

NATIONAL OFFICE

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2023

COMPLAINTS & DISCIPLINE OF MEMBERS BY-LAW - BREACH NOTICE

Important: You are required to acknowledge and respond to this Breach Notice within 14 days, failing which You will be deemed to have accepted the Breach occurred and the Proposed Sanctions will automatically commence.

Member: Mr [REDACTED]
Karting Australia Licence Number: [REDACTED]
Karting Australia Participant Licence Holder: [REDACTED]
Address: [REDACTED]
Email: [REDACTED]
Mobile Phone Number: [REDACTED] (Participant Licence Holder)
Home Club: [REDACTED]

Referral

1. Karting Australia ("KA") has received information ("Alleged Breach") under its Complaints and Discipline Of Members By-Law ("Bylaw") alleging that you have breached an eligible KA policy or policies as outlined below. A copy of the Bylaw and the relevant Policies are available at www.karting.net.au.

Allegations

2. On [REDACTED], KA commenced an investigation into allegations about your behaviour as a Member of KA ("Investigation").
3. It was alleged that you were involved in the [REDACTED] considered to be prohibited conduct.
4. It was further alleged that you were involved in the posting of such offensive [REDACTED] online to a [REDACTED] [REDACTED] thereby sharing those videos with other KA Licence holders.
5. Specifically, it is alleged that you may have engaged in some serious conduct that is prohibited conduct under KA's, Bylaws and Policies, including that you:
 - a. Have breached KA's Integrity Framework and Policies (the "Policies"), including but not limited to the:
 - (i) Member Protection Policy,
 - (ii) Social Media and Acceptable Use of Social Media,
 - (iii) Code of Conduct and Bylaw 7 – Complaints and Discipline of Member Bylaw, and
 - b. Engaged in Prohibited Conduct and that the allegation is one of:
 - (i) Harassment,
 - (ii) Bullying,
 - (iii) Breach of the Code of Conduct,
 - (iv) Acting in a manner to bring the sport into disrepute,
 - (v) Intimidating another person, and
 - (vi) Creating a hostile environment within the sport

Findings

6. The Investigation is now complete. I have been provided with a report on the Investigation, which contains the findings and recommendations of the Investigator in accordance with Clauses 6.1d.(iv) and (v) of the Bylaw.

- a. The Investigator has found that “on the balance of probabilities”, in the complaint against You that You “*[redacted] [redacted] (Social Media) is unsubstantiated.*”
- b. The Investigator has found that “on the balance of probabilities”, in the complaint against You that You “*posted [redacted] to a [redacted] (Social Media)*” and thereby breached KA Policies and Code of Conduct is ***substantiated.***”

- (i) [redacted] were posted by You to [redacted].
- A. You admitted to [redacted] and the Investigator found [redacted].
- B. Two (2) other Members who were interviewed stated that You posted [redacted] to the [redacted].
- (ii) In posting the [redacted], You have breached the following: KA Code of Conduct, Social Media, and Acceptable use of Social Media Policy:

A. Code of Conduct

You have breached the following clauses within the KA Code of Conduct.

General Code of Conduct - Clauses a, b, g, j, l, o, r.

“General Code of Conduct – Relevant Persons are encouraged and expected to:

- a. Respect the rights, dignity and worth of others;*
- b. Conduct themselves in line with KA’s values;*
- g. Be aware of, and maintain an uncompromising adherence to KA’s standards, rules, regulations and policies including this policy and the Child Safeguarding Policy;*
- j. Show concern for the health, safety and welfare of members and participants;*
- l. Be a positive role model, demonstrating a high degree of individual responsibility (especially when dealing with children), understanding that their words and actions are an example;*
- o. Do not shame, humiliate, oppress, belittle, harass or degrade any person, especially children;*
- r. Do not do anything that brings KA, a Member State or an Affiliated Club of the sport of karting into disrepute or engage in conduct that is unbecoming.”*

Licence Holders Code of Conduct – Clauses e, i, k.

