

SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)
CENTRE DE REGLEMENT DES DIFFERENDS SPORTIFS DU CANADA (CRDSC)

SDRCC No: 21-0538

IN THE MATTER OF AN ARBITRATION HEARING BETWEEN:

ALBERTA CRICKET COUNCIL (“ACC”)

Represented by Shahbaz Saadat, President

(CLAIMANT)

- and -

CRICKET CANADA (“CC”)

Represented by Rashpal Bajwa, President, and Ingleton Liburd,
General Manager

(RESPONDENT)

- and -

ALBERTA CRICKET ASSOCIATION (“ACA”)

Represented by Salman Khan, representative

(AFFECTED PARTY)

DECISION WITH REASONS

ARBITRATOR: GORDON E. PETERSON

APPEARING:

For Claimant: Shahbaz Saadat, Sabil Khan, Irfan Bangash

For Respondent: Rashpal Bajwa, Ingleton Liburd
Sport Law Inc. - Michelle Kropp

For Affected Party: Salman Khan
Tyr LLP – Carlos Sayao and Carlos Lopez

WITNESSES:

For Claimant: Mr. Sabeel Khan
Mr. Ranjit Saini (subpoena)
Ms. Saima Rizwan
Ms. Omaira Waqar
Mr. Digvijai Parmar
Mr. Irfan Bangash
Dr. Ranjeet Gaekwad
Mr. Rajat Karval
Mr. Hamza Tariq
Mr. Shahbaz Saadat

For Respondent None

For Affected Party: Mr. Salman Khan
Mr. Rohit Bhardwaj
Mr. Qasim Virk
Mr. Hardik Patel
Mr. Amit Anand
Mr. Ranjit Mulakady
Mr. Amol Bhatt
Mr. Raheel Joseph
Mr. Gurdeep Klair
Mr. Maninder (Sunny) Gill
Mr. Manveer Singh
Ms. Ayushi Anand

Hearing by way of Zoom conference over nine days, on October 6, 7, November 9, 10, 22, December 7, 21, 2022 and February 6,7, 2023.

I INTRODUCTION

Background

01. This case concerns an appeal of a refusal by Cricket Canada (“**CC**” or the “**Respondent**”) to consider the application made by the Alberta Cricket Council (“**ACC**” or the “**Claimant**”) on September 30, 2019, to become a Provincial Member of CC.
02. The Claimant was registered as a non-profit organization pursuant to Alberta’s *Societies Act*, R.S.A. 2000, c. S14 on November 28, 2018. ACC was formed through a coalition of district and provincial cricket associations in Alberta, with the goal “*To develop, promote and foster the sport of Cricket, in the Province of Alberta, through a legacy built on, Inclusiveness and Transparency*”. Shortly after formation, the Claimant asked CC how it could apply to become a “Provincial Member” for Alberta.
03. The Respondent is a federal non-profit corporation governed by the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23 (the “**NFP Act**”). CC is recognized as the official national governing body for the sport of cricket in Canada. The Respondent is recognized by the international federation, International Cricket Council (“**ICC**”), as a member and CC receives funding from both ICC and the Government of Canada.
04. The Affected Party, Alberta Cricket Association (the “**Affected Party**” or “**ACA**”), is a corporation existing under the Alberta *Societies Act* since February 17, 1975 and purports to have been operating since 1882. ACA has been a “Provincial Member” of CC for the province of Alberta since 1970. ACA was struck from the Alberta Register of Corporations effective August 2, 2018, as evidenced by a Certificate of Status dated September 27, 2018, reinstated on December 8, 2018 and subsequently struck again on August 2, 2022 for failure to file Annual Return and reinstated on August 19 2022, as evidenced by a Corporation Search conducted September 29, 2022.
05. A “Provincial Member” is defined in CC’s 2021 by-laws, approved by its membership on May 15, 2021 (the “**2021 by-laws**”), as follows, “*Any provincial cricket association that demonstrates effective control of organized competitive cricket within the province concerned will be considered a Member with voting privileges at any Meeting of the members. There shall only be one provincial member from each province.*” It is

therefore mandated that a single provincial cricket organization controlling competitive cricket in Alberta will be considered the Provincial Member for Alberta.

06. Shortly after it came into existence, ACC wrote to the Respondent on December 3, 2018, requesting assistance to begin the process to become a Provincial Member for Alberta in accordance with CC's bylaws at the time ("**CC 2018 By-laws**").
07. ACC relied on the fact that ACA had been "struck" from the Alberta Corporate Register for non-compliance with the policies set forth under the Alberta *Societies Act*. ACA was "deemed to have ceased to carry on business in the province of Alberta effective August 2, 2018," and the Claimant submits this meant there was no operational provincial body that could claim to be a member of CC, thus creating a vacancy and an opportunity for the Claimant for membership for 2019.
08. CC at first struck down the application without any formal process or investigation of facts, citing that "ACA has not resigned and has not been expelled for any reason. [...] There are virtually no reasons whatsoever to even remotely consider that ACA is not a member in good standing of Cricket Canada".
09. The Claimant suggests that without an extensive review and comparison CC could not have provided sufficient details to its Board to permit it to make an informed decision on which of the two associations, the ACA or the ACC, met the requirements for Provincial Member.
10. Despite the rejection and apparent failure of CC to respond to ACC's membership request, five months after the ACC's original request, CC requested information regarding the ACC's current member leagues to determine if ACC would be presented to the CC membership for consideration as a member.
11. After furnishing information, ACC was asked to provide more data. Information was provided within 24 hours of the CC email request, but ACC was informed that Mr. Saini, CC President, was "stretched for time" and would be unable to review the information prior to CC's AGM the following day. Accordingly, the CC President suggested ACC should reapply the following year and ACA was accorded voting privileges at CC's 2019 AGM in May, 2019.

12. In June 2019, ACC attempted to initiate arbitration against CC before the SDRCC but was refused by the SDRCC on the basis that ACC had not exhausted CC's internal dispute resolution procedures.
13. In October 2019, ACC filed an "official request" to CC, seeking membership for 2020. ACC claimed that in 2019, ACC had grown to have a *significant geographical and membership advantage* over the ACA, and that the ACC had shown over the past 12 months that it is willing to work on the *development of cricket in the province*, thus proving that it now had "effective control of organized competitive cricket in the province of Alberta" and should be considered for membership as per CC's bylaws. CC failed to respond once again to this request despite several follow-ups.
14. Because CC was unresponsive to ACC's request to be a Provincial Member, ACC appealed to the Sport Dispute Resolution Centre of Canada ("**SDRCC**") on November 22, 2019, seeking to supplant ACA as the Provincial Member for Alberta.

Previous Decisions

15. A considerable amount of time and effort has been invested by all parties over a lengthy period of time to confirm or replace ACA as the Provincial Member for Alberta:
 - (a) CC initially acted on its own behalf. Following ACC filing its Request with the SDRCC in November 2019, CC responded and accepted jurisdiction of the SDRCC, with Arbitrator Johnston appointed to consider the matter.
 - (b) Subsequently, after obtaining counsel, CC challenged the jurisdiction of the SDRCC to consider the matter and Arbitrator Johnston ruled in an interim decision on April 22, 2020 that the matter could proceed.
 - (c) CC filed an application on May 6, 2020, seeking judicial review to negate Arbitrator Johnston's decision on jurisdiction but the Superior Court of Ontario, in its decision reported at 2020 ONSC 3776 and issued June 18, 2020, upheld the jurisdiction of the SDRCC.
 - (d) With jurisdiction confirmed, Arbitrator Johnston outlined a process which included the appointment by CC of an investigator to determine whether ACC had effective control of competitive cricket in Alberta.

- (e) In a second Interim Award issued June 23, 2020, Arbitrator Johnston outlined reasons for the investigation and extended the scope to include examining certain financial and governance of ACA. As described in paragraph 25 of the decision by Justice Perrell of the Ontario Superior Court issued December 23, 2021, the purpose of the investigation was expanded *“for the investigator to meet with the parties to try to discover what has and is happening with regard to organized cricket in Alberta.”* The Arbitrator asked the investigator to prepare a report to be reviewed by the Arbitrator prior to providing it to the parties.
- (f) ACA objected to the investigator and challenged the scope of the investigation, alleging in its letter to the Arbitrator dated July 13, 2020 that investigating ACA’s internal affairs was beyond the scope of the Arbitrator’s authority. ACA, however, agreed to cooperate provided it could reserve its objections for the resumption of the Arbitration.
- (g) The investigator *“conducted telephone interviews and discussions with individuals from Cricket Canada, Alberta Cricket Council and Calgary & District Cricket League.”* CC was provided the opportunity to respond to some of the issues raised by ACC but ACA did not meet with the investigator nor did ACA have an opportunity to challenge any of the information provided by ACC, despite the fact that CC indicated in its responses that ACA was in the best position to respond to certain issues.
- (h) The Investigator’s report was released to the parties November 9, 2020. In an effort to encourage the parties to reach an agreement, the Arbitrator acknowledged the completeness of the report and suggested that *“the Investigator has conducted a thorough investigation and has written a thoughtful and articulate report.”*
- (i) ACA promptly brought an application to the SDRCC to have the Arbitrator removed for bias but that application was dismissed on February 23, 2021 by a panel of three arbitrators.
- (j) Arbitrator Johnston then issued a third interim Award on March 2, 2021 in which she highlights the key is to be able to demonstrate *“effective control of organized competitive cricket”* in Alberta and requests submissions from

the parties on two points: (i) what does the term “effective control” mean; and (ii) how does ACC or ACA demonstrate effective control?

