



**STATEMENT OF JESSICA BERMAN BEFORE THE  
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION REGARDING  
“ADDRESSING DOMESTIC VIOLENCE IN PROFESSIONAL SPORTS”**

**SUBMITTED IN CONNECTION WITH  
TESTIMONY ON DECEMBER 2, 2014**

I would like to thank the Chairman, the Ranking Member, and the Committee Members for inviting the National Hockey League (“NHL” or the “League”) to testify today regarding domestic violence in professional sports.

The NHL takes seriously issues of domestic violence. While our historical experience suggests that these issues are not prevalent among our Player population, we nonetheless believe we have an obligation to raise awareness, provide education, and penalize offenders, all with the hope and intention of deterring future misconduct. To that end – working with the National Hockey League Players’ Association (“NHLPA”), the duly authorized collective bargaining representative of NHL Players – the League has responsibly developed, implemented and enforced strict policies, practices and procedures regulating the off-ice personal conduct of its Players, which extend to and encompass situations of domestic violence.

A core component underlying all of these rules and policies is a comprehensive education program. For at least the last decade, the League has provided annual education for our Players on a variety of critical social issues, including issues relating to domestic violence. This training and education has been delivered in a number of forums and contexts, by multiple voices. In particular, on an annual basis both the NHL Security Department personnel and the medical professionals charged with administering our Substance Abuse and Behavioral Health (“SABH”) Program (the “Program Doctors”) meet with the Players on each NHL team to educate them, and to discuss with them, among other things, personal conduct issues. In addition, the NHL and NHLPA organize an annual Rookie Orientation Program at which at least two different breakout sessions comprehensively address the importance of avoiding personal conduct issues --

including, specifically, domestic abuse.

Although the emphasis and content of the League's annual sessions are reviewed and modified on a regular basis to ensure that they remain engaging and relevant, in general, the education programs focus on: (i) identifying the triggers that lead to conflict, personal conduct issues and domestic violence; (ii) outlining ways to avoid dangerous situations prior to their escalation; (iii) offering alternative mechanisms for handling personal conflicts; (iv) providing information about third-party assistance for Players and their families in need of counseling or other behavioral intervention; and (v) explaining the criminal, civil, professional, personal and other consequences associated with engaging in personal misconduct. It is our hope and sincere belief that the NHL's comprehensive education and training programs have helped our Players make better decisions in their lives; certainly that would include their conduct with respect to their relationships with family members and other loved ones.

We believe that by making the messages clear and reinforcing them on a regular basis, the Players are better prepared to appreciate and manage difficult problems that may arise, both from a personal and professional standpoint, and, as a result, avoid situations that will bring harm to their families and themselves. Our Players are continuously reminded that they live and act as role models to people both inside and outside the hockey community and that their behavior and conduct will always be judged and held to the highest standards. Our Players take seriously the importance of their roles in this regard, and in representing each of their respective team organizations, the League and the sport of hockey generally, and, overwhelmingly, their conduct has made a positive contribution to their communities.

In addition to the our work in the area of education and raising awareness, the Collective Bargaining Agreement (“CBA”), which will remain in effect until at least September 15, 2020, sets forth provisions (as may be amended from time to time by agreement of the parties) that govern terms and conditions of employment for all NHL Players. The CBA grants both the League and each of its 30 NHL Member Clubs authority to enforce rules relating to Players’ personal (off-ice) conduct, and this responsibility has been – and will continue to be – exercised appropriately, fairly and judiciously. I will now briefly identify and describe various of these provisions, and I have included full text versions of the relevant materials as attachments to my written statement.

1. CBA Article 18-A: Commissioner Discipline for Off-Ice Conduct

Article 18-A of the CBA sets forth the rules, procedures and guidelines for the League pursuant to which it can review, assess and impose supplementary discipline for Players’ off-ice conduct. The provision, which has been collectively bargained with the NHLPA, grants to the Commissioner broad authority to act and impose discipline when a Player “has been or is guilty of conduct (whether during or outside the playing season) that is detrimental to or against the welfare of the League or the game of hockey.” This language historically has been applied to a wide array of personal conduct matters, and we believe it provides the League with an adequate degree of discretion and authority. (Full text attached at Attachment 1)

2. CBA Exhibit 1: Standard Player's Contract

Exhibit 1 to the CBA is the standard form employment contract (the "Standard Player's Contract" or "SPC") used for all NHL Players with their NHL teams. The SPC also contains rules that are applicable to Players' personal conduct. In particular, Section 2(e) requires that a Player "conduct himself on and off the rink according to the highest standards of honesty, morality, fair play and sportsmanship, and to refrain from conduct detrimental to the best interest of the Club, the League or professional hockey generally." This paragraph provides NHL teams with discretion to apply appropriate discipline in the event a Player's personal conduct violates this standard. (Full text attached at Attachment 2)

3. NHL Constitution Article 6 & NHL By-Law Section 17

The NHL Constitution Article 6 & NHL By-Law Section 17 each contain rules and guidelines for imposing discipline both for Players and for other League and Club personnel for off-ice misconduct. (Full text attached as Attachments 3 and 4)

4. Substance Abuse and Behavioral Health Program ("SABH Program")

The NHL/NHLPA SABH Program is a joint program established and implemented by the NHL and the NHLPA that comprehensively addresses matters relating to substance abuse and behavioral health (including as they may relate to certain criminal arrests and/or convictions) through education, counseling, treatment, follow-up care, and where appropriate, sanctions in the

form of Player discipline. The SABH Program is administered by the Program Doctors that have been retained by the NHL and NHLPA jointly, and those professionals make their services available to all NHL Players and their families, as necessary. The Program Doctors deliver annual education to the Players on each of our 30 Member Clubs, a portion of which education is dedicated to domestic violence issues. The SABH Program also makes available a 24/7 confidential hotline to Players and their families to assist with crisis management and intervention, including as it might relate to personal conduct matters.

5. NHL Security Department Policies / Education

The NHL Security Department acts as a liaison with each team's security department in an effort to safeguard and protect the Players and all other constituents and stakeholders in the game. This results in regular and consistent communication between the League Office and the 30 NHL Member Clubs, and ensures that the League is aware of any issues that may warrant intervention or might otherwise need to be addressed by the League.

Furthermore, the Security Department has developed and regularly disseminates to the Players information and education in areas where Players may encounter increased risk, including areas such as gambling, domestic conflict and personal conduct management.

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The National Hockey League remains committed to the principle of addressing Players' personal conduct problems in a meaningful way, and by doing so, protecting and maintaining both the integrity and generally good reputation of our Players and our sport generally. We do not hesitate to take disciplinary action in necessary and appropriate circumstances, as most recently evidenced by the indefinite suspension issued to a Los Angeles Kings' Player, who recently was charged with a domestic violence offense against his spouse in California. While no trial has occurred and the Player remains innocent until proven guilty, we felt that the most appropriate course of action in that case was to remove the Player from the ice, at least until we are able to satisfy ourselves with respect to what actually transpired.

Please be assured that we will certainly continue to prioritize the subject of training and education of the Players who play in our League on issues related to personal conduct, including domestic violence. Indeed, in light of recent events, we have undertaken a process to reevaluate everything that we do in this area, both at the League and local Club level to ensure they are both effective and state-of-the-art. In this regard, we will continue to utilize third-party providers and experts to ensure best practices, and we obviously intend to engage and involve our Players' Association in any "next steps" that might prove appropriate.

The NHL appreciates being provided with the opportunity to express our views regarding these issues. We remain available should you seek additional information.

**ARTICLE 18-A**  
**COMMISSIONER DISCIPLINE FOR OFF-ICE CONDUCT**

**18-A.1 *Commissioner Discipline for Off-Ice Conduct*** shall mean discipline imposed by the Commissioner or his designee for Player conduct not governed by "Supplementary Discipline for On-Ice Conduct" as defined in Article 18 and that falls within the scope of the Commissioner's authority to discipline as set out in Section 18-A.2. Disciplinary proceedings for Commissioner Discipline for Off-Ice Conduct will be conducted in accordance with the procedural rules set forth in this Article.

**18-A.2 *Commissioner Authority to Impose Discipline for Off-Ice Conduct*** Whenever the Commissioner determines that a Player has violated a League Rule applicable to Players (other than Playing Rules subjecting the Player to potential Supplementary Discipline for On-Ice Conduct), or has been or is guilty of conduct (whether during or outside the playing season) that is detrimental to or against the welfare of the League or the game of hockey, he may discipline such Player in any or all of the following respects:

- (a) by expelling or suspending such Player for a definite or indefinite period;
- (b) by cancelling any SPC that such Player has with any Member Club; or
- (c) by imposing a fine on the Player not exceeding the maximum permissible fine under Section 18.7(b).

For the purpose of calculating compensation forfeited due to a suspension under this Article, the Player will forfeit all Paragraph 1 NHL Salary and Bonuses, but not Performance Bonuses, commencing on the effective date of the suspension through the completion of the last game or date of the suspension, inclusive of all intervening days.

**18-A.3 *Procedures for Commissioner Discipline for Off-Ice Conduct*** The following procedures shall govern investigations and hearings involving the potential imposition of Commissioner Discipline for Off-Ice Conduct.

- (a) **League Investigation.**
  - (i) The League agrees to notify the NHLPA immediately upon deciding to undertake an investigation that may result in Commissioner Discipline for Off-Ice Conduct.
  - (ii) No interview of any Player or Players potentially subject to Commissioner Discipline for Off-Ice Conduct will take place without first providing notice to the NHLPA that affords a reasonable opportunity for the NHLPA to participate.
  - (iii) With respect to the interviews of Players who are not potentially subject to Commissioner Discipline for Off-Ice Conduct, the NHL agrees that no



interview of such Players will be conducted without first providing notice to the NHLPA that affords a reasonable opportunity for the NHLPA to participate.

- (iv) In any interview of any Player, the NHL will explain the purpose of the inquiry and the potential for Commissioner Discipline for Off-Ice Conduct.
- (v) The NHL agrees to provide the NHLPA with advance notice of any non-Player interviews conducted as part of an investigation and further agrees to make its best efforts to schedule interviews in a manner that will allow the NHLPA to participate. In the event that an interview is conducted without the NHLPA's participation, the NHL agrees to provide the NHLPA with a copy of any notes or other recording relating to the interview.
- (vi) A Player shall be afforded a right to apply for a reasonable delay of any interview in order to obtain and consult with individual counsel, and consent to such a request shall not be unreasonably withheld.

(b) **Pre-Hearing Disclosures.** Prior to the hearing, the League will provide the NHLPA and the Player with a written statement that specifies the factual allegations against the Player and an explanation of why the League considers that the alleged conduct may give rise to Commissioner Discipline for Off-Ice Conduct. The League shall disclose to the NHLPA and Player all evidence and witnesses (including a summary of their testimony) that the League will present against the Player at the hearing. The NHLPA shall disclose to the League any evidence and witnesses (including a summary of their testimony) that the NHLPA and/or Player intend to introduce at the hearing. Such disclosures shall be provided (absent extraordinary circumstances) by the NHL at least two (2) days prior to the hearing, and by the NHLPA one (1) day following the NHL's disclosures.

(c) **Timing of Hearings.** Hearings will generally be held with no less than five (5) days' notice to the Player and the NHLPA. In unusual cases, where there is a compelling need, the League may seek to hold a hearing on an expedited basis. In such cases, an expedited hearing may be scheduled with reasonable notice to the NHLPA and the Player, provided, however, that the hearing may be continued if the NHLPA and/or Player establish that the Player would be prejudiced in the absence of a continuance.

In cases where the League holds an expedited hearing, the League agrees to provide the disclosures set forth in Section 18-A.3(b) as soon as such information is available to the League and, in any event, no later than one (1) day prior to the expedited hearing. The League agrees to respond to any NHLPA information requests relating to such hearing on an expedited basis so that the Player has an opportunity to present this evidence at the hearing.

(d) **Right to a Hearing.** Except with respect to discipline imposed pursuant to the procedures set forth in 18-A.5 and except as permitted by this subsection, the Commissioner or his designee will not impose Commissioner Discipline for Off-Ice Conduct without holding a

hearing. In cases involving an expedited hearing, the Commissioner may suspend the Player pending a hearing for a period not exceeding four (4) days if the failure to do so would create a substantial risk of material harm to the legitimate interests and/or reputation of the League. Such four (4) day period may be extended by the length of any continuance granted under Section 18-A.3(c) and if the failure to do so continues to present a substantial risk of material harm to the legitimate interests and/or reputation of the League. In cases where the failure to do so would create a substantial risk of material harm to the legitimate interests and/or reputation of the League, the Commissioner may continue the suspension at the conclusion of the hearing pending a determination, to be issued no later than one (1) day following the completion of the hearing. The NHL, the affected Player's Club, the Player and the NHLPA have the right to participate in the hearing. The NHLPA and the Player have the right to present testimony, evidence and argument in the Player's defense.

(e) **Pre-Hearing Public Statements by the League.** The parties recognize that pre-hearing public statements by League officials characterizing a Player's conduct create an appearance of partiality and might impact a Player's right to a fair and impartial hearing. The League, Clubs, the NHLPA and the Player agree to limit any statement to an acknowledgement that the situation is under review and will reserve further comment until a hearing is held; provided, however, that the League, Clubs, the NHLPA and the Player may comment substantively upon any suspension issued pending an expedited hearing pursuant to subsection 18-A.3(d) but only to the extent necessary to explain the basis for the decision to suspend pending a hearing.

(f) **Prohibition on Ex Parte Contact.** Any League official who is involved with the "prosecution" of a case will not discuss the case with any League officials (including, but not limited to, the Commissioner) who are involved in deciding the case.

**18-A.4 Appeal from Commissioner Determination.** In all cases involving Commissioner Discipline for Off-Ice Conduct under this Article, the NHLPA, on a Player's behalf, may file an appeal to the Impartial Arbitrator by giving notice to the League in writing. The proceeding shall thereafter be governed by the provisions of Article 17 of this Agreement. The standard of review in cases of Commissioner Discipline for Off-Ice Conduct shall be whether the Commissioner's determination was supported by substantial evidence and was not unreasonable based on the following considerations: (i) the facts and circumstances surrounding the conduct at issue; (ii) whether the penalty was proportionate to the gravity of the offense; and (iii) the legitimate interests of both the Player and the League. Players who are disciplined by the Commissioner for Off-Ice Conduct imposed pursuant to Section 18-A.2(a) or (b) and who file an appeal shall remain suspended and/or not permitted to play pending the appeal (but in the case of a suspension, for not longer than the duration of such suspension contained in the Commissioner's determination). Players who are fined by the Commissioner pursuant to Section 18-A.2(c) and who file an appeal shall not forfeit any compensation pending the outcome of the appeal. The parties may not make public statements in respect of the matter upon the commencement of the appeal procedure before the Impartial Arbitrator (provided there will be an absolute 48-hour period following the announcement of the Commissioner's decision in which the League can release public statements to explain the basis for the decision to discipline).

**18-A.5 Criminal Investigation.** A Player subject to Commissioner Discipline for Off-Ice Conduct may seek a reasonable delay in such proceedings in order to retain and seek the advice of counsel in the event his conduct may also be subject to a criminal investigation by any governmental authority, or in the event of an ongoing civil proceeding where the Player has been named as a defendant. The League may suspend the Player pending the League's formal review and disposition of the matter where the failure to suspend the Player during this period would create a substantial risk of material harm to the legitimate interests and/or reputation of the League.

**18-A.6 Use of Fine Money and Forfeited Salary.** Any fines collected from or Paragraph 1 Salary forfeited by Players pursuant to any discipline imposed by the League pursuant to Commissioner Discipline for Off-Ice Conduct shall be deposited in the NHL Players' Emergency Assistance Fund in accordance with the procedures set out in Article 18 of this Agreement.

**EXHIBIT 1  
STANDARD PLAYER'S CONTRACT**

**IMPORTANT NOTICE TO PLAYER**

Before signing this Standard Player's Contract ("SPC") you should carefully examine it to be sure that all terms and conditions agreed upon have been incorporated herein, and if any has been omitted, you should insist upon having it inserted in the SPC before you sign.

**NATIONAL HOCKEY LEAGUE  
STANDARD PLAYER'S CONTRACT  
(2013 FORM)**

BETWEEN

Hereinafter called the "Club," a member of the National Hockey League, hereinafter called the "League"

AND

hereinafter called the "Player"

State/Province/Country

of \_\_\_\_\_ in \_\_\_\_\_ of \_\_\_\_\_

In consideration of the respective obligations herein and hereby assumed, the parties to this SPC severally agree as follows:

1. The Club hereby employs the Player as a skilled hockey Player for the term of \_\_\_\_\_ League Year(s) commencing the later of July 1, 20\_\_ or upon execution of this SPC and agrees, subject to the terms and conditions hereof, to pay the Player a salary of \_\_\_\_\_ US Dollars (\$\_\_\_\_\_).

Payment of such Paragraph 1 Salary shall be in consecutive semi-monthly installments on the 15th and 30th day of each month following the commencement of the NHL Regular Season or following the dates of reporting, whichever is later (provided that the pay period shall not close more than three (3) days prior to payroll dates); provided, however, that if the Player is not in the employ of the Club for the whole period of the Club's NHL Regular Season Games, then he shall receive only part of such Paragraph 1 Salary in the ratio of the number of days of actual employment to the number of days of the NHL Regular Season.

And it is further mutually agreed that if the SPC and rights to the services of the Player are Loaned or otherwise transferred to a club in another league, the Player shall only be paid at an annual salary rate of

\_\_\_\_\_ US Dollars in the \_\_\_\_\_ league in the \_\_\_\_\_ League Year.  
or \_\_\_\_\_ US Dollars in the \_\_\_\_\_ league in the \_\_\_\_\_ League Year.  
or \_\_\_\_\_ US Dollars in the \_\_\_\_\_ league in the \_\_\_\_\_ League Year.

2. The Player agrees to give his services and to play hockey in all NHL Games, All Star Games, International Hockey Games and Exhibition Games to the best of his ability under the direction and control of the Club in accordance with the provisions hereof.

The Player further agrees,

(a) to report to his Club's Training Camp at the time and place fixed by the Club, in good physical condition,

(b) to keep himself in good physical condition at all times during the season,

(c) to give his best services to the Club and to play hockey only for the Club unless his SPC is Assigned, Loaned or terminated by the Club,

(d) to co-operate with the Club and participate in any and all reasonable promotional activities of the Club which will in the opinion of the Club promote the welfare of the Club and to cooperate in the promotion of the League and professional hockey generally,

(e) to conduct himself on and off the rink according to the highest standards of honesty, morality, fair play and sportsmanship, and to refrain from conduct detrimental to the best interest of the Club, the League or professional hockey generally.

3. In order that the Player shall be fit and in proper condition for the performance of his duties as required by this SPC and the Agreement, the Player agrees to report for practice at such time and place as the Club may reasonably designate and participate in such Exhibition Games as may be arranged by the Club.

4. The Club may from time to time during the continuance of this SPC establish reasonable rules governing the conduct and conditioning of the Player, and such reasonable rules shall form part of this SPC and the Agreement as fully as if herein written. For violation of any such rules or for any conduct impairing the thorough and faithful discharge of the duties incumbent upon the Player, the Club may impose a reasonable fine upon the Player and deduct the amount thereof from any money due or to become due to the Player. The Club may also suspend the Player for violation of any such rules. When the Player is fined or suspended, he shall be given notice in writing stating the amount of the fine and/or the duration of the suspension and the

reason therefor. Copies of the rules referred to herein shall be filed at the main offices of the League and the National Hockey League Players' Association ("NHLPA").

5. (a) Should the Player be disabled or unable to perform his duties under this SPC he shall submit himself for medical examination and treatment by a physician selected by the Club, and such examination and treatment, when made at the request of the Club, shall be at its expense unless made necessary by some act or conduct of the Player contrary to the terms and provisions of this SPC or the rules established under Paragraph 4. At any time a physician selected by a Club makes a determination as to whether or not a Player is disabled and unable to perform his duties as a hockey Player for purposes of this Paragraph 5 of this SPC, such physician shall evidence such determination by fully completing the form attached to the CBA as Exhibit 25-A, which shall be provided to the Player at the time such determination is made and immediately provided to the Club as well. Upon receipt of such fully completed form, the Club shall send an electronic copy forthwith to the Player, his Certified Agent, the NHL, and the NHLPA (the "Recipients"), which shall contain the language from CBA Exhibit 25-A contained in the "Message to Player", provided, however, that the Club's failure to include such language shall not affect the timeframes set forth in this Paragraph 5, or otherwise prejudice the Club.

(b) If the Player, in the judgment of the Club's physician, is disabled or is not in good physical condition at the commencement of the season or at any subsequent time during the season (unless such condition is the direct result of any injury sustained during the course of his employment as a hockey Player with the Club, including travel with his team or on business requested by the Club) so as to render him unfit to play skilled hockey, then it is mutually agreed that the Club shall have the right to suspend the Player for such period of disability or unfitness, and no compensation shall be payable for that period under this SPC.

(c) If the Player is injured during the course of his employment as a hockey Player with the Club, including travel with his team or on business requested by the Club, the Club will pay the Player's reasonable hospitalization until discharged from the hospital, and his medical expenses and doctor's bills, provided that the hospital and doctor are approved by the Club. This approval will not be unreasonably withheld.

(d) It is also agreed that if the Player, in the sole judgment of the Club's physician, is disabled and unable to perform his duties as a hockey Player by reason of an injury sustained during the course of his employment as a hockey Player, including travel with his team or on business requested by the Club, he shall be entitled to receive his remaining Paragraph 1 Salary and Signing Bonuses due in accordance with the terms of this SPC for the remaining stated term of this SPC as long as the said disability and inability to perform continue but in no event beyond the expiration date of the fixed term of this SPC. In consideration of the payment of such Paragraph 1 Salary, as well as payments made by the Club to fund the Hospital, Major Medical, Visioncare and Dental Plan, career ending disability policy and serious disability policy and other consideration (including the payment of salary referenced herein, where applicable), the Player does hereby covenant that in the event he receives full payment of a claim under such career ending disability policy or serious disability policy, he personally releases and will release, and will cause his corporation if a corporate contract is involved to release, the Club, the League, the NHLPA, all other Clubs, the insurance carrier, and the servants, employees, officers and agents of each of the above from any and every additional obligation, liability, claim or

demand for any additional salary or other payments, arising out of or relating to such injury or the treatment thereof, including without limitation liability in tort, and extending to all damages, whenever arising.

(e) In the event that the Player wishes to seek a second opinion in respect of the Club Physician's determination regarding the Player's fitness or unfitness to play, the Player shall provide electronic notice to the Club (unless the Player provides notice by any other means to the General Manager, Assistant General Manager or the Head Athletic Trainer) that he is seeking a second opinion pursuant to Paragraph 5 of the SPC by no later than 5:00 pm New York time on the third day after the electronic notice referred to in Paragraph 5(a) above is sent, except that, if the notice referred to in Paragraph 5(a) above is sent after 5:00 pm New York time the Player shall have until 5:00 pm New York time on the fourth day to provide such notice. Upon receiving notice that the Player is seeking a second opinion, the Club shall promptly provide the Player its complete medical file on the Player in respect of the Player's condition that is the subject of the Club Physician's determination. The Player must obtain a second opinion within five (5) days (or later only upon showing of good cause) of the electronic notice from the Club.

(f) The physician consulted by the Player ("Player's Physician") in accordance with Paragraph 5(e) must make a determination as to whether the Player is disabled and unable to perform his duties as a hockey Player and shall evidence such determination by fully completing the form attached to the CBA as Exhibit 25-A, which shall be provided to the Player at the time of the examination, with an electronic copy sent forthwith to the Club and the Recipients. The Club Physician and the Player's Physician must consult as expeditiously as possible and, in any event, by no later than 5:00 pm New York time on the third day after the Player is sent electronic notice of the determination by the Player's Physician (referenced in this Paragraph 5(f) above) (or later only upon a showing of good cause).