“Licence Holders - are encouraged and expected to:

- e. Maintain high personal behaviour standards towards participants, volunteers, and officials at all times;*
- i. Not engage in conduct that is, unethical, unbecoming, or likely to cause harm to the reputation of the Participant or the Affiliated Club;*
- k. Not make or post inappropriate, offensive, or discriminatory comments in public.”*

B. Social Media and Acceptable use of Social Media Policy

You have breached the following clauses within the KA Social Media and Acceptable use of Social Media Policy:

“When using social media, Covered Persons should ensure that you:

- *Do not use or republish abusive language and do not harass or threaten others;*
- *Do not use or republish insulting, provocative, hurtful or hateful language;*
- *Do not belittle any person;*
- *Do not use or republish obscene or offensive language;*
- *Do not do anything that potentially contravenes any of KA’s Policies.”*

8. The content of [redacted] is best described as being [redacted] abuse of another Licence holder. They use [redacted], foul, and obscene language, in a way that would offend any reasonable person. Most concerning, they have caused harm and distress to an individual Licence holder who is the subject of the [redacted].

Investigator Recommendations

9. That KA issues You with an appropriate Breach Notice under the KA Complaints and Discipline of Members By-law (B7) for having “posted the videos to a [REDACTED] (“Social Media”)” and thereby breached KA Policies and Code of Conduct.

Alleged Breaches

10. As a result of the above allegations, the findings of fact from the Investigation, the general findings and recommendation of the Investigator and the admission of [REDACTED] that You forwarded at least one of the offending videos, to [REDACTED], it is alleged that You have breached the following Eligible Policies of KA:

- a. General Code of Conduct - clauses a, b, g, j, l, o, r;
- b. Licence Holders Code of Conduct – clauses e, i, k;
- c. Social Media and Acceptable use of Social Media Policy;

In simple language, you have, through the use of the internet, engaged in video-based abuse of another Licence holder that is unacceptable, and that constitutes breaches of KA’s Policies.

Sanctions

11. In considering the detailed findings of the Investigation that are summarised herein [REDACTED] that your action/s of “forwarding the video wasn’t appropriate” it is my opinion that Sanctions against You are warranted.

12. There are multiple Alleged Breaches of Eligible Policies in this matter. Notwithstanding and in accordance with Clause 7.5 g of Bylaw 7 the Breaches have been considered together.

13. Ordinarily Imposed Sanctions

Having considered the relevant factors that are required to be considered in accordance with Clause 7.5 f. of Bylaw 7, if a Breach of the type outlined in the Alleged Breaches section was fully proven, KA would ordinarily impose significant sanctions including amongst other things, a period of Suspension. As this is your first known offence, the sanctions that would be imposed are:

- a. **Suspension**

You will be suspended (as defined in the KA National Competition Rules) for a period of six (6) months commencing on the date of acceptance of this Breach Notice; and

- b. **Good Behaviour**

You will be required to be of good behaviour for a period of two (2) years commencing on the date of acceptance of this Breach Notice, during which time you will be generally of good behaviour (in relation to karting and all activities with a nexus to karting) and not breach any of the KA Integrity Framework Polices and Bylaws.

- c. **Officiate**

You will be required to become a level 4 Graded Race Official, and properly officiate as a Level 4 Official at a minimum of four (4) race Meetings at a Karting Australia Affiliated Club or Clubs during the period commencing on the date of expiration of the Suspension [REDACTED].

To be clear, this means that you must do all things necessary in accordance with KA Policy P25 – Race Officials Licence Policy that is required to obtain an Official’s Licence, which for the sake of clarity means, amongst other things, the completion of Basic Training in the KA Officials Academy.