- (k) On March 23, 2021, the Arbitrator issued a fourth interim Award outlining a process for determining who had effective control of organized competitive cricket in Alberta in 2019. The award adopted the criteria espoused by CC in its response to the first question raised in the third interim Award and directed CC to establish a three-person review panel, made up of two representatives from other provincial members who CC is satisfied are neutral and a third person from outside the cricketing community from another NSO not from the Province of Alberta.
- (l) The Review Panel was to receive written submissions of the parties and to write a report, with the Arbitrator to retain ultimate authority if a party requested a review of the Review Panel’s decision because “*the Review Panel did not review their submissions and/or render a decision in a fair and unbiased manner.*”¹
- (m) After reviewing substantial submissions and having conducted a “*full review of the current status (i.e. the 2021 situation),*”² the Review Panel issued its decision on May 31, 2021, concluding that ACA maintains effective control of organized competitive cricket in Alberta.
- (n) The following day, on June 1, 2021, ACC requested reconsideration of the Review Panel decision by the Arbitrator and substantial documentation was filed by each of ACC and ACA.
- (o) Arbitrator Johnston issued her fifth Award on July 13, 2021³ vitiating the Review Panel decision on the basis that it was not fair because the Review Panel did not do the review requested (to determine who could demonstrate effective control of organized competitive cricket in Alberta in 2019). She substituted her own decision in which she suggested it is time for a change in leadership because “[a]t this point in time, the sport of Cricket in the province of Alberta is very polarized and dysfunctional” and

¹ *Alberta Cricket Council (ACC) v. Cricket Canada and Alberta Cricket Association (ACA)*, SDRCC 19-0434 (March 23, 2021) @ para. 10.

² *Alberta Cricket Association v. Alberta Cricket Council and Cricket Canada*, 2021 ONSC 8451 @ para. 35

³ *Alberta Cricket Council (ACC) v. Cricket Canada and Alberta Cricket Association (ACA)*, SDRCC 19-0434 (July 13, 2021)

this arose under the stewardship of ACA. Concerns that had been brought forward to ACA had not been appropriately dealt with and Arbitrator Johnston was satisfied ACC had demonstrated effective control of organized competitive cricket within the province of Alberta so Arbitrator Johnston confirmed ACC as the Provincial Member of CC for Alberta.

- (p) In a Supplemental Award dated July 26, 2021, Arbitrator Johnston clarified that ACA was stripped of its membership in CC as well as it was no longer the Provincial Sport Organization {"PSO"} for cricket in Alberta.
- (q) Each of ACA and ACC organized competing events on September 4-6, 2021. ACC as the newly recognized PSO for Cricket in Alberta announced in a public notice posted on its website on August 25, 2021, that anyone attending the ACA event would have a sanction levied against them.
- (r) As stated in Justice Perrell's decision⁴, on August 16, 2021, ACC sent a "Notice of Sanctions" to ACA and *"to several of its officers and directors. The Council disqualified the Association, its members, and its officers and directors from participating in any official matches or events in Alberta for a period of one year."*
- (s) ACA then brought an application on August 20, 2021, pursuant to the *Arbitration Act, 1991* (Ontario), to the Ontario Superior Court of Justice to set aside Arbitrator Johnston's fifth Award and a supplemental sixth Award and to require a new arbitration to be conducted with a different arbitrator.
- (t) In a decision dated December 23, 2021, Justice Perrell set aside Arbitrator Johnston's Awards because *"the written reasons were inadequate and did not provide an explanation for her award."*⁵ and directed a new arbitration to be conducted by a new arbitrator under the SDRCC and directed that the costs of the previous Arbitration be remitted to the new Arbitrator.

16. Over the course of almost two years, six arbitral decisions were rendered, in addition to a jurisdictional challenge before the Ontario Superior Court of Justice, a challenge against the Arbitrator for bias and a successful application to the Ontario Superior Court of Justice to set aside the fifth and sixth arbitral awards and order a new

⁴ *Alberta Cricket Association v. Alberta Cricket Council and Cricket Canada*, 2021 ONSC 8451 @ para. 44

⁵ *Alberta Cricket Association v. Alberta Cricket Council and Cricket Canada*, 2021 ONSC 8451 @ para. 54

arbitration. The latter decision resulted in this Arbitration to determine who had effective control of organized competitive cricket in Alberta in 2019, and awarded costs to ACA as the prevailing party.

II CURRENT PROCEEDINGS

17. Based on the court decision, a new Request was filed by ACC with the SDRCC on December 24, 2021. CC filed its Response on January 10, 2022, and ACA filed its intervention as the Affected Party on January 11, 2022.
18. I was appointed as Arbitrator on January 13 by agreement of the parties.
19. It is more than one year later. I have rendered two arbitral decisions relating to a request by ACA to stay proceedings pending payment of the cost award from the Ontario Superior Court of Justice, the first issued on February 28, 2022 and an Update award issued on March 25, 2022. The parties have made more than 210 separate filings, aggregating over 2,400 pages of documentation, examined 22 witnesses and have had nine days of hearing, in order to determine which organization had effective control of organized competitive cricket in the Province of Alberta in 2019.
20. The CC 2018 By-laws under which ACC initially applied did not contain a definition of “effective control”, nor did it specifically limit one Provincial Member from each province. However, section 2.2 did provide: “[a]ny provincial cricket association that demonstrates effective control of organized competitive cricket within the province concerned will be considered a Member with voting privileges at any Meeting of the members” (emphasis added).”
21. It is important to note that the CC 2018 By-laws only required membership to be considered, it did not award membership. A second s. 2.2 in the same by-laws outlined the requirements for being admitted as a member and requires in paragraph (e): “The candidate member has been approved by 75% vote as a Member by the Board or by any committee or individual delegated this authority by the Board.”
22. Section 2.2.1 of the 2021 by-laws outlines criteria for determining “effective control” and provides for it to be determined by the CC Board or a committee delegated this authority by the Board and is based on the organization demonstrating that it:

- (a) Fulfills or continues to fulfill the membership admission criteria listed in bylaw 2.3; [sic]
- (b) Has significant membership within the province it represents;
- (c) Has an established effective governance structure meeting Cricket Canada expectation, and follows this structure in its operations;
- (d) Conducts Annual General and Members Meetings (Cricket Canada must be notified of all member General Meetings and be given the option of sending an observer); [sic]
- (e) Has a comprehensive financial management policy, including financial controls and reporting to members through approved financial statements; [sic]
- (f) Operates provincial development programmes and, if numbers permit, long (40 overs or more) and short (20 overs) format competition for senior and junior men and women accessible to all cricketers in the province;
- (g) Has certified coaches and officials;
- (h) Aligns with Cricket Canada Objectives, Rules, Policies and Programs;
- (i) Operates in a safe, inclusive & effective manner.

23. Each of ACA and ACC claim to have effective control of organized competitive cricket within Alberta.

24. CC, as a party to these proceedings, has agreed that I can determine who has effective control of organized competitive cricket for the province of Alberta. CC specifically did not cede its rights or obligations to consider who is its member but did consent to the Arbitrator determining who had effective control of organized competitive cricket in the Province of Alberta in 2019.

25. As Justice Koehnen stated at p. 3 of his decision rendered June 18, 2020⁶, “[m]embership in Cricket Canada is an entitlement of anyone who can demonstrate effective control of competitive organized cricket in their province.” Whether membership automatically follows an organization having effective control is to be determined.

26. During the hearing, I ruled out the need to strike any portions of the submissions and determined that I could ascribe appropriate weight (including none at all). For that reason, I have not specifically included references to various allegations in my decision. There are other avenues more appropriate for considering many of such allegations and although I may not reference them in my decision, I want to assure they have been taken into consideration, as appropriate, in the weighting of evidence, as I had advised.

⁶ (2020) ONSC 3776

Definition of Effective Control

27. In the previous arbitration, Cricket Canada put forward the following minimum requirements for the definition of “effective control” in addition to other policies and procedures that support good governance and align to CC’s priorities:

- Has significant membership within the province it represents;
- Has an established effective governance structure meeting Cricket Canada expectation [sic], and follows this structure in its operations;
 - The organization should be a registered / incorporated not-for-profit in good standing in its home province and meet all provincial requirements.
 - It should have a constitution and by-laws available on its web site or on request, approved by the membership.
 - It should provide annual financial statements to its members.
 - It should have an internal dispute policy available on its web site or on demand.
 - It should maintain an accurate record of all registered players, officials, coaches, administrators and other members with adequate basic information.
 - It should maintain an accurate record of all affiliated clubs, leagues and other organizations.
 - Its by-laws and policies should protect the ability of any cricketer in the province to be selected for provincial programmes (for instance by individual membership) irrespective of whether they play in an unaffiliated club or league.
 - Has a comprehensive financial management policy, including financial controls and reporting to members through approved financial statements;
 - Conducts Annual General and Members Meetings;
- Operates provincial development programmes and, if numbers permit, competition for senior and junior men and women accessible to all cricketers in the province;
- Has certified coaches and officials;
- Aligns with Cricket Canada Objectives, Rules, Policies and Programs
- Operates in a safe, inclusive & effective manner

Other Criteria

It is recommended that the member has in place policies and procedures that support good governance, in line with the requirements of Sport Canada, and the ICC membership criteria. These should include policies covering conflict of interest, diversity, selection policy, strategic planning and safe sport policy.

It is expected that provincial members will take responsibility at the provincial level for programmes that align with Cricket Canada priorities. These include Senior men’s and women’s provincial teams, high performance programming, and provincial level tournaments; schools programming and community coach training; official’s development and junior development.

28. For the most part, it appears that the definition has been adopted in CC’s 2021 by-laws.

Process

29. The Claimant has been persistent in pursuing its rights to serve cricketers in Alberta and has had to have resilience and flexibility to adapt to the numerous roadblocks it has encountered along the way.
30. ACA has battled assiduously to maintain its status as Provincial Member of CC.
31. CC has continued to claim neutrality, stating that it will allow an independent party to assess who has effective control of organized competitive cricket in Alberta and will abide by the decision of the third party in awarding membership.
32. At the preliminary call, each of the Claimant, Respondent and the Affected Party, accepted the jurisdiction of the SDRCC although the Affected Party questioned whether the Arbitrator has authority to declare a new provincial member or to terminate an existing member pursuant to the 2019 Cricket Canada Bylaws.
33. After exchange of documents and some communications, the hearing spanned nine days, commencing on October 6, 2022 and continuing on October 7, November 9, 10, 22, December 7, 21 and February 6 and 7, 2023. During the hearing, each of the parties availed themselves of the opportunity to (a) present witnesses and oral arguments, (b) cross examine and respond to arguments made by the other party, in addition to (c) addressing questions I posed. Prior to my declaring the hearing closed, each of the parties confirmed that they had no further issues to raise and no further submissions they wished to make, and confirmed they had no objection or reservation regarding the conduct of the proceedings.
34. At the end of the hearing, I reserved judgment but confirmed I would be issuing my decision as soon as possible and in accordance with Subsection 6.12(a) of the Canadian Sport Dispute Resolution Code (the “**Code**”).
35. This has been a very lengthy process, and emotions have frequently run high. There have been allegations of inaccurate and inflammatory information provided by all parties. Despite the allegations, I have appreciated the comportment of those presenting on behalf of the parties who have been very professional and helpful in presenting the materials and providing the necessary information to be considered. I

have also appreciated the witnesses, each of whom have been passionate yet managed to maintain decorum in responding to sometimes questionable allegations.

36. At the risk of being inappropriate in singling out a party, I want particularly to acknowledge the work of Mr. Saadat who represented ACC admirably despite being in unfamiliar territory. Not a lawyer, he underwent an intensive course in serving as a litigation counsel. Although at times he strayed from the rules of evidence, he was a fast learner and was quick to remedy errors when brought to his attention.
37. The parties, not surprising, presented very different views on many things that occurred. There is a history that, although relevant in understanding how two organizations ended up contesting membership in CC for Alberta, was delved into far more than it needed to be.

History

38. Essentially, there were trust issues created initially surrounding the leadership of Calgary & District Cricket League (“**CDCL**”) when Salman Khan was President. Mr. Khan subsequently became the President of ACA. The new leadership at CDCL made allegations regarding Mr. Khan’s integrity, refused to pay membership dues and proceeded to establish a new provincial organization without him as the leader.
39. Although CDCL had been a member of ACA for a lengthy period of time, it does not appear that any concerted attempt was made to have Mr. Khan voted out of the leadership using the existing governance processes available within ACA prior to venturing into establishing a competing organization.
40. ACC explained that they were aware of a similar competing organization having been established in Ontario and ACC believed that a similar approach could be used in Alberta.
41. With the Ontario approach in mind, the people behind ACC began working towards replacing ACA as a member of CC.
42. ACC alleged CC treated Alberta and Ontario differently, suggesting that CC wanted the change in Ontario but not in Alberta. There was little or no evidence, however, brought

before me to support the contention that the situations were comparable, nor that CC was improper in recognizing a new member in Ontario but not in Alberta.

III SUBMISSIONS

43. In or around 2017, organized competitive cricket in Alberta was primarily played in two leagues, the Calgary and District Cricket League (“**CDCL**”) and the Edmonton and District Cricket League (“**EDCL**”), and the Provincial Member for Alberta was the ACA.
44. Salman Khan was elected President of ACA in 2016 in accordance with ACA 2012 By-laws, as amended by By-law Changes dated April 23, 2016, in which each member team had a vote to elect the President. A team had to be present to vote. As President, Mr. Khan represented ACA at CC as the Provincial Member for Alberta.

The Claimant’s Position

Genesis

45. In its submission, the Claimant suggests that the CDCL had lost faith in Salman Khan as the President of ACA and decided it would withhold payment of its outstanding membership dues owing to ACA because it did not trust that the funds would be used for cricket in the Province of Alberta.
46. Many reasons were given for the loss of trust, including things that occurred during the ACA President’s prior tenure as President of CDCL. Matters came to a head at the ACA’s 2017 Annual General Meeting (“**AGM**”) held October 28, 2017.
47. The Claimant alleges that CDCL teams were not given notice of ACA’s 2017 AGM. When CDCL members learned of the AGM, showed up and tried to participate, the meeting was terminated abruptly, apparently without reason, and they were forced to vacate the hotel at which the meeting was to occur.
48. The Claimant submits that a number of the ACA members elected to move to another site and continue the meeting, and submits minutes taken with respect to the terminated meeting and the continued meeting, the latter at which the ACA President was allegedly expelled from office for ten reasons outlined in the minutes of the meeting, including the grounds of financial discrepancies and abuse of authority.

49. Subsequently, on May 19, 2018, the ACA held a special general meeting at which its members voted to expel two leagues for non-payment of membership dues and sent notices of expulsion, in accordance with the ACA by-laws, to CDCL and to Fort McMurray Cricket Club, now known as Northern Alberta Cricket Association (“**NACA**”).
50. The Claimant claims that there was no evidence of an actual meeting at which they were expelled and no due process at which they were provided the right to be heard, but suddenly they found that no player from CDCL or NACA was qualified to play internationally, and their top players were informed that they had to join ACA leagues if they wanted to represent Alberta or Canada as players.
51. People from four cricket leagues, including CDCL, NACA, Grande Prairie Cricket Association (“**GPCA**”) and Alberta Women’s Cricket League (“**ACWL**”), formed ACC to challenge ACA as the Provincial Member.
52. Once ACC was formed, it sought recognition from CC as a Provincial Member in accordance with the CC 2018 By-laws.

Application for Membership

53. The Claimant submits that the Respondent failed to acknowledge ACC’s request for membership and the Claimant suggests that CC merely “turned a blind eye” to the request for assistance in applying to be a Provincial Member.
54. When ACC inquired why it was being ignored, it was informed that it had to comply with CC 2018 By-laws and demonstrate effective control of organized, competitive cricket in Alberta, in order to be considered the Provincial Member for Alberta.
55. The Claimant has expressed frustration that it has taken so long and involved so many independent reviewers, when it should have been resolved internally by the Respondent. Challenge to membership in CC should be determined by CC, not a third party and ACC suggests that the failure of CC to take control evidenced a failing in the Respondent’s membership process. The CC 2018 By-laws outline that CC is responsible for determining its members, but CC did not do so.

56. In the view of the Claimant, CC should have applied section 2.2 of the CC 2018 By-laws and determined whether ACC had effective control of competitive organized cricket in Alberta in 2019. If ACC was able to demonstrate such effective control to the satisfaction of CC, it was entitled to CC membership.
57. CC established by-laws, including how to become a member, and yet it did not understand what its own by-laws required. When CC remained silent, Arbitrator Johnston finally elicited the meaning of effective control after requiring CC to engage an independent investigator and a review panel.
58. ACC submits it was the only entity that could qualify to have effective control of organized competitive cricket in Alberta. ACA was diminishing in stature and ACC was growing. In addition, ACA was failing in its governance obligations without a proper executive Board and ACC was prepared to step into the breach to ensure proper development and governance of cricket in Alberta – and had demonstrably done so.
59. In 2019, ACC claims to have a clear advantage over ACA, both in terms of the number of associations and the geographic reach across the province. ACC claims to have had seven leagues as members: CDCL in Calgary, Calgary Cricket Council Society (“**CCCS**”) also in Calgary, Grande Prairie Cricket Association (“**GPCA**”) in Grande Prairie, NACA in Fort McMurray, Chinook Cricket Club (“**CCC**”) in Lethbridge, Medicine Hat Cricket Association (“**MHCA**”) in Medicine Hat and Alberta’s Women Cricket League (“**AWCL**”) in Calgary, Fort McMurray and Edmonton.
60. The Claimant suggests that almost all claims to significant membership or development made by ACA cannot be trusted. The ACC alleges that ACA’s scoring records, including screenshots from a scoring portal that no longer exists, do not support its claim because ACA has listed teams that do not exist; created fake scoring records and included teams who were actually members of ACC in 2019.
61. ACC provided links to their teams scoring records that were created contemporaneously in 2019. It has provided witnesses who have testified to NACA operating in Fort McMurray, AWCL being supported by ACC and to the development of other leagues across Alberta with the assistance of ACC, showing the breadth and development created by ACC in a short period of time. ACC submits that ACA really only had EDCL as a member in 2019.

62. The Claimant suggests CC is complicit because it knew ACA had 3 leagues and 77 teams in 2017. After the expulsion of two leagues (CDCL and NACA) in 2018, how could ACA still have 77 teams? CC knew what was going on but did nothing.

Claimant's Witnesses

63. The Claimant called 10 witnesses to provide evidence to its claim that ACC had effective control of organized competitive cricket in Alberta in 2019.
64. A great deal of evidence surfaced to attack the integrity of Mr. Salman Khan and did not pertain to effective control of organized competitive cricket in Alberta, but rather to the motivation for establishing a competing organization.
65. Sabeel Khan was the first witness called by the Claimant. He became President of CDCL in November 2017. Prior to Sabeel Khan becoming CDCL President, discrepancies in the books and records during the tenure of Salman Khan (no relation) as CDCL President, were alleged to have been discovered which led to various allegations being made against Salman Khan who had served as CDCL President from 2014-17, including a criminal investigation being commenced in August 2017.
66. As CDCL President, Sabeel Khan had a role to play in ACA, representing both a club and CDCL. Accordingly, Sabeel Khan attended the October 28, 2017 ACA AGM in Edmonton that was terminated abruptly. He testified that at the "resumed" meeting later that day Salman Khan was expelled as ACA President based on the 10 reasons outlined in the minutes.
67. On cross-examination, Sabeel Khan acknowledged that the ACA by-laws in existence at the time were not followed for the resumed meeting. There was no requirement for the President to be resident in Alberta and there was a process to remove directors or officers that was not pursued. No confidence petition was made, no notice was filed under the Alberta *Societies Act* and in fact, no notice was given to the President nor to the membership regarding such as vote.
68. It was acknowledged by Sabeel Khan that he had in fact sent an email suggesting a vote of non-confidence to be taken by the members of ACA and in fact a handwritten petition had been circulated at the October 28, 2017 resumed annual meeting.

However, the meeting Sabeel Khan called by email was never held and instead a new organization was formed to challenge ACA as the member of CC.

69. Sabeel Khan testified that CC was not interested in ACC becoming a member because the directors of CC were supported by ACA. He alleged a “*quid pro quo*” with ACA supporting the directors of CC in return for CC supporting ACA as Provincial Member.
70. In cross-examination, Sabeel Khan acknowledged that
- (a) he was a founding member of ACC and one of the five executives listed as an incorporator;
 - (b) he was aware of the notice of CDCL expulsion because of non-payment of dues in May 2018 but disputed the amount of arrears and the fact that there was no opportunity to present the concerns regarding the fact that only Salman Khan had access to the ACA Bank Account records because there was no Treasurer or Secretary for ACA at the time;
 - (c) the CDCL minutes of a Board meeting held March 25, 2018 evidence receipt of an invoice from ACA for \$61,000 in fees owing by CDCL, together with the CDCL audit finding of only \$40,000 owing.
71. Prior to the formation of ACC, Sabeel Khan had contacted the police regarding alleged misappropriation of funds at CDCL under Salman Khan’s leadership and Sabeel Khan alleged he did not want to pay additional funds to ACA until Salman Khan was no longer involved in ACA.
72. An important witness was Mr. Ranjit Saini who was called by ACC under subpoena. He was the President of CC from 2016-20 and received the application(s) from ACC.
73. Mr. Saini confirmed that lots of allegations against Salman Khan had been brought forward to CC by CDCL but stated it appeared to be a dispute between a non-member who had refused to pay membership dues to an organization and the organization who was a CC member. Mr. Saini stated that the dispute was not good for cricket in Alberta and CC could not be perceived to be taking sides, so he referred them to independent third-party arbitration because CC’s internal dispute resolution processes were for members only and only one of the parties was a member of CC.

74. He noted that CC was prepared to facilitate a mediation or arbitration process, agreed to be bound by the outcome and the CC Board may have been prepared to consider some financial assistance, but ACC chose not pursue dispute resolution.
75. He testified that ACC wanted assurances that Salman Khan would be removed prior to agreeing to a third party making a decision and, despite the efforts of CC (including requiring its member, ACA, to participate in the independent arbitration), ACC decided not to pursue it.
76. Mr. Saini perceived the two applications by ACC, one in 2018 and the second in 2019, to be a single application. The 2018 application resulted in a review by Mr. Saini prior to the 2019 AGM. Although some information was submitted, Mr. Saini noted that CDCL and ACC are two different entities and since ACC was just incorporated in November 2018, there was no way that any cricket would have been played under its control. The second application in October 2019 was really just an intention to apply and he believed there was a response from the General Manager.
77. In cross-examination, Mr. Saini confirmed that CC conducted a check on the number of teams from each province prior to an AGM but that was more a review than an audit. He noted, however, in 2019 there was closer scrutiny than usual, and the membership voted to grant Alberta four votes for 77 teams. He noted that ACA had been involved in a portal scoring system on a trial basis and that some information was drawn from those records.
78. Mr. Saini testified that he had received some information from ACC regarding teams affiliated with ACC, but he never received the specific information he had requested. He testified that ACC sent some links that he could not access but he knew ACC had not played any games in 2018 so it could not have effective control of organized competitive cricket in Alberta.
79. He summarized that ACA had expelled two of its members for non-payment of fees and instead of paying, the two formed ACC and wanted to be recognized by CC. He reported that a committee was formed to look at things because it was impacting the reputation of CC. When it became evident that CC would not be able to resolve the matter, he offered independent third-party mediation/arbitration but that was refused by ACC.

80. Saima Rizwan and Omaima Waqar testified that the Alberta Women's Cricket League ("**AWCL**") had joined ACC in 2018. Ms. Rizwan noted that when AWCL was initially formed, there was no guidance or assistance from anywhere and it was formed as an independent body.
81. Ms. Rizwan testified that ACC has been more open than ACA was and suggests that ACC has done more for women's cricket than any other provincial body.
82. Mr. Digvijai Parmar, President of GPCA, testified that GPCA joined ACC in 2019 as a result of the treatment of CDCL and NACA by ACA. He agreed he was a founding director of ACC.
83. When asked if GPCA had voted to join ACC, he said yes but no evidence was produced to corroborate that belief, nor that GPCA had ceased to be a member of ACA. Mr. Parmar testified that when ACC ceased to be the PSO, he left the ACC board. He confirmed he prefers ACC over ACA but emphasized he really only wants to play cricket.
84. Irfan Bangash testified that he was President of NACA from 2016-20 and that NACA was a member of ACA until expelled in 2018 at the same time as CDCL. Mr. Bangash was a founding director of ACC and is currently a VP of ACC.
85. There appears to be some contention as to whether NACA ever left ACA. Mr. Bangash testified that all Executive Board members signed a document agreeing to join ACC but no such document was presented in evidence to support that position.
86. Dr. Ranjit Gaekwad has been involved in Medicine Hat Cricket Association ("**MHCA**") since 2017. He testified that it was only tennis ball cricket, not hardball cricket, and therefore does not meet the definition of organized competitive cricket.
87. Dr. Gaekwad confirmed that he was not aware of "Medicine Hat Cricket" and testified that there is only one cricket ground available in Medicine Hat so he would "for sure" be aware if there was another group playing in Medicine Hat. Dr. Gaekwad testified that he does not know Manveer Singh who subsequently testified as a witness for ACA.
88. In 2019, MHCA became affiliated with ACC but Dr. Gaekwad pointed out that MHCA has never been part of organized competitive cricket. He explained in cross-examination that MHCA joined ACC because they offered to help with cricket mats and

other things, but the pandemic interfered with their assistance. He testified that the mat is in Calgary and is too heavy to transport easily. His testimony was a little confusing as he indicated that he commutes to Calgary for work and keeps an apartment there. He spends Monday to Friday in Calgary and plays hardball cricket some weekends in Calgary but also plays tennis ball cricket on the weekends in Medicine Hat.

89. Rajat Korval and Hamza Tariq were witnesses for ACC, each having been a member of CDCL and under the ACC. Each recounted their experiences as a player and the requirements to be on a team affiliated with ACA as the member of CC. They were concerned that players are being dragged into political in-fighting, when all the players want to do is play cricket.
90. The primary witness for the ACC was Shahbaz Saadat who was led through his testimony by Sabeel Khan. In 2017, Mr. Saadat was an auditor of the financial statements for CDCL and reviewed the financial statements, bank statements and asked for receipts from the Treasurer. There were some concerns regarding expenses and the fact that the Treasurer had not received all the information.
91. There were a number of unproven allegations made in the testimony but it was clear there were concerns raised in 2018 when notices of the annual meeting where expulsions were to be considered were sent to outdated CDCL executive email addresses but the expulsion notice was sent to the current email addresses. Salman Khan appeared to be the lightning rod for the CDCL executives and a concerted effort was commenced to remove Mr. Khan from cricket in Alberta.
92. Although there were already issues between the parties, the expulsion of CDCL and NACA leagues exacerbated things and some CDCL executives started to look at how to best remove Salman Khan from cricket in Alberta. Discussions with CC went nowhere. Mr. Saadat testified that every time someone sent information to CC, their official response was "it is a provincial matter."
93. The applicable ACA by-laws contain provisions to remove members or executives. For removal of a director or officer, the ACA by-laws require following "procedures listed in the Special Resolution Section of the *Societies Act*." A possible non-confidence motion was initiated and then cancelled because of lack of requisite notice under the

Alberta *Societies Act*. It was not re-issued. When someone noted that Ontario Cricket Association had been removed from leadership in favour of Cricket Ontario, it became a possible solution. There was no coordination of voting to use the election process; the chosen alternative was to form a rival organization and replace ACA.

94. When ACA was struck from the register in Alberta, CDCL saw an opportunity. Mr. Saadat put together the documentation and sent a request to CC seeking Provincial Membership.
95. Mr. Saadat testified that they had examined the dispute resolution process favoured by CC but it was cost-prohibitive when they obtained a quote from an arbitrator and realized that the process may also need to be enforced in court. They estimated costs could range in the \$60-70,000 range with a possible recovery of \$2,000 from CC because CC would not commit anything in writing.
96. CDCL sensed that CC was only dragging things out to cause CDCL to have no choice but to be members of ACA if CDCL wanted its players to have provincial, national or international opportunities. At the same time, there was concern because much of the ACA executive had stepped down, the President no longer resided in Alberta, and Salman Khan appeared to have unfettered decision-making power in addition to being the sole person with bank account access. There was no Secretary, no Treasurer, no Women's Coordinator and an appearance that many companies connected to Mr. Khan were receiving payment from ACA.
97. Leaders from four district or provincial leagues (CDCL, NACA, GPCA and ACWL) formed ACC. MHCA also expressed interest as an associate member since it did not play hardball cricket.
98. Mr. Saadat testified that after ACC submitted its application in December 2018, there was little response from CC until a week before the annual meeting in May 2019. President Saini requested the list of teams and Mr. Saadat scrambled to provide it. Mr. Saini's response was the names of the players were required and when those were provided, there was a request for scorecards even though Mr. Saini knew that ACC couldn't have played because the season was over by the time ACC was incorporated.

99. CC then concluded the information search by stating that the data supplied failed to meet the required data for the team definition in the CC 2018 By-laws and that CC would be seeking to streamline its membership process; ACC could then re-apply but verifiable data would be required in order to be recommended for consideration as a Provincial Member.
100. Mr. Saadat wrote an email to Mr. Saini outlining the perceived unfairness of the process. The ACC had submitted its application in December 2018. Six months later and after 11 emails from ACC, a response was received from CC requesting information to be provided on a very tight deadline. ACC asked if ACA had to provide the same information and wanted to compare data since ACC believed many of the teams ACA would be using to justify their membership would now be part of ACC.
101. CC responded that there would be no further comment. Mr. Saini did make further comment later that evening, however, and advised that he does a report to the membership based on what is known and the members then make a decision on the number of votes a member has. Mr. Saini did not recommend ACC to its membership for consideration and the CC membership endorsed ACA as the Alberta member, confirming that ACA would have four votes based on 77 teams.
102. It is easy to understand the frustration of the Claimant. As Mr. Saadat explained, ACC was trying to get answers and felt they were receiving obtuse responses. ACC wanted to pursue an application for membership in CC and was being told that *"it's your problem, go and find an arbitrator to solve it for you."*
103. Mr. Saadat testified that ACC *"tried everything we could to engage Cricket Canada in conversation,"* without success. Mr. Saadat testified that CC would not put in writing that it would recognize the award of an arbitrator.
104. In summary, Mr. Saadat suggested CC was in violation of its own policies and by-laws. It knew ACA was no longer governing cricket in Alberta:
- (a) ACC had been established and had taken over teams that had previously been in leagues belonging to ACA;
 - (b) ACC was the only organization in 2019 that had effective control of organized competitive cricket in Alberta;

- (c) CC should have taken responsibility for determining its members as required by its by-laws and recognized ACC as the Provincial Member for Alberta.

The Respondent's Position

105. CC chose to take no position and to remain largely neutral with respect to who had effective control of organized competitive cricket in Alberta in 2019. CC defers to the Panel to determine who has effective control of organized competitive cricket in Alberta.
106. Counsel for the Respondent submits that effective control does not happen overnight. Organizations may acquire apparent authority but that will be tested and confirmed before it can be determined to be effective control.
107. As CC 2018 By-laws did not contain a definition of effective control, CC has followed all steps suggested or ordered in the process. Cricket in Alberta may be becoming polarized and dysfunctional under ACA, as Arbitrator Johnston suggested, but it originated because of CDCL refusing to pay its dues – dues that its teams had already remitted to CDCL.
108. Counsel for CC suggested that Mr. Saini presented an unbiased version in his testimony. CDCL owed money to ACA and CDCL's reason for not paying was distrust of the President. However, ACA is more than just the President. It was an organization, not just one person. CC offered mediation/arbitration and required ACA to participate, but ACC refused unless Salman Khan was removed as President. CC did its best to bring the parties together but one can only lead a horse to water, one cannot make it drink.
109. Counsel for CC also reflected on the optics of interfering in provincial autonomy in a federated model of governance. ACA had suspended two members (CDCL, NACA) and if CC then accepted a new organization formed by them (ACC), it could establish a dangerous precedent. It would not be appropriate for CC to appear to endorse CDCL not paying fees owed to ACA.
110. CC submits that both ACA and ACC want to contribute, and they are both passionate about cricket. However, that passion is increasing the division between them. ACC had a member from AWCL testifying who showed open hostility towards ACA but could not

explain why. The women's leagues have low number for both and need to work together. The fighting has gone on for far too long and no one is benefiting from it.

111. CC submits that it did not recognize ACC as the Provincial Member in 2019 because:

- (a) Although ACC submits it was the only possible organization in effective control because ACA had ceased to do business, the 2018 By-laws do not refer to being struck from the registration system - the by-laws refer to being dissolved. There was and is no record of dissolution of ACA.
- (b) CC could not accept the alleged expulsion of Salman Khan because it had not been done in accordance with the ACA by-laws.
- (c) The application made by ACC was considered and found to be insufficient and the members accepted ACA as the ongoing Provincial Member.

112. Counsel for CC submits that the allegation of bias by the Claimant requires more corroborating evidence than simply that the Claimant disagreed with the determination arrived at by CC.

113. CC suggests that the Panel needs to determine who has effective control of organized competitive cricket in Alberta in 2019. If the answer is ACA, it does not need to go further.

114. If the answer is ACC had effective control, however, there is a need to determine whether ACA's membership was determined under s. 2.8 of the CC 2018 By-laws and whether the requirements for admission of ACC to membership have been met as set out in the second s. 2.2 of the CC 2018 By-laws.

115. Further, if the Panel determines that ACC has membership in 2019, what is the impact on the membership situation today?

The Affected Party's Position

116. Counsel for the ACA submitted that "*ACC was on a mission to take down Salman Khan.*"

117. ACA further submits that CC is entitled to self-governance and to follow its by-laws in approving members. There is no deference to be provided to any decisions or recommendations made preceding this hearing.

118. The allegations raised by ACC regarding perjury or misleading of the Panel have to be proven and none of that has occurred. There was no relevant impeachment of the evidence provided by ACA. Over the period of time the matter has been considered, it is recognized that evidence may change because it is not static and more information may come to light that impacts prior testimony.
119. ACA suggested that Mr. Saini from CC provided an objective account of the dispute – instead of paying outstanding membership dues, some members of CDCL tried to perform a coup d'état by creating ACC.
120. Counsel for ACA submitted that ACA had effective control of organized competitive cricket in Alberta in 2019 because it had (i) significant membership numbers, (ii) an effective governance structure, (iii) provincial development programs underway, (iv) affiliated certified coaches and officials, (v) alignment with CC's objectives, rules and policies and (vi) a safe and inclusive environment for cricketers in Alberta. In summary, Counsel submitted that ACA met all requirements to demonstrate that it had effective control of organized competitive cricket in Alberta in 2019.
121. The Affected Party claims not only to have a larger number of teams, leagues and participants, but *"in 2019 ACA also had (and continues to have) a broader geographical reach than that of ACC."*
122. ACA submits that its leagues and team played in all major regions in Alberta, covering Northern Alberta with NACA, Southern Alberta with Cricket Medicine Hat, Central Alberta with Central Alberta Cricket Association ("**CACA**"), Calgary with Calgary Cricket Community Board ("**CCCB**") and Edmonton with EDCL.
123. ACA submits that in 2019 (using CC definitions), ACA had 77 teams across its member leagues compared to 13 that ACC had. In addition, ACA submits that it had over 60 participant schools through its member, the Alberta Schools Cricket Association. In fact, across its various teams, leagues and programs, ACA had more than 3,000 competitive cricket players in 2019, with EDCL alone registering approximately 2,400 payers in 2019.
124. ACA submits that ACA clearly had the upper hand on membership. ACC had no representatives in Edmonton in 2019 and still have no teams today. CDCL fractured in

2017 and owed at least \$40,000 to ACA that was impacting ACA's ability to deliver on its programs. ACA expelled CDCL and over 200 players broke away from CDCL. Rohit Bhardwaj testified that ACC was too focused on CDCL and yet teams kept leaving CDCL. ACC claims CCCB was a fraud but the evidence supports 20 teams as testified by Sunny Gill and corroborated by Facebook posts and screenshots from the CC testing portal.

125. ACA further submits that the key centres in Edmonton and Calgary dwarf the smaller leagues throughout Alberta. The vast majority of membership resides and plays in those two major cities and EDCL was growing while CDCL was having teams leave in order to remain in ACA.

126. ACA submits that regardless of whether ACC is found to have effective control in 2019, any new member still requires to be admitted in accordance with the CC 2021 By-laws.

Affected Party Witnesses

127. Salman Khan was the primary witness for the Affected Party. He is currently the CEO for ACA since November 2020, having served as President from 2016-21, when he was succeeded by Gurdeep Klair. Mr. Khan confirmed he currently resides in Ontario.

128. A great deal of the allegations made by ACC relate to the leadership of CDCL and ACA by Salman Khan. When Mr. Khan testified, however, many of the allegations were dispelled or at least reasonably explained. Things that were alleged that raised eyebrows when presented by ACC became innocuous when explained by Mr. Khan.

129. For example, the fact that ACA was struck down on the Alberta Corporate Registration System not once but twice appeared to clearly indicate lack of good governance. Mr. Khan explained that annual returns were not filed in 2013-16 (because of change in Secretary and Treasurer and the information requiring such returns to be filed not being passed on) but once ACA became aware of the deficiency, it was promptly corrected. He noted that he also was not President when that occurred. It was explained as an administrative filing oversight, not a governance failure.

130. Similarly, the second occurrence resulted from a change in volunteer personnel and the fact that notices were sent to the previous person who had been expelled and did not forward the notices to ACA. When the addresses belong to volunteer members, this is a risk of many non-profits missing administrative filings. Again, as soon as ACA

became aware of the failure to file, they corrected it because they had prepared the necessary financial statements each year as required by good governance. Although not perfect, it was a reasonable explanation and did not overshadow the governance documentation that had been put in place by ACA.

131. Salman Khan testified to the advantage ACA had over ACC, citing superior numbers in players, teams and leagues and providing evidence of governance structures, with all policies based on CC policies and evidence of financial statements being audited and presented to its members each year. Importantly, in 2019, ACA was able to demonstrate sufficient evidence to justify its number of teams when CC was checking carefully because of the circumstances.
132. ACA published selection criteria and followed them, and there were some requirements for membership where ACA or CC was funding the teams. ACC, however, banned Mr. Gill for life for CCCB involvement and restricts any club or individual to no more than one club or one league.
133. Relevant allegations raised by ACC were answered and critical testimony by key players went unimpeached. Mr. Gill addressed the question of fields; Mr. Virk supported the reality of CCCB, not just being an organization in name only; and Salman Khan responded to the allegations raised providing reasonable explanations in answering them.
134. Maninder “Sunny” Gill served as the statistician for CDCL from 2015-18 and was the ACA Secretary 2015-17 and 2019-current. As Secretary, he has responsibility for communications with members. He was also the person responsible for ACA for the scoring portal beta testing for CC.
135. Mr. Gill expressed shock and dismay when CDCL was expelled for non-payment of dues because his club and all others had paid their dues to CDCL.
136. CCCB came into existence in 2018 after CDCL expelled by ACA. Mr. Gill testified that his club approached ACA to ask about the situation and was informed that the clubs are not responsible for the league executives’ actions.
137. As a result CCC was formed and the players played under the auspices of ACA. Some players just wanted to play as much cricket as possible but some wanted to play highly

competitive cricket to focus on high performance. Those focused on High Performance formed CCCB and remained affiliated with ACA and those only interested in playing community cricket formed CCCS and affiliated with ACC.

138. Mr. Gill testified that the planning started in 2018, just after ACC was formed but the CCCB league was not registered until April 2019, before the cricket season started. The difficulty for finding facilities was exacerbated because of CDCL allegedly over-booking facilities. Approaching the city resulted in CCCB obtaining some booked but not used fields to play on.
139. Mr. Gill acknowledged that the record keeping may not have been perfect because CCCB was scrambling to run a league, find fields and play cricket when it was first formed. In addition, he had personal events going on as well in 2017 which led to his resignation. By 2019, he returned to ACA as Secretary.
140. Sunny Gill testified to ACA providing some assistance with the facilities, including providing a mat for use, organizing cricket camps, as well as providing financial assistance for travel and accommodations for high performance teams.
141. In its submissions, ACA challenged the membership of ACC, alleging that NACA had never properly been a member of ACC and that NACA has continued to be affiliated with ACA.
142. Raheel Joseph, current President of NACA and Secretary from 2020-22, testified that NACA is currently a member of ACA and has always been a member, except when it was expelled for non-payment of dues during 2018. He confirmed sending an email to ACA in March 2021 to that effect.
143. In 2020, NACA appointed a working group who arranged an audit of the financial affairs for 2016-20 and the new NACA President contacted ACA and confirmed that NACA had been an associate member of the ACA since 2016 and there were no dues owing and expressing intentions to become a full member of ACA.
144. On cross-examination, Mr. Joseph acknowledged that an email dated May 4, 2020 was sent to ACC resigning any affiliation with ACC by NACA. Mr. Joseph said it was likely sent by Mr. Rajesh Bodar, the former President, and Mr. Joseph has no knowledge of such communication. Mr. Joseph stated that NACA has always been part of ACA since

- 2016 except temporarily when it had been expelled and that in 2021, when ACC became Provincial Member of CC, NACA members did not agree to affiliate with ACC.
145. ACA further questioned the inclusion of GPCA in the Claimant's membership, stating that *"GPCA was not and still is not a member of either the ACA or the ACC."*
146. Finally, ACA submits that MHCA did not play any hard ball cricket nor did the CCC, and therefore should not count in numbers.
147. There was much evidence provided regarding the number of teams. Mr. Khan testified that EDCL has 53 teams, based on the numbers provided to ACA and CDCL had 40 teams. Mr. Saadat attempted to challenge the number of teams claimed by ACA and, throughout the testimony, Mr. Khan refuted allegations or suggested individuals who should be called to provide the requisite information.
148. The evidence of Mr. Khan may have responded to a majority of the relevant allegations but there were some questions remaining following his testimony. A question still remains as to whether a number of teams were fabricated, as alleged by ACC, or did in fact play, but evidence was not adduced from unconnected witnesses in support of one position or the other.
149. Mr. Saadat raised questions of veracity regarding where teams played but there was not sufficient evidence provided to determine, even on a balance of probability, as to whether cricket was played in certain areas or not.
150. Manveer Singh testified that he financially supports a club in Medicine Hat that plays hardball cricket. This evidence directly contradicted the evidence of Dr. Gaekwad who stated that only tapeball cricket was played in Medicine Hat. ACC challenged the evidence and suggested that surely someone would be aware of the hardball cricketers since they play at the same field. ACC further questioned why all the scorecards show they were updated six months later and out of the country. The testimony resulted in some questions being raised about the credibility of his evidence.
151. Gurdeep Klair testified that he was Treasurer of ACA in 2017 and resigned because there were no funds to purchase cricket balls because CDCL and NACA had not paid its membership dues. Cricket balls were purchased from Australia, with the costs passed on to ACA members as part of their membership dues. Mr. Klair thought CDCL was

purposely delaying payment and with no money in the account but with obligations to pay, he did not want to remain Treasurer.

152. Rohit Bhardwaj, Treasurer of Calgary Cricket Council Society (“**CCCS**”), testified regarding his experience with both ACC and ACA. He was a member of Calgary Cricket Council in 2018 that became a member of ACA until CCCS left for ACC when ACC formed. He testified that there was not as much cricket under ACC as under ACA but ACC had good future plans for growth. He suggested that cricket picked up once ACC became the Provincial Member but confirmed that he did not receive any policies or financial statements until 2021. CCCS rejoined ACA at the end of 2021 because it is the Provincial Member and they just wants to play cricket.
153. On cross-examination, Mr. Bhardwaj confirmed that CCC played a few games in 2018 after it was approved by ACA at its special general meeting in May. He further confirmed that there was a process to join ACC and the application form presented evidenced the information and concerns expressed by CCCS in becoming a member of ACC. However, he also confirmed that ACC did not do a lot for CCCS and the relationship was one of affiliation, not assistance.
154. Mr. Bhardwaj further testified that he thought ACC favoured CDCL and that the difference in competitive cricket since CCCS moved to ACA is that he is playing all over Alberta, not just a small corner of Calgary. Although he wasn’t aware of whether ACC was restricted to local cricket in 2019, he believed CCCS was for sure.
155. Qasim Virk testified to the start of the issues between ACA and CDCL. As a member of CDCL, he paid a fee to CDCL, a portion of which was to be paid to ACA but the fees were not remitted to ACA.
156. He also served as a CC Board member from 2018-20 and was aware of ACC’s application to become a Provincial Member but did not have any involvement in order to avoid any conflict of interest. He was, however, aware of information that was provided to and by CC but did not participate in any decisions.
157. He was aware that ACA and ACC had each been asked by the CC General Manager to provide information on teams and that ACA had provided it but ACC had not. He did

not review the information because the President and the General Manager were doing that.

158. Mr. Virk confirmed that in 2019, it was intense, and Mr. Saini brought information to the members and members confirmed four votes for ACA. All members unanimously confirmed ACA as the member, not ACC, because ACC did not provide all the information required.
159. Mr. Virk further confirmed that Cricket Airdrie became affiliated with ACA in 2017/18 and an associate member in 2019. He recalls Calgary Cricket Community Board (“**CCCB**”), of which he is now on the Board, was formed in 2019 but never registered as a society. Mr. Virk testified that CCCB is affiliated with ACA and began cricket in 2019 and that it had 20 teams, including Cricket Airdrie with which he plays.
160. The cross-examination of Mr. Virk by Mr. Shahbaz was intense at times and centred around the existence of Cricket Airdrie as a team and Mr. Virk’s role on CC Board.
161. Hardik Patel testified as a VP and director of EDCL since 2018. He stated that EDCL could not function without ACA because of the financial support and operating rules which facilitate any disputes.
162. EDCL has the only turf wicket in Alberta. Maintaining it is expensive and ACA helps financially.
163. Amit Anand testified as a junior coordinator with ACA and a coach of the Alberta Schools Cricket Association (“**ASCA**”) to provide evidence of ACA’s contribution to the development of cricket in Alberta. As was raised on cross-examination, ASCA programs have been around long before ASCA became affiliated with ACA. Mr. Anand acknowledged this fact but responded that the scale of ASCA programs have grown under ACA through provision of equipment and coverage of costs by ACA, despite the fact that the ASCA Annual Report shows no financial aid from ACA.
164. Amol Bhatt, as the President and Examiner of Alberta Cricket Umpires and Scorers Association (“**ACUSA**”), testified with respect to the testing and education of officials. He became the coordinator in 2015 and travels throughout the Prairies to conduct the courses and exams. Tremendous growth from 2015-19 (46 to 136).

165. He testified that ACC does not have any similar program and all officials must be certified through him for recognition with CC.
166. He was unaware of how ACC has games umpired or scored but not through him.
167. The final witness for ACA was Ayushi Anand, who had stopped playing in the AWCL in 2018. She played for the Edmonton team but still had friends playing. Other than confirming that ACA had some involvement in women's cricket in the past, her testimony did not assist in the question of who had effective control in organized competitive cricket in Alberta in 2019.
168. In the end, the questionable number of teams are quite small and really relate more to geographic coverage than how many teams were under control of ACC or ACA. As counsel for ACA corrected summarized, the majority of players in Alberta who play organized competitive cricket are located in Calgary and Edmonton, with a smattering of players throughout the province. Much of the other cricket played throughout Alberta would not be classified as organized competitive cricket.

IV ANALYSIS

Effective Control - Onus

169. As is evident throughout the hearing, the Claimant and the Affected Party have presented very different pictures of how they are developing and supporting Cricket in Alberta. Not surprisingly, each has produced ardent supporters who have confirmed that their organization has done more than the other to support them.
170. Even with all the documentation and witnesses, I find it difficult to determine whether some of the information presented is accurate and representative of reality because of the many allegations raised without clear and conclusive corroborating evidence.
171. What is clear is that ACC took on an incredibly difficult task. It is hard to oust a PSO that has not completely abandoned governing the sport in the province. A small group of people, unhappy with the leadership of ACA, got together to challenge the authority of ACA as the Provincial Member for Alberta. It was ambitious and not necessarily a recommended approach, given that ACA's governing policies appear to be fair and comprehensive in providing appropriate alternatives to the approach taken.

172. Margaret Mead is famous for saying: *"Never doubt that a small group of thoughtful committed individuals can change the world. In fact, it's the only thing that ever has."* ACC evidently has a group of thoughtful, committed people. The group that got together to form ACC wanted to effect change and they provided evidence of a significant amount of work done for Cricket in Alberta.
173. ACA clearly has not abandoned governing the sport of Cricket in Alberta. EDCL is uncontested as one of the largest, if not the largest, leagues in Alberta and its support of ACA has never wavered or been challenged. Further, CC has continued to recognize the number of teams represented by ACA through the granting of votes at each AGM. ACC claims that CC is biased in granting such votes but I did not find evidence supporting that contention as I outline below.
174. My task is to ascertain who had effective control of organized competitive cricket in Alberta in 2019. In that regard, the onus lies on the Claimant to demonstrate that it had effective control of competitive cricket in Alberta in 2019.
175. Each of ACA and ACC presented a great deal of evidence surrounding the number of leagues, teams and players playing under their respective organizations. The evidence submitted was contradictory and difficult to authenticate. I want to be clear that I do not have sufficient information before me to ascertain the accuracy of the information each of the parties presented because much of the information was straight allegations or second-hand data which was not independently corroborated. This makes it especially difficult when the witnesses are already vested in a position.
176. ACA presented evidence of a number of leagues under its mantle in 2019. ACC submitted that EDCL was the only league having membership in ACA in 2019. Even if ACC is correct, it would not be conclusive evidence that ACA did not have effective control of organized competitive cricket in Alberta in 2019.
177. It was suggested by ACC and witnesses from CDCL that prior to the formation of ACA, CDCL and EDCL were approximately the same size in terms of the number of teams. I did not receive much in the way of corroborating evidence on this fact but if I accept it as accurate, there is no question that CDCL was smaller than EDCL in 2019.

178. I accept the evidence that CDCL was fracturing as a result of the breakaway by ACC. I accept that most people only want to play cricket and, for the most part, they do not care which organization is the PSO and Provincial Member unless it directly impacts them. It clearly impacts those individuals who wish to play on a provincial or national team and there was unchallenged testimony that some played with teams that had membership through ACA because of the affiliation with CC. I also accept the testimony of Sunny Gill regarding the formation of CCC and its division into two entities, CCCB and CCCS and the impact on CDCL.
179. Based on the submissions made and the testimony of the witnesses, I find that in 2019, ACA had a (perhaps diminishing) majority in the number of teams under its organization. Although ACC had suggested that ACA only had three teams in 2017 and two of those had been expelled and formed ACC, I am satisfied that other teams had stepped into the void and EDCL previously had more than 50% of the cricketing teams in Alberta.
180. The evidence produced regarding geographic coverage of the Province of Alberta was also slanted by each of the sides. As was demonstrated by each of ACC and ACA, however, the vast majority of Cricket is played by teams residing in Calgary or Edmonton. In ascertaining the minimum requirements for effective control, there is no specific requirement for geographic coverage. Geographic coverage could become more important if both ACA and ACC meet the minimum requirements for effective control of organized competitive cricket in Alberta in 2019 because then it is a comparative exercise to determine who had effective control.
181. Each of the Claimant and the Affected Party appears to have demonstrated the minimum requirements for effective control accepted by CC. I say “appears to have” because even though I was tasked with determining who had effective control of organized competitive cricket in Alberta in 2019, the parties did not focus exclusively on such task and some of the “noise” interferes with a definitive determination. Some allegations were made against each of ACC and ACA that, if proven, could impact such determination. That said, I am satisfied that, on the balance of probability, each meets such minimum requirements.
182. It is important to note that effective control is a relative thing. If there were no other organization that evidenced effective control of organized competitive cricket in

Alberta in 2019, ACC would likely satisfy its onus. The investigator considered whether ACC had effective control without such relative context.

183. I note that effective control can occur with something less than a majority. Securities law recognizes that premise, and a person is deemed to be a “control person” if such person holds more than 20% of the issued and outstanding securities, absent evidence to the contrary. I would analogize that one can be in effective control of a sport with less than a majority of the participants as members if it influences more than its members and evidence to that fact is provided.
184. Accordingly, each of ACA or ACC may have effective control to some extent – and this certainly seems to be the case, given that ACC’s primary membership originates in Calgary and ACA’s principal members are from Edmonton – but it is when one compares them against one another that one can determine who has majority control for all of Alberta.
185. Where the rubber hits the road is whether each met the minimum requirements in 2019 and, if so, who had majority control. As was correctly submitted by counsel for CC, effective governance does not happen overnight. It is a process and putting in place all of the policies and attracting teams to join a nascent organization does not by itself ensure effective control.
186. The fact that ACC’s 2019 financial statements, for its first year of operation, were not audited or approved until 2021 is a good example. There was an intention, but ACC had not started implementation of effective control. The requirement is to have “*an established governance structure meeting Cricket Canada expectation, and follows this structure in its operations*” [sic] (emphasis added).
187. There were numerous other areas where ACC was similarly just starting to evolve at its first year of operation. Hosting a junior or women’s event is promising but does not necessarily evidence a provincial development program accessible to all.
188. There is a little bit of the “chicken or the egg” when establishing a breakaway organization. ACA was the PSO and Provincial Member and all of CC’s programs were in place through ACA. Change takes time and there needs to be some reason for people to change. Accordingly, effective control may change over time.

189. Not surprisingly, ACA produced some clear evidence of effective control, having had the time to evolve into that role. The primary concerns evidenced by ACC related to a single individual and the fact that the organization did not have all of its executive officers – something that both CDCL and ACC were also experiencing. Salman Khan in his testimony was able to address satisfactorily many of the allegations raised by ACC in that regard and I therefore do not find that the Claimant discharged its onus of proof.
190. ACA had a majority or close to majority of membership as well as an effective governance structure and there was no evidence adduced that it did not meet CC's expectations. ACA satisfied the minimum requirements for effective control.
191. ACA also produced uncontroverted evidence regarding involvement in the school system and the umpiring and scoring. Amol Bhatt testified as to his role in training and testing umpires and scorers and queried what ACC does to qualify their officials. ACC provides some evidence in those regards as well, but not as clear and not without challenge, and left much unsaid or without corroboration.
192. When CDCL was expelled and faced its issues, it had alternatives to the approach it chose. Such alternatives included simply paying the fees (which its members had already paid to CDCL) and putting forward an individual to challenge Salman Khan as President or submitting a non-confidence vote in accordance with the existing ACA by-laws or invoking the discipline or dispute resolution policies for perceived transgressions. ACC elected to take the harder road of creating an alternative organization and wresting control away from ACA.
193. In summary, ACA had a head start and one year does not appear to have been sufficient time for ACC to wrest away effective control from ACA. ACC has not discharged its onus and I find that ACA had effective control of organized competitive cricket in Alberta in 2019.
194. On the one hand, it appears that the formation of ACC and its development programs stimulated development of cricket in Alberta because ACA responded to the challenge. On the other hand, it has provoked a polarized and dysfunctional cricket community in Alberta which has stifled development during the lengthy period that the parties have been engaged in legal process. The focus should turn to cricket.

195. Although the Claimant has provided ample evidence to suggest that it has had a difficult time in obtaining responses or assistance to its attempt to better cricket in the Province of Alberta, I think it is evident that some of the difficulties were self-inflicted.
196. Incorporators of the Claimant decided to establish a competitive organization to challenge the existing CC Provincial Member for Alberta, with the challenge occurring shortly after coming into existence. Such pursuit followed a failed attempt to use existing governance processes to rid ACA of Salman Khan. I make no comment on whether the objective was desirable or not but the approach was certainly flawed.
197. The motion of non-confidence was rushed and did not comply with the ACA by-laws, resulting in it being withdrawn without a vote. The ACA by-laws require compliance with the Alberta *Societies Act* and neither the by-laws nor the *Societies Act* were complied with when the notice of meeting was sent out.
198. The motion by CDCL members to expel Salman Khan from ACA also did not follow existing processes set out in the ACA by-laws and allegedly occurred, but was unenforceable because of its procedural flaws.
199. Similarly, the protagonists failed to comply with the requirements of the CC 2018 By-laws in pursuing an application for membership. Although it was arguably not solely ACC's fault, reviewing the requirements and planning an approach could have gone a long way in avoiding the large expense of this matter.
200. There are two additional matters that were raised in the hearing that I feel obligated to address for the sake of completeness.

Bias

201. Bias requires evidence that the person making the decision was unable to impartially evaluate the facts that were presented for determination.
202. ACC alleges CC was biased towards ACA and had it not been for CC's refusal to engage in ACC's application process, it would have been clear that ACC had effective control of organized competitive cricket in Alberta in 2019. Therefore, ACC would have been accepted as the Provincial Member effective January 1, 2020 and ACA would have ceased as a member at that time.

203. ACC supports its claim that CC was biased towards ACA by:
- (a) the refusal of CC to respond to the request in December 2018 for ACC's application for membership until eight days prior to the AGM scheduled for May 24, 2019;
 - (b) the fact that CC did not react when "ACA's own membership reached out to CC in 2017" advising CC of a decision made to expel Salman Khan and alleging fraud and embezzlement;
 - (c) allegations that CC did not do anything to rectify ACA's blocking of players from Alberta associated with ACC from participating in Provincial, National and International cricketing events and tournaments; and
 - (d) the fact that every review that has occurred on the merits in this matter has found that ACC should be the member of CC and yet CC refuses to recognize ACC as the Provincial Member.
204. Further, ACC made a formal request to CC's President, Rashpal Bajwa, to resolve the dispute using CC's Dispute Resolution Policy but he failed to respond to the request. His failure to respond, let alone to take any actions in accordance with the CC 2018 By-laws, allegedly led to the filing of the request for arbitration under the SDRCC.
205. Bias does not result simply because the decision arrived at was not the one sought. Mr. Saini testified and there is no evidence to support the suggestion that he did not respond until eight days prior to the AGM because he was biased. The fact that he asked for information from the Claimant prior to the AGM is evidence that he was open to being convinced that ACC had effective control as he interpreted that to be. However, he testified he did not receive the information requested.

A. Delay in Response

206. The suggestion that CC was bias because of a delay in responding to the request for information on the application to be a Provincial Member does not acknowledge that there was no evidence presented that CC was unable to impartially review the material delivered following submission. The response may have been delayed for any number of reasons but unfortunately Mr. Saini was not asked that question when he testified and there is no evidence before the Panel to justify an allegation of bias based on delay.

207. Mr. Saini testified that ACC had been asked for certain information (evidence of teams, as defined by CC By-laws, playing in 2018 who are affiliated with ACC) and had received complex legal arguments and other comments. Without comparative data to ascertain effective control in Alberta, he could not recommend considering ACC for membership because it did not demonstrate effective control of organized competitive cricket in Alberta at that time.
208. Mr. Saini testified as follows:
- (a) On May 16, 2019, Mr. Saini requested ACC forward the following information on or before May 24, 2019: 1. Number of teams using the CC definition of teams under paragraph 1.2(i) of CC By-laws; and 2. Copies of registration of ACC and its member leagues.
 - (b) On May 23, 2019, Mr. Saadat, as Secretary for ACC, provided a letter in response that is not in evidence but appears to be a “complete list of teams under each league associated with the ACC”.
 - (c) That same day, Mr. Saini replied clarifying that he wanted the names of players who have played 8 or more games of T20 or higher format in 2018.
209. Early the next morning, Mr. Saadat responded outlining that 4 leagues played organized competitive cricket in 2018 that are now under ACC and one league played organized competitive cricket in 2018 that remains under ACA. Mr. Saadat suggested that ACC’s membership evidences geographic and membership majority but did not respond directly to the request for names of the players who had played at least 8 games in the specified formats.
210. Mr. Saini then advised ACC on May 24, 2019 that it had failed to supply the required team data and CC would therefore report to its members that ACC’s request for consideration as a Provincial Member should not be considered.

B. Claims Against Salman Khan

211. Mr. Saini also addressed this issue when he said CC could not react to unsubstantiated claims and provided reasons why CC was not the appropriate forum to consider the issues raised, either by CDCL or ACC.

C. Allegations of Blocking

212. During cross-examination of Mr. Saini, he explained that CC programs are for CC members. The requirement to be affiliated with CC in order to access member benefits is not evidence of bias.

D. Prior Review of Members

213. ACC suggests that independent reviews support its position, including those conducted by Arbitrator Johnston and the investigator, Kris Ramchandrar, appointed by Arbitrator Johnston as a neutral individual to meet with ACC and CC and who focused on “the reasonableness of the decision provided by Cricket Canada, in response to Alberta Cricket Council’s application for Provincial Sports Organization status [*sic*], to determine if the decision was clearly wrong or unreasonable.”⁷
214. ACC submits that Mr. Ramchandrar was vetted and appointed by CC’s counsel and that the investigation and consequent report was thorough and conclusive.
215. Based on the actions of CC on the record, the Claimant submits that CC clearly has bias towards the maintenance of status quo. ACC alleges that CC traded support for ACA in return for continued support in voting for certain directors. No evidence was adduced to support such allegations.
216. The suggestion by the Claimant that the independent investigator said ACC had effective control, as did Arbitrator Johnston, does not appear to be entirely accurate:
- (a) Arbitrator Johnston said it appears that each of ACA and ACC could “*to a greater or lesser extent meet the criteria [for effective control]*” and then concluded that because the polarizing of the cricket community occurred under the stewardship of ACA, it was time for fresh leadership.
 - (b) Mr Ramchandrar recommended that CC set aside its earlier decision and grant reconsideration of ACC’s application for membership. However, at p. 21 of his Report he stated “*without first having established what the essential and desirable qualities are, and without a clear definition or terms*

⁷ *Report on the Complaint of Alberta Cricket Council versus Cricket Canada*, November 3, 2020 (K. Ramchandrar) at page 3

of reference to determine what constitutes effective control, it would appear that the procedure for considering new applications is regrettably, deficient. As such, these irregularities would appear to have prevented Alberta Cricket Council's application from receiving a fair assessment."

217. Arbitrator Johnston was addressing a different question than the issue before me. The scope of my decision making was narrower, and I was charged with determining who had effective control of organized competitive cricket in Alberta in 2019 – not unlike what Mr. Ramchandrar was charged with. However, unlike for Mr. Ramchandrar, a clear definition of what constitutes effective control was provided and many of the irregularities that appeared to prevent ACC's application from receiving a fair assessment have been addressed.
218. Based on analysis of the evidence presented, it is conceivable that either ACC or ACA could be considered to have effective control of organized competitive cricket in Alberta in isolation. Mr. Ramchandrar had to consider that question in isolation because he obtained information from both CDCL and ACC but did not have evidence from ACA to compare with the evidence from CDCL and ACC that was presented to him.

Panel's Authority

219. ACA suggests that if the Panel determined ACC had effective control, the Panel would not be able to override the internal governance process which requires CC to make its own determinations over who its members are. Since I have determined ACC did not have effective control, it is not necessary for a decision to be made but I have done so in any event.
220. ACA further submits that any determination of membership must be done in accordance with the current by-laws of CC and not CC 2018 By-laws.
221. Although I do not need to make this decision for reasons outlined above, I would have found that the Arbitrator has the authority and jurisdiction to determine the Provincial Member for Alberta. Justice Koehnen, at paragraph 27, states "*The Centre's exercise of jurisdiction over a dispute which determines whether a particular organization should or should not be a member of Cricket Canada is consistent with the overall purpose for which the Centre was created namely to ensure 'the full and fair participation of all*

*persons in sport and the fair, equitable, transparent and timely resolution of disputes' relating to the participation of a person in a sports organization."*⁸

222. The Panel has the authority to determine whether ACC or ACA had "effective control of organized competitive cricket" in Alberta. If my decision had favoured ACC, ACA's membership would have terminated on December 31, 2019. In accordance with the CC 2018 By-laws, ACC had the ability to apply for membership for 2020 and since ACC did everything within its power to submit an application for membership but CC refused to submit it to its Board as required in its By-laws, in the interests of fairness and transparency there should be no restriction on my authority or jurisdiction to find ACC to be the Provincial Member of CC.
223. CC 2018 By-laws only required the Board to approve new members based on the application submitted demonstrating effective control.
224. The CC Board would have been required to uphold and endorse the Arbitrator's decision on which organization has effective control.
225. CC's 2021 by-laws require the Board to approve it and the membership to confirm a new member at the next general meeting. ACA suggests that for ACC to become a member, the membership would have to confirm it.
226. This appears to be reasonable at first instance because the membership of CC did nothing wrong and should not have its authority stripped away by arbitration without any fault.
227. However, upon further examination, CC amended its by-laws in 2021 - after ACC had already filed its claim with the SDRCC. To require ACC now to comply with the current by-laws would only encourage others to amend by-laws in their favour once a dispute had been commenced.
228. Accordingly, the Panel has authority to determine who is the Provincial Member of CC and would have authority to find it as the current member, as it is a continuation of the dispute started in 2018.

⁸ *Cricket Canada v. Alberta Cricket Council*, 2020 ONSC 3766

Final Thoughts

229. It is disappointing that so much time, energy and money has been spent on debating which organization is supposed to be developing and supporting Cricket in Alberta. Each of ACC and ACA have people with skills that would be beneficial if they would work together, rather than simply trying to “win” control. The fact that ACC finds its support mostly in Calgary and ACA has support mostly from Edmonton is evident that working together would result in a much stronger organization. How many times did we hear that people just want to play cricket? It would be nice if that could happen.
230. I am particularly disappointed that after such a long period of dispute, the parties could not have narrowed their submissions to what was relevant to finding effective control of organized competitive cricket in Alberta. The parties each a great deal of time finding fault and critiquing one another rather than looking for ways to make it better for cricketers in Alberta. I can’t help but think of the amount of money spent on attacking each other that could have benefited cricketing in Alberta.

IV CONCLUSION

231. Although I do not refer in this Decision to every aspect of the parties’ submissions and evidence, in reaching my conclusions and in making my decision I have considered all of the evidence and arguments presented by them in this proceeding.
232. I determine that ACA retained effective control of organized competitive cricket in Alberta in 2019.

V JUDGEMENT

233. The appeal by the Claimant is dismissed.

VI THE COSTS

234. No submissions were made during the hearing regarding costs. I note there have been mixed results in the course of this matter and although it has been excessively long, each of the parties must bear some degree of responsibility for the prolonged duration that has resulted. My preference would be that the parties would focus on cricket and use their resources on sport. Nevertheless, the parties are free to make brief written submissions on the subject, should they choose to do so in accordance with Sections 5.14 and 6.13 of the Code.

VII RESERVATION OF RIGHTS

235. I reserve the right to deal with any matter arising from this decision and its interpretation.

DATED: February 23, 2023



Gordon E. Peterson, Arbitrator