(g) (i) If, after consulting as provided for in Paragraph 5(f), the Club Physician and the Player's Physician agree that the Player is either disabled and unable to perform, or not disabled and able to perform, his duties as a hockey Player, their agreed-upon determination shall be evidenced by fully completing the form attached to the CBA as Exhibit 25-B (as set forth in Paragraph 5(g)(i)(iii)). Such determination shall be conclusive, final and binding upon the Club and the Player, absent a showing of improper interference with the procedures set forth in CBA Section 17.7 and Paragraph 5 of the SPC.

(ii) If after consulting as provided for in Paragraph 5(f), the Club Physician and the Player's Physician cannot agree on whether the Player is disabled and unable to perform his duties as a hockey Player, they shall each evidence such disagreement by fully completing the form attached to the CBA as Exhibit 25-B (as set forth in Paragraph 5(g)(iii)).

(iii) Pursuant to either Paragraph 5(g)(i) or 5(g)(ii) above, the Player's Physician shall complete his/her portion of Exhibit 25-B first and then shall send such form to the Club Physician. The Club Physician shall then complete his/her portion of Exhibit 25-B and then shall send such fully completed form to the Club, the Player's Physician and the Recipients.

(iv) If the Club Physician and the Player's Physician cannot agree on whether the Player is disabled and unable to perform his duties as a hockey Player pursuant to Paragraph

5(g)(ii) above, they shall confer and agree on an independent physician to examine the Player. The independent physician must be selected as expeditiously as possible and, in any event, within the time frame referred to in Paragraph 5(f) above (or later only upon a showing of good cause). If the Player's Physician and the Club Physician are unable to select the independent physician within such period, the independent physician shall be selected jointly by a medical designee appointed by the NHL and a medical designee appointed by the NHLPA. That selection shall take place as expeditiously as possible, but not later than 5:00 pm New York time on the second day after referral to the NHL and NHLPA medical designees.

(h) Following the selection of the independent physician pursuant to Paragraph 5(g)(iv), the NHLPA (with a copy sent forthwith to the Club and the Recipients) shall provide the independent physician with a completed form set out in CBA Exhibit 25-C. The Club also shall send to the independent physician a copy of the medical file that it had forwarded to the Player pursuant to Paragraph 5(e). The Player shall direct the Player's Physician to forward to the independent physician a complete copy of his medical file in respect of the condition that is the subject of the Player's Physician's second opinion pursuant to Paragraph 5(h). The Player must submit himself to examination, and the independent physician must examine the Player, within five (5) business days of his selection (or later only upon a showing of good cause). The independent physician shall make a determination of whether the Player is disabled and unable to perform his duties as a hockey Player and evidence such determination by fully completing the form attached as Exhibit 25-A, which shall be provided to the Player at the time of the examination and an electronic copy sent forthwith to the Club and the Recipients.

(i) The independent physician's determination as to whether the Player is disabled and unable to perform his duties as a hockey Player shall be conclusive, final and binding upon the Club and the Player, absent a showing of improper interference with the procedures set forth in CBA Section 17.7 and Paragraph 5 of the SPC.

(j) If, pursuant to Paragraph 5(g) or Paragraph 5(h) a Player examined in connection with Paragraph 5(d) is declared to be unfit for play by reason of an injury sustained during the course of his employment as a hockey Player, including travel with his team or on business requested by the Club, he shall continue to receive the full benefits of this Agreement in accordance with the provisions of Paragraph 5(d). If such Player is declared to be physically able to play and refuses to do so, he shall be liable to immediate suspension without pay. For the avoidance of doubt, if the Player is deemed to have had a separation from service (as defined in Treas. Reg. section 1.409A-1(h)) and, prior to such separation, the Player has not been disabled for purposes of Section 409A(a)(2)(C) of the Internal Revenue Code, any amount payable pursuant to this Paragraph 5(j) shall be paid over the Buy-Out Period prescribed by Paragraph 13(d) (i.e., over twice the remaining term of the SPC).

(k) If either the Club or the Player fail timely to comply with any of the requirements set forth in Paragraph 5, absent a showing of good cause, then such non-complying party shall be deemed to have acceded to the other party's position in such dispute.

(l) The Club and Player shall cooperate, and shall cause their respective physicians to cooperate, for the purpose of making medical records available to any physician who examines the Player pursuant to this Paragraph 5.



(m) For purposes of clarity, the Club Physician, the Player's Physician and the independent physician shall be charged only with determining whether the Player is disabled and unable to perform his duties as a hockey Player. Any other determinations, including whether a Player's disability is a hockey related injury, shall be within the jurisdiction of the Impartial Arbitrator.

(n) In connection with a disability which is not caused by an injury sustained during the course of his employment as a hockey Player including travel with his team or on business requested by his Club, the procedures set forth in this Paragraph 5 shall also apply to the Club Physician's determination regarding the Player's physical fitness to return to play. If the Player is declared to be fit for play, by the Club Physician and the Player's Physician, or by the independent doctor, he must perform his duties hereunder and shall be entitled to receive the full benefits of this Agreement. If he is declared to be not physically able to play, he shall not be entitled to the benefits of this Agreement until he has been declared to be physically fit to play by the independent medical specialist.

(o) The reasonable costs incurred by the Player in the course of obtaining a second opinion pursuant to this Paragraph 5 shall be borne equally by the Club and the Player.

6. The Player represents and agrees that he has exceptional and unique knowledge, skill and ability as a hockey Player, the loss of which cannot be estimated with certainty and cannot be fairly or adequately compensated by damages. The Player therefore agrees that the Club shall have the right, in addition to any other rights which the Club may possess, to enjoin him by appropriate injunctive proceedings without first exhausting any other remedy which may be available to the Club, from playing hockey for any other team and/or for any breach of any of the other provisions of this SPC.

7. The Player and the Club recognize and agree that the Player's participation in other sports may impair or destroy his ability and skill as a hockey Player. Accordingly the Player agrees that he will not during the period of this SPC or during any period when he is obligated under this SPC to enter into a further SPC with the Club engage or participate in football, baseball, softball, hockey, lacrosse, boxing, wrestling or other athletic sport without the written consent of the Club, which consent will not be unreasonably withheld.

8. (a) The Club recognizes that the Player owns exclusive rights to his individual personality, including his likeness. The Player recognizes that the Club owns exclusive rights to its name, emblems and uniform, which the Player wears as a hockey Player for the Club.

The Player hereby irrevocably grants to the Club during the period of this SPC and during any period when he is obligated under this SPC to enter into a further SPC with the Club the right to permit or authorize any firm, person or corporation to take and make use of any still photographs, motion pictures or electronic (including television) images of himself in uniform and agrees that thereafter all rights in such photographs, pictures and images (including the right to identify him by name) shall belong to the Club exclusively for the purposes of telecasts, film or video documentaries or features, advertisements and promotions of the Club's games, use by the media for reportorial purposes, game programs, yearbooks, magazines and the like, and purposes in which the focus is on the Club or game and not the individual Player.

The Club hereby irrevocably grants to the Player during the period of this SPC and thereafter the right to use the name of the Club (but not the emblem or uniform unless otherwise agreed) to identify himself, truthfully, as a Player of the Club, past or present.

All obligations and rights set forth in this Paragraph 8(a) shall be subject to modification from time to time by the provisions of the CBA.

(b) The Player further agrees that during the period of this SPC and during any period when he is obligated under this SPC to enter into a further SPC with the Club, he will not make public appearances, participate in radio or television programs, or permit his picture to be taken, or write or sponsor newspaper or magazine articles, or sponsor commercial products without the written consent of the Club which consent shall not be unreasonably withheld.

9. It is mutually agreed that the Club will not pay, and the Player will not accept from any person, any bonus or anything of value for winning or otherwise attempting to affect the outcome of any particular game or series of games except as authorized by the League By-Laws.

10. The Player agrees he will not tamper with or enter into negotiations with any Player under SPC or reservation to any Club of the League for or regarding such Player's current or future services, without the written consent of the Club with which such Player is connected under penalty of a fine to be imposed by the Commissioner of the League.

11. It is mutually agreed that the Club shall have the right to Assign or to Loan this SPC, and the Player agrees to accept and be bound by such Assignment or Loan, and will faithfully perform and carry out this SPC with the same purpose and effect as if it had been entered into by the Player and such other club.

It is further mutually agreed that in the event that this SPC is Assigned, or the Player's services are Loaned, to another club, the club shall by notice in writing delivered to the Player advise the Player of the name and address of the club to which he has been Assigned or Loaned, and specify the time and place of reporting. If the Player fails to report to such other club, he may be suspended by such other club and no Paragraph 1 Salary shall be payable to him during the period of such suspension.

12. **Default.** If a Club defaults in the payment of any compensation to the Player provided for in his SPC or fails to perform any other obligation under his SPC, the Player may, by notice in writing to the Club and to the League and the NHLPA, specify the nature of any and all defaults and thereafter:

(a) If the Club fails to remedy the default within fourteen (14) days from receipt of such notice, except as hereinafter provided in Paragraphs 12(b), (c) and (d), the SPC shall be terminated, and, upon the date of such termination, all obligations of both parties shall cease, except the obligation of the Club to pay the Player's compensation to that date, provided, however, that;

(b) the Player hereby irrevocably offers the League an option to cure said default within the seven (7) days next succeeding the fourteen (14) days within which the Club may cure

the default upon the condition that, in the event the League may accept this offer, the League would then guarantee payment of that portion of the Player's compensation, as set forth in the Player's SPC, as may become due for a period of twenty-one (21) days from receipt by the League of any notice of default. The League may accept this offer by notification to the Player and the NHLPA in writing of such acceptance and of its guarantee of said twenty-one (21) day compensation period as soon as possible following receipt of notice of default from Player but in no event later than fourteen (14) days following receipt of such notice. This offer will be deemed rejected if not accepted as set forth above;

(c) said option may be assigned by the League to any other Club and, upon such assignment, the assignee Club shall inure to all of the rights of and assume all obligations of the League under this Paragraph 12;

(d) the Player further agrees that, if the League has given due notice as set forth in Paragraph 12(b), he will continue to perform all of his obligations under his SPC for the full twenty-one (21) day period and, in the event the Club does not cure the default within the fourteen (14) day period, as set forth in subsection (a), the League, or any Club to which its option has been assigned, may cure the default within the seven (7) days following the first fourteen (14) days next succeeding receipt of notice of default; and

(e) the Club agrees if it does not cure the default within the fourteen (14) day period, as set forth in Paragraph 12(a) above, and the League, or an assignee Club, cures said default in accordance with Paragraph 12(b), (c) and (d) then, in such event, all rights and obligations of the Club under this SPC shall be transferred to the League, or such assignee Club, provided, however, that no obligation with respect to a default or defaults claimed to exist at the time of notice of default, as provided above, but not specifically included and set forth in said notice shall be assumed by the League or such assignee Club and the League or such assignee Club shall have no liability with respect thereto.

(f) The Club and/or the League may dispute the Player's assertion of a default through an expedited arbitration proceeding in which case the Arbitrator shall be directed both to hear and decide such case within fourteen (14) days of receipt of notice from the Player pursuant to this Paragraph 12 absent a showing of good cause by the League and/or the Club as to why it requires additional time in order to adequately investigate and try such case. In such event, it is nonetheless the intention of the parties that the case be heard and decided as expeditiously as possible. During the pendency of the Grievance concerning the existence of a default, the Player's SPC shall remain in full force and effect.

13. The Club, in addition to other rights hereunder, at its option, by written notice delivered to the Player in accordance with Exhibit 3, may terminate this SPC on the following conditions:

(a) The Club shall offer the Player on Unconditional Waivers, either before or promptly after the notice of intention to exercise the Ordinary Course Buy-Out option (herein called "notice of termination") is given.

(b) Termination pursuant to this Paragraph shall be effective upon receipt by the Player of the notice of termination and the Player clearing Unconditional Waivers pursuant to Paragraph 13(a) above.

(c) The notice of termination shall be effective if given in the form attached as CBA Exhibit 20, with a copy to the NHLPA and Central Registry as follows:

(i) beginning the later of June 15 or forty-eight (48) hours after the conclusion of the Stanley Cup Finals and ending at 5:00 p.m. New York time on June 30; and

(ii) For Clubs who have Club or Player elected Salary Arbitration filings pursuant to Article 12, within the forty-eight (48) hour period beginning on the third day following the later of: (i) the Club's receipt of its last salary arbitration award; or (ii) settlement of its last case (provided such award was received or such settlement occurred prior to 7:00 p.m. New York time; awards or settlements that occurred or were received at or after 7:00 p.m. New York time will be deemed to have occurred or received the following business day for purposes of this provision).

(d) If the Club elects to terminate this SPC pursuant to this Paragraph 13, it shall be obligated to pay to the Player, in equal semi-monthly installments, to be paid in accordance with the payroll payment schedule applicable to the Club's Active Roster, over twice the remaining term of the SPC (the "Buy-Out Period"):

(i) if the Player is under 26 years of age at the time the termination is effective, an amount equal to 1/3 of, or

(ii) if the Player is 26 years of age or older at the time the termination is effective, an amount equal to 2/3 of the total fixed amount of the Player's Paragraph 1 NHL Salary, for the unexpired fixed-term of this SPC, reduced by any advance payment of Paragraph 1 Salary received by the Player prior to the date the termination is effective.

(e) Upon termination, the Player shall immediately be an Unrestricted Free Agent and shall no longer be obligated to perform under this SPC.

(f) Waiver claim of Player by another Club shall pre-empt and relinquish Club's Buy-Out obligation, due to failure to clear Waivers.

(g) Clubs shall file their Buy-Out agreements, the form of which is attached hereto as Exhibit 21, with Central Registry and the NHLPA within 24 hours of such agreements becoming effective.

14. The Club may also terminate this SPC upon written notice to the Player (but only after obtaining Waivers from all other Clubs) if the Player shall at any time:

(a) fail, refuse, or neglect to obey the Club's rules governing training and conduct of Players, if such failure, refusal or neglect should constitute a material breach of this SPC.

(b) fail, refuse or neglect to render his services hereunder or in any other manner materially breach this SPC.

In the event of termination under Paragraph 14(a) or (b) the Player shall only be entitled to compensation due to him to the earlier of the date such notice is personally delivered to him or the date such notice is e-mailed to him.

In the event this SPC is terminated by the Club while the Player is "away" with the Club for the purpose of playing games the installment then falling due shall be paid on the first week-day after the return "home" of the Club.

15. The Player further agrees that the Club may carry out and put into effect any order or ruling of the League or its Commissioner for his suspension or expulsion and that in the event of suspension his Paragraph 1 Salary shall cease for the duration thereof and that in the event of expulsion this SPC shall terminate forthwith.

16. Except as otherwise provided in CBA Article 18, the Player agrees that, in the event of his suspension without pay pursuant to any of the provisions of this SPC, there shall be deducted from the Paragraph 1 Salary an amount equal to the exact proportion of such salary as the number of days' suspension bears to the total number of days of the Regular Season Games.

17. If because of any condition arising from a state of war or other cause beyond the control of the League or of the Club, it shall be deemed advisable by the League or the Club to suspend or cease or reduce operations, then:

(a) in the event of suspension of operations, the Player shall be entitled only to the proportion of Paragraph 1 Salary due at the date of suspension,

(b) in the event of cessation of operations, the Paragraph 1 Salary shall be automatically canceled on the date of cessation, and

(c) in the event of reduction of operations, the Paragraph 1 Salary shall be replaced by that mutually agreed upon between the Club and the Player, or, in the absence of mutual agreement, by that determined by neutral arbitration.

18. The Club and the Player severally and mutually promise and agree to be legally bound by the League Rules that affect any terms or conditions of employment of any Player and by any collective bargaining agreement that has been or may be entered into between the member Clubs of the League and the NHLPA, and by all of the terms and provisions thereof. This SPC is entered into subject to the CBA between the NHL and the NHLPA and any provisions of this SPC inconsistent with such CBA are superseded by the provisions of the CBA.

The Club and the Player further agree that in case of dispute between them, except as to the compensation to be paid to the Player on a new SPC, the dispute shall be referred within one year from the date it arose to the Commissioner of the League, as an arbitrator and his decision shall be accepted as final by both parties, unless, and to extent that, other arbitration procedures

are provided in any collective bargaining agreement between the member Clubs of the League and the NHLPA to cover such dispute.

The Club and the Player further agree that all fines imposed upon the Player under the Playing Rules, or under the provisions of the League By-Laws, shall be deducted from the Paragraph 1 Salary of the Player and be remitted by the Club to the NHL Players' Emergency Assistance Fund.

19. The Club and the Player represent and warrant that there are no undisclosed agreements of any kind, express or implied, oral or written and that there are no promises, undertakings, representations, commitments, inducements, assurances of intent, supplements or understandings of any kind between the Player or his Certified Agent and the Club that have not been disclosed to the NHL, with regard to: (i) any consideration of any kind to be paid, furnished or made available during the term of the SPC or thereafter; and/or (ii) any future renegotiation, extension, amendment or termination of this SPC.

20. Capitalized terms shall have the meaning set forth in the CBA, to the extent not otherwise defined in this SPC.

21. Unless otherwise specified, the service of all notices pursuant to the provisions of the SPC shall be effected in accordance with Exhibit 3 of the CBA.

22. The parties agree that the rights provided herein and in the CBA and in any addendum hereto and the promise of the Player to play hockey only with the Club, or such other club as provided in Paragraphs 2, 11 and 12, and the Club's right to take pictures of and to televise the Player as provided in Paragraph 8 of this SPC have all been taken into consideration in determining the Paragraph 1 Salary payable to the Player.

23. It is severally and mutually agreed that this SPC and the CBA contain the entire agreement between the parties and there are no oral or written inducements, promises or agreements except as provided herein.

**In Witness Whereof**, the parties have signed this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_\_.

Witnesses:

_____	_____
_____	Club
_____	_____
_____	Address of Club
_____	_____
_____	President
_____	_____
_____	Player
_____	_____
_____	Home Address of Player

I hereby certify that I have, at this date, received, examined and noted of record the within SPC, and that it is in regular form.

Dated \_\_\_\_\_, 20 \_\_\_\_\_  
for the National Hockey League

Les parties ont par les présentes exprimé leur volonté expresse que ce contrat soit rédigé en anglais.

The parties hereby state their expressed wish that this SPC be drafted in the English language.

# ***CONSTITUTION***

## **ARTICLE VI**

### **COMMISSIONER**

*6.1 Office of Commissioner, Election and Term of Office.* The League shall employ a Commissioner selected by the Board of Governors. The Commissioner shall serve as the Chief Executive Officer of the League and shall be charged with protecting the integrity of the game of professional hockey and preserving public confidence in the League. The Board of Governors shall determine the term of office and compensation of the Commissioner. The Commissioner shall be elected by a majority of the Governors present and voting at a League meeting at which a quorum was present when it was convened.

*6.2 Qualifications.* The Commissioner shall be a person of unquestioned integrity and shall have no financial interest, direct or indirect, in any professional sport. The Governors shall determine the other qualifications for the office of Commissioner.

*6.3 Power and Duties.*

- (a) *General.* Subject to the authority of the Board of Governors provided for in the Constitution and By-Laws and other governing documents of the League, the Commissioner shall have the responsibility for the general supervision and direction of all business and affairs of the League and shall have all such other powers as may be necessary or appropriate to fulfill his responsibilities. The Commissioner shall be responsible for the coordination and general supervision of policy matters that relate to property rights of the Member Clubs or that are other than in the normal course of operations of the League. The Commissioner's powers and duties shall include, but shall not be limited to, the powers specified in the Constitution and By-Laws and other governing documents, the powers exercised by, and duties assigned to, the League President prior to 1993, and all such other powers and duties as may be granted or assigned to the Commissioner by the Board of Governors. The Commissioner shall serve as the principal public spokesman for the League.
- (b) *Dispute Resolution.* The Commissioner shall have full and exclusive jurisdiction and authority to arbitrate and resolve:
  - (1) any dispute that involves two or more Member Clubs of the League or two or more holders of an ownership interest in a Member Club of the League;
  - (2) any dispute between or among players, coaches, or other employees of any Member Club or Clubs of the League (unless such dispute is unrelated to and outside the course and scope of the employment of the disputants);
  - (3) any dispute between any player or other employee designated by the Member Club and any Member Club or Clubs;
  - (4) any dispute between a player and any official of the League; and
  - (5) any dispute involving a Member Club or Clubs, or any players or employees of the League or any Member Club or Clubs, or any combination thereof, that in the opinion of the Commissioner is detrimental to the best interests of the League or professional hockey or involves or affects League policy.



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In any case involving the deprivation of a Member Club's material property rights (other than rights to or interest in a player or other employee), an aggrieved Member Club may appeal the Commissioner's determination to the Board of Governors. The decision of the Commissioner shall be upheld unless three-fourths of the Governors shall vote to reverse it.

Except in such circumstances, the authority of the Commissioner to arbitrate disputes pursuant to this provision shall be binding to the same extent as if the parties had entered into a formal arbitration agreement and the decision of the Commissioner shall be final and binding on all parties and shall not be subject to any review. The Commissioner may elect not to arbitrate a dispute in any circumstances that he determines appropriate.

- (c) *Committees.* The Commissioner from time to time may establish committees with such powers and duties as the Commissioner determines. The Commissioner shall appoint the members of each such committee and fix their terms of office. The Commissioner shall serve as an ex officio member of all League committees and may serve as chairman of any committee in his discretion. The Commissioner may at any time dissolve any committee.

Notwithstanding the preceding paragraph, the Commissioner shall name an Executive Committee, consisting of between eight and twelve members of the Board of Governors, including the Chairman of the Governors. The Executive Committee shall confer, either formally or informally, in advance of each meeting of the Board of Governors and at such other times as the Commissioner may designate. In addition, the Commissioner shall name up to six members of the Executive Committee to serve as a Finance/Audit Committee.

Nothing in this section is intended to abrogate the powers of the Board of Governors.

- (d) *Interpretation of League Rules.* The Commissioner shall have the authority to interpret, and from time to time establish policies and procedures regarding, the provisions of the Constitution, the By-Laws, and League rules and resolutions, and their application and enforcement. Any determination made by the Commissioner with respect to any such matter shall be final and binding and shall not be subject to any review.
- (e) *Appointment of Staff.* The Commissioner may, subject to the previously-approved budget, appoint such other officers or assistants as he, in his sole discretion, determines necessary or appropriate, and shall determine the duties, compensation, and term of office of such officers or assistants. He may recommend to the Board of Governors persons to fill the positions of President, Treasurer, and Secretary. In connection with their services to the League, officers and other employees of the League shall be entitled to indemnification to the same extent as if the League were a corporation incorporated in the state of New York.
- (f) *Financial Matters.* The Commissioner may, subject to the previously-approved budget, incur on behalf of the League any expense that he determines, in his sole discretion, necessary or appropriate to conduct the business and affairs of the League, including, but not limited to, the leasing of office space and the hiring of employees, legal counsel and other professional assistance. The Commissioner may also establish and maintain bank accounts and credit facilities on behalf of the League and approve the payment of all proper charges. The Commissioner may withhold revenues due to a Member Club (including revenues collected by the League as agent for that Member Club) that has failed to discharge its financial obligations to the League or to another Member Club.
- (g) *Contracting Authority.* The Commissioner may arrange for and negotiate on behalf of the League contracts with other persons, firms, leagues, or associations; provided,

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however, that unless otherwise specifically authorized herein or in the By-Laws or by resolution, no contract involving a material commitment, including but not limited to collective bargaining agreements, television contracts and expenditures not in the budget which are individually in excess of \$100,000 or in the aggregate in excess of \$500,000 per year, unless such expenditures are approved by the Finance Committee, by the League or its Members shall be binding unless approved by the Board of Governors. No employment contract of a League office employee with a duration of more than two years will be effective without approval of the Board of Governors.

- (h) *Scheduling.* In each year, the Commissioner shall prepare and forward to the Member Clubs a proposed schedule of games for the upcoming season. Governors may forward comments on the proposed schedule to the Commissioner within ten days of its receipt. The Commissioner shall consider such comments and shall then issue the final schedule. Such schedule shall constitute the official League schedule and shall not require any consent or approval by the Member Clubs. In preparing the schedule, the Commissioner may require Member Clubs to furnish any information necessary to the preparation of the schedule. In addition, he shall solicit advice from the Clubs concerning special circumstances and shall take such circumstances into account to the extent he deems appropriate and in the best interests of the League. The Commissioner may change the date, time or playing site of any scheduled games if he determines that such a change would be in the best interest of the League or the teams involved.
- (i) *Officials.* The Commissioner shall be responsible for selecting and approving all game officials for all League games.
- (j) *Disciplinary Powers.*
  - (1) Whenever the Commissioner shall determine, based upon such information and reports as he may deem sufficient, that any person connected with the League or a Member Club has either violated the Constitution, the By-Laws, or any other governing rule or regulation of the League, or has been or is guilty of conduct (whether during or outside the playing season) detrimental to the League or the game of hockey, he shall have full and complete authority to discipline such person in any or all of the following respects:
    - (a) by expelling or suspending the person for a definite or indefinite period;
    - (b) by cancelling any contract or agreement that the person has with the League or with any Member Club;
    - (c) by imposing a fine on the person not exceeding One Million dollars (\$1,000,000) or such greater amount as may be prescribed by any League rule or By-Law; or
    - (d) if the conduct in question affects the competitive aspects of the game, by awarding or transferring players and/or draft choices and/or depriving the offending Member Club of draft choices.
  - (2) For purposes of this Section (j), the word "person" shall include a Member Club and any officer, stockholder or partner of a Member

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Club, or anyone else holding an interest in any Member Club, and any player, coach, or other employee, officer, or director of the League or of any Member Club.

- (3) In all cases involving player discipline and/or the integrity of the game of hockey and public confidence in the League, the Commissioner's determinations under this Section (j), shall be final and not subject to any review. In all other cases, the Commissioner's determinations under this Section (j), shall similarly be final, except that where the infraction would result in (a) expulsion from the League or a suspension of more than two years, or (b) imposition of a penalty provided for in subsection 1(d), of this Section (j), an aggrieved party may appeal the Commissioner's determination to the full Board of Governors. The procedures set forth in Section 32.2 of the By-Laws shall govern any such appeal, but the Commissioner's determination may only be reversed by a vote of three-fourths of the Governors.

*6.4 Indemnification.* The Commissioner shall not be liable or accountable in damages or otherwise to the League or any Member Club for any loss or damage incurred by reason of any act or omission performed or omitted by the Commissioner in good faith either on behalf of the League or in furtherance of its interests, provided the Commissioner was not guilty of fraud or bad faith with respect to such act or omission.

If, as a result of or in connection with service to the League, the Commissioner becomes involved in any manner, or is threatened with involvement in any manner, in any threatened, pending or completed claim, action, suit or proceeding (collectively, a "Proceeding"), whether civil, criminal or investigative, the League shall indemnify and hold harmless the Commissioner against all expenses (including reasonable attorneys fees) incurred by him, and all judgments, fines and settlement amounts payable by him, in connection with the Proceeding. The right to indemnification shall include the right to receive payment, prior to final disposition of the Proceeding, of any attorneys fees and other expenses incurred in connection with the Proceeding. The Commissioner shall not be entitled to indemnification, however, with respect to (a) any Proceeding arising from his own wilful acts or omissions that are fraudulent or in bad faith, as determined by a final and nonappealable judgment, decision or order of a court of competent jurisdiction, or (b) the amount of any settlement entered into without the approval of the Board of Governors.

## **BY-LAWS**

### **SECTION 17**

#### **FINES, SUSPENSIONS AND EXPULSIONS**

17.1. A player suspended or expelled by any organization or body, amateur or professional, shall at the request of that organization and with the approval of the Commissioner, be deemed to be suspended by the League until such suspension has been lifted or such expulsion has been revoked by the body imposing the same, or until the Commissioner declares that such suspension or expulsion will not be observed by the League.

17.2. Any player or person connected with a Member Club who undertakes to contribute in any way, or does intentionally contribute in any way to the losing or attempting to lose a game of hockey by the team of that Member Club, or who solicits or attempts to induce any player or person connected with a Member Club to lose or contribute to losing any hockey game in which that player is or may be in any way concerned, or, upon being solicited to so contribute fails to inform the Commissioner immediately, shall, in the discretion and by the ruling of the Commissioner, be expelled.

17.3. (a) If, in the opinion of the Commissioner, based upon such information and reports as he may deem sufficient, any act or the conduct of an official of a Member Club or player or employee, whether during or outside the playing season, has been dishonorable, prejudicial to or against the welfare of the League or the game of hockey, he may expel or suspend such person or impose on such a person and/or Member Club a fine not exceeding One Million Dollars (\$1,000,000) in the case of a Member Club or an official or employee of a Member Club, or Fifty Thousand Dollars (\$50,000) in the case of a player or he may order and impose both a suspension and a fine. Should a fine not be paid within ten days of imposition the Commissioner, in addition, may order a suspension. The Commissioner, with such limitation as he deems appropriate, may delegate and authorize an officer of the National Hockey League to perform the functions and exercise the disciplinary powers vested in the Commissioner under this By-Law for incidents arising under the playing rules and relating to the discipline of players and team officials. Except for suspension orders issued for deliberate injury of an opponent or abuse of an official, or issued between the end of the regular season schedule and the end of the playoffs, all suspensions ordered pursuant to this section shall take effect on the seventh day following the date of the order, unless the suspended party waives his right to appeal pursuant to Section 17.11(c).

*[NOTE: A Player betting or being interested in any pool or wager on the outcome of any National Hockey League Championship or Playoff game, whether or not the player has any connection with such game; or a physical attack or other violence upon a League Official (The Commissioner, President, Vice President, Secretary, Treasurer and any referee, linesman, scorer, timekeeper, penalty timekeeper or goal judge) will be deemed to come under this Section. These instances are only given as examples and are not to be regarded as the only acts or conduct subjecting the offender to the above penalties.]*

In the event of any verbal or physical attack upon the Commissioner, the Advisory Committee of the Board of Governors may, on referral from the Commissioner, exercise the powers of the Commissioner as set forth in

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this subsection. In the event of any other situation in which the Commissioner, in his judgment, believes it would be inappropriate for him personally to take action, he may delegate to the Advisory Committee of the Board of Governors his powers as set forth in this subsection, which Committee shall be authorized to exercise such powers.

- (b) In addition to the penalties and discretion provided for in the NHL Constitution and By-Laws, the Commissioner may (in his sole and absolute discretion) impose a fine not to exceed One Million Dollars (\$1,000,000) upon any Member Club if the Commissioner determines (based upon such information and reports as he in his sole discretion may deem sufficient) that a Member Club has taken some act or failed to act in such a manner as to willfully breach the Collective Bargaining Agreement, the NHL Rules, the By-Laws, the NHL Constitution and/or any resolution of the Board of Governors. Such fine would be placed in the general funds of the League.
- (c) Notwithstanding anything contained herein to the contrary, regardless of any fine or other penalty, each Member Club hereby agrees to protect, indemnify and hold harmless its officers and employees, the NHL and each and every Member Club thereof as against any costs, expenses, lawyer's fees, claims, actions or causes of action and/or any loss or liability arising out of or connected with any act or omission of such Member Club which causes a willful breach of the Collective Bargaining Agreement, of the Constitution, By-Laws or Rules of the NHL, or of any resolution of the Board of Governors.

17.4. (a) Any official, player or employee of a Member Club who gives, makes, issues, authorizes or endorses any statement having or designed to have, in the opinion of the Commissioner, an effect prejudicial to the welfare of the League or the game of hockey or of a Member Club; or who makes any public statement that is critical of the League Officiating Staff shall be liable to a fine not exceeding Ten Thousand Dollars (\$10,000) in the case of officers and employees of Member Clubs, and One Thousand Dollars (\$1,000) in the case of players, to be imposed by the Commissioner. In addition to or in lieu of the above, in the case of officers and employees, the Commissioner in his discretion may also impose a fine upon the Member Club whose officer or employee violates this By-Law. Said fine shall not exceed Ten Thousand Dollars (\$10,000).

(b) No Governor, Alternate Governor or any non-playing employee of a Member Club shall make any public statement that in any manner states, implies or suggests that (1) any member of the officiating staff has performed in an unacceptable manner or (2) the officiating in the League is less than acceptable. Violation of this Section 17.4(b) shall result in the following automatic penalties in addition to the penalties set forth in Section 17.4(a):

- (i) individual who makes such a statement — fine of \$1,000, and
- (ii) his employing club — a fine of \$5,000.

## **BY-LAWS**

Anyone who violates this Section 17.4(b) more than once shall also be subject to additional fines and/or suspensions under By-Law 17.

This Section 17.4(b) shall not apply to a person who is employed by a Member Club as a broadcaster and who is functioning as such at the time of making any such statements.

*[NOTE: This Section 17.4(b) shall be liberally interpreted, it being the intent of the Board to eliminate all public criticism of officials and officiating by any employee of a Member Club.]*

- (c) The Commissioner, with such limitation as he deems appropriate, may delegate and authorize an officer of the National Hockey League to perform the functions and exercise the disciplinary powers vested in the Commissioner under this By-Law.

17.5. A player under contract, agreement or reservation by a Member Club who, without the written permission of such club, plays with a Club of any other league or organization may be suspended or expelled at the discretion and by the ruling of the Commissioner.

17.6. A player refusing to sign a Standard Player's Contract containing the terms awarded by an arbitrator, duly appointed by representatives of the player and of the Club, may be suspended by the Club by notification thereof to the Commissioner and upon proof of delivery to the player of a true copy of the arbitration award. During the period of any such suspension, the Club shall retain all rights to the playing services of the player and incident thereto granted under said contract.

17.7. A player who has signed an agreement or contract with a Member Club and who refuses to fulfill or carry out its provisions may be suspended by the Member Club by notification thereof to the Commissioner.

17.8. A player suspended by a Member Club may apply to the Commissioner to review such suspension. The Commissioner, after obtaining such information as he deems sufficient, may confirm or revoke the suspension or reduce the period thereof.

17.9. A player suspended shall not play or participate in any game of hockey during the period of his suspension. An official or employee suspended shall not exercise any duty or function for his Member Club or for any club of a league affiliated with the League during the period of his suspension.

17.10. A player or person expelled shall be permanently debarred from any connection whatsoever with any club of the League, or any club of any league affiliated with the League, or any organizations with which the League has an agreement respecting rights to services of players.

- 17.11. (a) In the case of a suspension or expulsion, or a fine in excess of Two Hundred Dollars (\$200) ordered by the Commissioner, there shall be a right of appeal to the Board of Governors upon written request filed with the Commissioner within ten days from the date of the order of suspension, expulsion or fine. The appeal shall be heard at the next regularly scheduled meeting of the Board of Governors. The Governors not directly affected by the order shall review the evidence by which the Commissioner arrived at his decision to determine whether in their opinion the Commissioner reasonably exercised the powers vested in him by the

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Constitution and By-Laws, and shall confirm, amend or quash the order made, and confirm or mitigate the penalty imposed. The decision of the Governors shall be final and conclusive. However, when such suspension, expulsion or fine is ordered for betting on a championship or play off game no such right of appeal or review will be available.

- (b) In the appeal of a suspension order, should any appellant desire an expedited hearing prior to the next regularly scheduled meeting of the Board of Governors, he may elect same by so notifying the Commissioner in writing within 24 hours after receipt of the notice of suspension. The Commissioner shall then fix the time and place of the expedited hearing of the appeal, which time, to the extent practical, shall be within five days of the Commissioner's receipt of notice of such election. In the event of such election and in the event there is no change in the decision appealed from, the Club which appealed (or whose employee has appealed), shall be obligated, through assessment to be imposed by the League, to reimburse the League and each Member Club for all expenses incurred in attending and holding such expedited hearing, including but not limited to the cost of travel, meals and lodging of the attendees. The Board of Governors shall have the power to remit all or part of such assessment.
- (c) The waiting period for commencement of a suspension shall not apply if the suspended party notifies the League office within 24 hours of the issuance of his suspension that he waives his right to appeal.
- (d) A suspension issued pursuant to Playing Rule 67(a) shall be subject to the same right of appeal under this Section 17.11 as applies to suspension ordered by the Commissioner. For the purpose of such appeal, the third sentence of Section 17.11(a) shall read "The Governors not directly affected by the order shall review the evidence by which the referee arrived at his decision, plus all available game tapes, to determine whether in their opinion the referee reasonably exercised the powers vested in him by Playing Rule 67(a), and shall confirm, amend or quash the order made, and confirm or mitigate the penalty imposed."

17.12. The Commissioner may fine any Member Club whose team becomes involved in a multi-player altercation that takes place before or after any period. The fine for the first offense shall be up to \$10,000. The fine for each subsequent offense shall be up to \$50,000.

17.13. A printed copy of this Section shall be kept posted in each player's dressing room.

- 17.14. (a) In all cases where a player or other employee has been suspended without pay, the Club by whom such player or other employee is employed shall be fined an amount equal to the pro-rata portion of that player's or other employee's salary covered by the suspension. The Club shall not pay to the player or other employee the portion of his salary covered by the suspension.
- (b) In the event a Club, whose player or other employee has been ordered suspended without pay, pays the player or other employee his salary for the days of his suspension in defiance of the suspension-without-pay order,

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the Commissioner shall be authorized to impose a fine up to Five Hundred Thousand Dollars (\$500,000) upon such Club.

- (c) The Commissioner shall have the power to direct that an audit be made of a Club's records to insure there has been compliance with this By-Law Section.
- 17.15. (a) No Club may enter into a written agreement with any player, or any player's corporation, or any representative of a player or his corporation, which contains any provision which repeals, amends or contradicts the approved Standard Form player's contract entered into by the Club and such player, or repeals, amends or contradicts any provision of the Collective Bargaining Agreement.
- (b) All written agreements, other than Standard Form contracts and addenda attached thereto, entered into by a Club with any player, or any player's corporation, or any representative of a player or his corporation, shall contain a provision making such agreement subject to the League's certification that it is in compliance with this By-Law, and rendering it void in the absence of such certification.
  - (c) All such written agreements entered into by a Club with any player, or any player's corporation, or any representative of a player or his corporation, shall within one week of their execution, be submitted by the Club to the League's Central Registry for certification pursuant to paragraph (b) above.
  - (d) The Commissioner may, in his sole and absolute discretion, impose a fine not exceeding One Hundred Thousand (\$100,000) Dollars upon any Club for each violation to this By-Law.
  - (e) This By-Law shall have no application to written agreements entered into prior to December 7, 1989, provided the Club has not, on or after December 7, 1989, entered into a new player's contract or an extension of an existing player's contract with the affected player.
  - (f) All written employment agreements between a Member Club and any non-playing employee who is employed in the capacity of General Manager, Coach, Supervisor of Scouting, Scout or any other employee, including "assistants" to any of the above, whose primary function relates to scouting, drafting, procurement or coaching of playing personnel, shall contain a provision whereby the employee expressly agrees to be bound by the Constitution, By-Laws, Resolutions and all other orders or rules of the National Hockey League.

17.16. The Commissioner is authorized to impose a fine up to One Hundred Fifty Thousand (\$150,000) Dollars upon a Club for the making, by any owner, officer, employee or representative thereof, of public comments regarding expansion that the Commissioner deems to be detrimental to the League.

17.17. The Commissioner is authorized to impose a fine up to Two Hundred Fifty Thousand (\$250,000) Dollars upon a Club for the making of any public disclosure or comment by the Club, or any owner, officer, employee or representative thereof, with respect to any matter, issue, position or



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discussion in any NHL Governors or Committee Meeting or otherwise pertaining to the Collective Bargaining Agreement or pending or future collective bargaining negotiations or actions or responses with respect thereto.