14. That you are [REDACTED] and that you are a ‘minor’ is a mitigating circumstance that KA can reasonably considered.

15. Proposed (Discounted) Sanctions Offered To You To Resolve The Alleged Breach

In accordance with the Policy, to resolve the Alleged Breach using the Breach Offer Process, if You accept the Alleged Breach occurred without a hearing, KA will offer You discounted sanctions as follows:

- a. **Suspension**

You will be suspended (as defined in the KA National Competition Rules) for a period of three (3) months commencing on the date of acceptance of this Breach Notice; and

- b. **Good Behaviour**

You will be required to be of good behaviour for a period of two (2) years commencing on the date of acceptance of this Breach Notice, during which time you will be generally of good behaviour (in relation

to karting and all activities with a nexus to karting) and not breach any of the KA Integrity Framework Policies and Bylaws.

c. Officiate

You will be required to become a level 4 Graded Race Official, and properly officiate as a Level 4 Official at a minimum of four (4) race Meetings at a Karting [REDACTED] Affiliated Club during the period commencing on the date of expiration of the Suspension [REDACTED]. To be clear, this means that you must do all things necessary in accordance with KA Policy P25 – Race Officials Licence Policy that is required to obtain an Official's Licence.

Note – although the Sanction of Suspension does not allow You to Officiate at a Meeting while under Suspension, You can undertake the online Basic Training in the KA Officials Academy during that period.

d. Public Disclosure

The Sanction will not be publicly disclosed on the KA Disciplinary Matters web page.

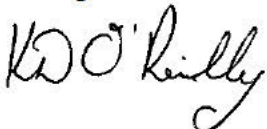
Decision

16. You are entitled to decide either to accept your Alleged Breach occurred, and the Proposed (discounted) Sanctions that will be imposed by KA set out at paragraph 15, or alternatively dispute the Alleged Breach and Proposed Sanction.
17. If You dispute the Alleged Breach and/or the Proposed Sanctions, the Alleged Breach will be referred to a hearing tribunal for determination under the Policy. [REDACTED]

Notification

18. Please advise the KA National Complaints Officer (Complaints Officer) of your decision to either accept the Alleged Breach and Proposed Sanction or dispute the breach and/or the Proposed Sanction and proceed to a hearing tribunal, by signing and returning the below 'Acknowledgement' to the Complaints Officer via email to [REDACTED] 4210
19. You must advise the Complaints Officer of your decision within 14 days of the date of this letter, failing which You will be deemed to have accepted the breach occurred and the Proposed Sanctions will automatically commence.
20. Unless You dispute the Alleged Breach and/or Proposed Sanction(s), the Proposed Sanction(s) will commence on the earlier of the date You notify the Complaints Manager of your acceptance, or the end of the date 14 days from the date of this letter.
16. If You have any questions in relation to this Breach Offer, the Complaints Officer can be contacted by telephone on [REDACTED] or by email at [REDACTED]

Yours faithfully
Karting Australia



Kelvin O'Reilly
Chief Executive Officer

ACKNOWLEDGEMENT AND SIGNING PAGE FOLLOWS.

ACKNOWLEDGEMENT

Member: Mr [REDACTED] (You)

Karting Australia Licence Number: [REDACTED] (at the time of the Alleged Breaches)

Karting Australia Participant Licence Holder: [REDACTED] (at the time of the Alleged Breaches)

Address: [REDACTED]

Email:

Mobile Phone Number: [REDACTED] (Participant Licence Holder)

Home Club: [REDACTED]

Tick the appropriate box below, sign date and time the Form.

As the Member is a minor, the Acknowledgement and Admission or Non-admission of Breach must be completed and signed by the Member's Participant Licence Holder.

Admission Of Alleged Breach and Acceptance of the Proposed Discounted Sanctions

I ADMIT THE ALLEGED BREACH OF THE ELIGIBLE POLICIES AS DESCRIBED HEREIN AND ACCEPT THE PROPOSED DISCOUNTED SANCTIONS OFFERED.
I do not require a hearing and waive all my rights in accordance with Bylaw 7 to appeal this decision/penalty.

Non-admission of Alleged Breach

I DO NOT ADMIT TO THE BREACH OF THE ELIGIBLE POLICIES AS DESCRIBED HEREIN.

The matter will be referred for Hearing in accordance with Bylaw 7, where you will have the opportunity to state your case in person, call witnesses and present evidence supporting your case.
You will be advised of a place and time for the matter to be heard.
Note: The Tribunal may vary the penalty above.

Signed:

Name:

Dated:

Time: