently, it is more likely than not that direct evidence will be the exception and indirect evidence the standard when dealing in cases involving alleged corrupt activity. In this respect, the CAS has previously held “*It is in the nature of circumstantial evidence that single items of evidence may each be capable of an innocent explanation but, taken together, establish guilt beyond reasonable doubt*” (CAS 2015/A/4059 *Klubi Sportiv Skenderbeu v. UEFA*).
58. In this matter, the standard of proof is one of balance of probabilities.

### Charge 1

59. Charge 1 alleges that, on 9 June 2014, ZYL sent messages on Facebook to WB1 and/or WB2 in which he:
  - 59.1. induced or encouraged WB1 and/or WB2 to engage in “*match fixing*” of badminton matches; and/or
  - 59.2. engaged in “*corruption*” by offering a gift or payment to WB1 or WB2 to influence their efforts in badminton matches.
60. The first limb is alleged to have violated Articles 3.2.2, 3.2.4, 3.2.6, and 3.2.7 of the 2012 Code, and the second limb is alleged to have violated Articles 3.2.2, 3.2.4, 3.2.7, and 3.2.9 of the 2012 Code.
61. As a threshold issue, the Panel held that ZYL was a “*Participant*” for the purposes of the 2012 Code and thus subject to the jurisdiction of BWF. In this respect:
  - 61.1. Article 1.2.4 defines “*Participant*” as “*all accredited individuals including not limited to...*”. Although this definition does not expressly denote what activity an individual must be accredited for, by its language and a general review of the

2012 Code, it is clear that it means being accredited for BWF-sanctioned tournaments as opposed to, for example, development courses.

- 61.2. Article 2.4 states that a “*Participant*” is “*bound...until a date 6 months following his last participation or assistance in a BWF sanctioned tournament*”
- 61.3. ZYL was an “*accredited individual*” for the Malaysia Open 2014, held 14-19 January 2014, and Singapore Open 2014, held 4 -14 April 2014.
- 61.4. As such, ZYL was subject to the 2012 Code for (at least) the period 14 January 2014 to 13 October 2014.
62. The phrase “*match fixing*” is defined in the 2012 Code as “*influencing the course or the result of a sports event in order to obtain advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition*”.
63. The word “*Corruption*” is defined in the 2012 Code as “*seeking, accepting, offering or agreeing to accept any bribe or other reward to fix or otherwise to influence improperly the result, or any other aspect of a sports event*”.
64. The Panel held that it was more probable than not that ZYL had committed the violations alleged. In making this finding, the Panel noted that:
  - 64.1. any alternative other than the fact that ZYL had sent the Facebook messages to WB1 and WB2 was highly improbable. ZYL had admitted to using the same account to receive contact from a reporter about the approach to WB1;
  - 64.2. the messages demonstrated a clear attempt to induce or encourage WB1 and WB2 to “*influence the course or the result of [the Japan Open] in order to obtain advantage for oneself or for others and to remove all or part of the uncertainty normally associated with the results of a competition*”;
  - 64.3. the messages demonstrated a clear engagement in “*Corruption*” through the “*offering*” of payment (“*other reward*”) to “*fix or otherwise to improperly influence the result*” of the Japan Open;
  - 64.4. the messages demonstrated a clear request to WB1 and WB2 to “*not use their best efforts to win a match*”;
  - 64.5. the messages demonstrated that ZYL impliedly sought to receive a reward from match fixing due to be undertaken by WB1 and WB2. He would thus corruptly act on such ‘inside information’;
  - 64.6. ZYL had admitted to betting on matches and facilitating bets on matches in relation to the data discovered following the forensic examination of his mobile phone. ZYL had admitted that some bets were made on matches where players sponsored by his company were participating; and

- 64.7. ZYL had proffered no plausible explanation as to how the messages were sent from his Facebook account, the identity of who had sent them, and their motive for sending them.
65. Accordingly, the Panel held that ZYL violated:
- 65.1. Article 3.2.2 of the 2012 Code on four (4) occasions;
  - 65.2. Article 3.2.4 of the 2012 Code on four (4) occasions;
  - 65.3. Article 3.2.6 of the 2012 Code on two (2) occasions;
  - 65.4. Article 3.2.7 of the 2012 Code on four (4) occasions; and
  - 65.5. Article 3.2.9 of the 2012 Code on two (2) occasions.

### **Charge 2**

66. Charge 2 is an alternative charge to Charge 1, if the Panel had dismissed that charge. As the Panel upheld Charge 1, there was no need to examine Charge 2.

### **Charge 3**

67. Charge 3 alleges that during the period 13 June 2016 to 15 September 2017, ZYL bet and/or solicited or facilitated betting on an “*Event*” by an individual in nine (9) BWF-sanctioned tournaments, a violation of the 2016 Code and the March 2017 Code.
68. This is alleged to have violated Article 3.2.7 of the 2016 Code and Article 3.2.7 of the March 2017 Code.
69. The phrase “*Event*” is defined in both the 2016 Code and March 2017 Code as “*badminton tournaments sanctioned by the BWF and any other international badminton event where Players participate in.*”
70. As a threshold issue, the Panel reviewed whether ZYL was subject to BWF jurisdiction.
- 70.1. Article 1.1.6 of both the 2016 Code and March 2017 Code defines a “*Covered Person*” as a “*...Related Person*”.
  - 70.2. Article 1.1.18 of both the 2016 Code and March 2017 Code defines a “*Related Person*” as a “*...business associate or other affiliate or associate of any player, or any other person who receives accreditation at an Event at the request of...any other Related Person*”.
  - 70.3. The 2016 Code and March 2017 Code, unlike the 2012 Code, do not define the length of time that an individual is bound by the relevant code. Given this deliberate amendment to its regulations, the Panel determined it inappropriate to imply any form of time period that an individual would be subject to BWF rules. By making the amendment, the BWF had clearly decided that no such time period was applicable in future.

- 70.4. In this respect, the Panel did not have any evidence – such as an accreditation, a confirmation of the starting date of employment with *[redacted]*, evidence of any business association with players - that ZYL was a “...*business associate or other affiliate or associate of any player, or any other person who receives accreditation at an Event at the request of...any other Related Person*” for the period 14 October 2014 (i.e. when his subjugation to BWF rules pursuant to the 2012 Code lapsed) to 11 April 2017 (i.e. the first day of the Singapore Open 2017, for which he was accredited).
- 70.5. On the other hand, the Panel was comfortable in finding that ZYL was a “*Covered Person*” from 11 April 2017 until at least the date of this decision (including pursuant to the identical definitions in the November 2017 Code).
- 70.6. In this respect, the Panel noted his ongoing employment with *[redacted]*, its ongoing sponsorship of players, his accreditation at BWF-sanctioned tournaments (arranged through a high-ranking Malaysian badminton official - another “*Related Person*”), and his admission on the acknowledgement forms that he was subject to BWF jurisdiction.
71. In this respect, the Panel held that ZYL was:
- 71.1. not a “*Covered Person*” for the purposes of the 2016 Code, and not subject to BWF jurisdiction, for the period 13 June 2016 to 18 March 2017;
- 71.2. not a “*Covered Person*” for the purposes of the March 2017 Code, and not subject to BWF jurisdiction, for the period 19 March 2017 to 10 April 2017; and
- 71.3. was a “*Covered Person*” for the purposes of the March 2017 Code, and subject to BWF jurisdiction for the period 11 April 2017 to 17 November 2017 (the date of entry into force of the November 2017 Code).
72. As a result of this finding, the Panel:
- 72.1. dismissed all charges relating to Article 3.2.7 of the 2016 Code (i.e. the Thailand Masters 2017 and All England Open 2017), given that the evidence does not demonstrate that ZYL was subject to the 2016 Code at the applicable times;
- 72.2. dismissed all charges relating to Article 3.2.7 of the March 2017 Code occurring between prior to 11 April 2017 (i.e. the Malaysia Open 2017 and Finnish Open 2017), given that the evidence does not demonstrate that ZYL was subject to the March 2017 Code during this period;
- 72.3. moved on to determine the charges relating to Article 3.2.7 of the March 2017 Code occurring as from 11 April 2017.
73. The Panel held that it was more probable than not that ZYL had committed the violations alleged. In making this finding, the Panel noted:
- 73.1. the European Championships 2017, Asia Championship 2017, Australia Open 2017, World Championships 2017, and Vietnam Open 2017 were all “*Events*”;

- 73.2. ZYL had admitted to betting on matches and facilitating bets on matches in relation to the data discovered following the forensic examination of his mobile phone. ZYL had admitted that some bets were made on matches where players sponsored by his company were participating;
  - 73.3. the data extraction demonstrated that he visited one (1) or more betting websites during the time period of the European Championship 2017, Asia Championship 2017, and Australia Open 2017, and had deleted such data from his mobile phone. The Panel considered it more likely than not that ZYL had bet, and/or solicited, and/or facilitated another person to bet on these “*Events*”, and subsequently sought to delete that information from his mobile phone; and
  - 73.4. the data extraction demonstrated that a betting account controlled by ZYL made (at least) seven (7) bets on the World Championships 2017 and (at least) three (3) bets on the Vietnam Open 2017.
74. Accordingly, the Panel held that ZYL had violated Article 3.2.7 of the March 2017 Code.

#### **Charge 4**

75. Charge 4 alleges that during from 2017 to June 2019, ZYL harassed an international badminton athlete by threatening to publicly expose his gambling debt.
76. This is alleged to have violated Article 4.3 of the CoE.
77. The Panel, taking note of the similar language in the CoE regarding to the individuals subject to its jurisdiction, held that ZYL was subject to the CoE during the same periods of time as it had found in Charge 3.
78. The Panel held that it was more probable than not that ZYL had committed the violations alleged. In making this finding, the Panel noted:
- 78.1. the actions of ZYL were clearly threatening in nature with the intent to blackmail and/or scare the international badminton athlete;
  - 78.2. ZYL had admitted his intention to scare the international badminton athlete; and
  - 78.3. such activity clearly falls within the scope of “*psychological harassment*” for the purposes of Article 4.3 of the CoE.
79. Accordingly, the Panel held that ZYL had violated Article 4.3 of the CoE.

#### **Charge 5**

80. Charge 5 alleges that in the period from:
- 80.1. 26 July 2019 and continuing, having received a “*Notice*” from the BWF, ZYL failed to provide the information requested, in particular his bank records and accreditations for the period between 1 January 2017 and 31 May 2019 in full; and/or

- 80.2. 17 October 2019 and continuing, having received a “*Notice*” from the BWF ZYL failed to provide the information requested, in particular his bank records, betting records and accreditations for the period between 1 January 2017 and 31 May 2019 in full.
81. It is asserted that this leads to a double violation of Article 6.1.8.3 of the November 2017 Code.
82. The Panel has already determined that ZYL was a “*Covered Person*” for the purposes of the November 2017 Code for this time period.
83. The phrase “*Notice*” is defined in the November 2017 Code as “*written notice sent by the BWF to a Covered Person*”.
84. The Panel held that it was more probable than not that ZYL had committed the violations alleged. In making this finding, the Panel noted:
- 84.1. the letters requesting information from ZYL were sent by BWF. They are clearly “*Notices*” for the purposes of the November 2017 Code; and
- 84.2. it is undisputed that ZYL failed to comply with the “*requirement imposed on him*” (i.e. to provide the requested information).
85. Accordingly, the Panel held that ZYL had twice violated Article 6.1.8.3 of the November 2017 Code.

### **Sanction**

86. Article 41 of the Procedures stipulates the types of sanctions that may be imposed by an IHP if an individual is found to have committed regulatory violations.
87. Article 42 of the Procedures defines a suspension as “*a prohibition on Badminton-Related Activities for a defined period of time, including for life.*”
88. When determining a sanction, Article 43.1 of the Procedures states that the: “*hearing panel deciding upon the sanction shall determine the type and extent of any sanction, its scope and duration, considering all relevant mitigating and aggravating factors in a case and the degree of guilt of the party when imposing a sanction. The hearing panel shall be bound to impose a proportionate sanction.*”
89. Article 43.2 of the Procedures sets out the aggravating and mitigating factors that a hearing panel must take into consideration when determining a sanction.
90. The Procedures do not prevent the Panel from drawing inspiration from the decisions of similarly-constituted sporting tribunals or prior BWF decisions.
91. The Panel recalled the press release dated 25 November 2014 by the BWF where its stance on corruption offences was made clear:

*“We are pleased to join with IOC and other international federations in the fight against corruption in sport. We expect IBIS to have a positive impact and we look forward to*

*benefiting from it...This is a significant ideal to which we all subscribe-that sport must be played in an environment devoid of illegal betting, match-fixing or any other forms of corruption or manipulation-and BWF will continue to do its utmost to uphold this and to spread this philosophy among its global membership.”*

92. The Panel also noted the preamble to the November 2017 Code:

*“Every athlete has the right to compete in clean and fair sport which is free from manipulation. It is a fundamental principle of sport that the outcome of a match is determined by the skill of the players, and anything that attacks the integrity of a match brings the whole of a sport into disrepute. Protection against any attempt to gain advantages (personal advantage or advantage for others) by not making best efforts shall also be considered as a serious offence that can bring the sport into disrepute.”*

93. As a starting point to determining the appropriate sanction, the Panel referred to a seminal CAS decision regarding corruption (**emphasis added**)

*“78. However, the Panel has to remind itself that match-fixing, money-laundering, kickbacks, extortion, bribery and the like are a growing concern, indeed a cancer, in many major sports, football included, and must be eradicated. **The very essence of sport is that competition is fair; its attraction to spectators is the unpredictability of the outcome...***

*80. **It is therefore essential in the Panel’s view for sporting regulators to demonstrate zero-tolerance against all kinds of corruption and to impose sanctions sufficient to serve as an effective deterrent to people who might otherwise be tempted through greed or fear to consider involvement in such criminal activities...***

(CAS 2010/A/2172 *Oleg Oriekhov v. UEFA*)

94. The Panel was also guided by CAS jurisprudence regarding the principle of proportionality in disciplinary sanctions, which was recently described as follows:

*“The principle of proportionality implies that there must be a reasonable balance between the nature of the misconduct and the sanction. In order to be respected, the principle of proportionality requires that (i) the measure taken by the governing body is capable of achieving the envisaged goal, (ii) the measure taken by the governing body is necessary to reach the envisaged goal, and (iii) the constraints which the affected person will suffer as a consequence of the measure are justified by the overall interest to achieve the envisaged goal. In other words, to be proportionate a measure must not exceed what is reasonably required in the search of the justifiable aim.”*

(CAS 2016/O/4684 *ROC & Lyukman Adams et al. v. IAAF*)

95. The Procedures provide no guidance as to how the IHP should sanction an individual that has committed multiple regulatory violations, whether: (i) each charge should be sanctioned separately and the sanctions accumulated; (ii) a sanction should only be issued for the rule considered the *lex specialis*; or (iii) all charges be sanctioned cumulatively.

96. Having the freedom to decide, the Panel deemed it sensible to determine the sanction for Charge 1, Charge 3, Charge 4, and Charge 5 cumulatively.
97. In this respect, the Panel took note of several cases involving match manipulation previously decided by the CAS and other sports bodies. A summary is set out in the following table:

| <b>Decision</b> | <b>Basic Facts</b>  | <b>Sanction</b>  |
|-----------------|---|--|
| CAS 2009/A/1920 | A club President was found to have manipulated a match in a continental football competition.   | Banned for life from football activity.                        |
| CAS 2010/A/2172 | A referee was found to have failed to report an approach to manipulate a match in a continental football competition.   | Banned for life from football activity.                        |
| CAS 2011/A/2490 | A player was found to have separately approached 3 other players to manipulate tennis matches.  | Banned for life from tennis activity.                          |
| CAS 2011/A/2621 | A player was found to have approached another player to manipulate tennis matches on multiple occasions.  | Banned for life from tennis activity.                          |
| CAS 2011/A/2362 | A player was found to have deliberately bowled 2 'no-balls' during an international cricket match upon request from a third-party.  | Banned for 7 years from cricket activity (2 years suspended).  |
| CAS 2011/A/2364 | A player was found to have been a party to the deliberate bowling of 3 'no-balls' during an international cricket match upon request from a third-party.<br><br>The player was also found to have failed to report an approach to manipulate a different international cricket match. | Banned for 10 years from cricket activity (5 years suspended). |
| CAS 2013/A/3062 | A player was found to have manipulated a match in an international football competition.  | Banned for 10 years from football activity.                    |
| CAS 2017/A/4856 | A player was found to have deliberately lost an international tennis match.   | Banned for 7 years from tennis activity and fined.             |
| CAS 2017/A/5173 | A referee was found to have manipulated a match in an international football competition.   | Banned for life from football activity.                        |

|                        |  |   |
|------------------------|--|---|
| CAS 2018/A/5846 & 5847 | Two players were found to have manipulated or spot-fixed multiple international badminton matches. | Banned for 20 years and 15 years from badminton activity and fined. |
| CAS 2018/A/5939        | A player was found to have manipulated an international tennis match.                              | Banned for 5 years from tennis activity and fined.                  |

98. The jurisprudence demonstrates that it is paramount, where an individual has undertaken corrupt behaviour which directly strikes at the heart and essence of sporting competition, that a significant sanction must be issued: both as a strong deterrent to future offenders, but also and primarily, to demonstrate the seriousness of the violation and the zero-tolerance to be shown to such behaviour.
99. In CAS 2017/A/4856, it was stated that “[a] life ban may be an appropriate sanction in any case involving match-fixing, based on the totality of the facts and circumstances”.
100. The onus was therefore on the Panel to determine an appropriate and proportionate sanction, considering “*the totality of the facts and circumstances*”.
101. The Panel noted the following when determining sanction:
- 101.1. ZYL had approached two (2) separate international badminton athletes and offered money to manipulate the Japan Open;
  - 101.2. ZYL had psychologically harassed a different international badminton athlete;
  - 101.3. ZYL had bet on multiple badminton matches, facilitated betting on multiple badminton matches, and admitted to betting on matches involving players that were sponsored by his employer;
  - 101.4. ZYL had abused his position of influence as an executive in a sporting brand in an attempt to corrupt international badminton and enrich himself;
  - 101.5. ZYL failed to properly cooperate with the investigation. ZYL had lied about his betting activity and failed to comply with requests for information. Such action was a wilful and deliberate act to conceal potentially corrupt activity from the BWF, an organisation without state subpoena or coercive powers, and with a duty to organise badminton on a global basis; and
  - 101.6. the necessary deterrent effect that a lengthy sanction would provide, particularly to those not directly participating (i.e. coaches and athletes) in matches.
102. The Panel subsequently ordered, given the circumstances, that ZYL be suspended from all badminton-related activity for a period of life.
103. The suspension shall commence from the date of notification by BWF of the terms of this decision.

**Costs**

104. Having heard no submissions on costs, the Panel made no order as to costs, whilst noting that it may be requested to make a costs order in future, in accordance with Article 40 of the Procedures.

## DECISION

1. Ze Young Lim has:
  - a. violated Article 3.2.2 of the 2012 Code of Conduct in relation to Betting Wagering and Irregular Match Results (**2012 Code**) on four (4) occasions;
  - b. violated Article 3.2.4 of the 2012 Code on four (4) occasions;
  - c. violated Article 3.2.6 of the 2012 Code on two (2) occasions;
  - d. violated Article 3.2.7 of the 2012 Code on four (4) occasions;
  - e. violated Article 3.2.9 of the 2012 Code on two (2) occasions;
  - f. violated Article 3.2.7 of the March 2017 Code of Conduct in relation to Betting Wagering and Irregular Match Results;
  - g. violated Article 4.3 of the 2017 Code of Ethics; and
  - h. violated Article 6.1.8.3 of the November 2017 Code of Conduct in relation to Betting Wagering and Irregular Match Results on two (2) occasions.
2. The charge relating to Article 3.2.7 of the 2016 Code of Conduct in relation to Betting Wagering and Irregular Match Results is dismissed.
3. Ze Young Lim is suspended from badminton-related activities for life.

**Note:** This reasoned decision is communicated within 45 days of the date of the conclusion of the hearing, in accordance with Article 35.3 of the BWF Judicial Procedures.

The 21 day time limit to appeal to the Court of Arbitration for Sport commences after the service of the reasoned decision, in accordance with Article 38.1 of the BWF Judicial Procedures.

In accordance with Article 40 of the Procedures, a party may apply to the hearing panel to make an order for costs, but such application shall be made within 7 days of the notification to that party of this reasoned decision

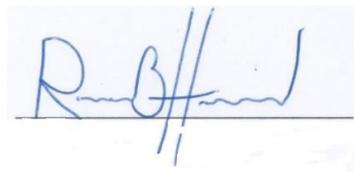


**Kevin Carpenter**



**James Kitching**

**(Chair)**



**Rune Bård Hansen**

**18 December 2020**