

# Opinion

From the World Sailing Ethics Officer

On the Complaint to the World Sailing Ethics Commission of 22/04/2020

Submitted by Mr Gary Jobson and Mr Scott Perry against Mr Kim Andersen

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1. On 22/04/2020, Mr Gary Jobson (GJ) and Mr Scott Perry (SP), vice-presidents of World Sailing (WS), submitted a Complaint<sup>(1)</sup> against Mr Kim Andersen (KA), WS president, to the WS Ethics Commission. On 30/04/2020, the Ethics Commission appointed Mr Josep M Pla (JMP) as ethics officer (EO) to, among other duties listed in WS Regulation 36.5, investigate the Complaint and make a decision pursuant to WR Regulation 36.10.

2. Following the investigation of the matters brought to the attention of the Ethics Commission by the Complaint, having received KA's Response<sup>(2)</sup> to the Complaint, having interviewed the parties to the Complaint and other people involved, and having analysed the information collected, the EO hereby presents his Opinion, consisting of the facts he has gathered, the grounds for a decision, and his decision.

## Facts

3. On 18/02/2020, Mr Tom Ehman (TE) aired the Sailing Illustrated show number 265 on his Facebook channel<sup>(3)</sup>. In it, at about minute 5:25, he mentioned Mr Scott MacLeod as being the commercial director for New York Yacht Club's American Magic. Later, at about 47:20, he declared: *"We can tell you that not only are they [World Sailing] underwater, but they were as of last—we know reliably, from members of the executive committee, more than one, are telling us that they were underwater last August, this is before the Bermuda meeting, by 3 million dollars. They had to borrow money from the World Sailing Trust. They actually borrowed money from a bank, using the World Sailing Trust, which is a separate charitable fund, as collateral."* From his mention of Scott MacLeod he mentioned no further "Scott" until about minute 49:16, when he mentioned a "Scott" without family name, saying: *"Do not count your chickens, as Scott and many others will tell us, or tell us over and over and over, in this sport, especially in this sport like sailing [...] you don't have it [the money] until the checks are not even in the bank, until the money is in the bank."* At about 51:28 he mentioned GJ, saying: *"I know behind the scenes Gary Jobson—who is an American, he is a vice-president—he was very helpful in getting rid of the non-sailing CEO. There I said it, and I know he was. And I think he also agrees with a lot of what I am saying here but he will never say it publicly because World Sailing, like US Sailing, which I criticize—the policy of US Sailing—for having secrecy."* TE made no further mention of GJ, SP, or "Scott".

4. On 26/02/2020, KA sent an email<sup>(4)</sup> to the other eight members of the WS Board. In it he included a link to TE's 18/02/2020 show and stated: *"It has come to my attention that there is fake news actively being spread online that directly affect members of our board. You might have already seen this, but Sailing Illustrated recently aired a show where the host Tom Ehman not only*

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<sup>1</sup> The Complaint is enclosed in *Annex 1*.

<sup>2</sup> The Response is enclosed in *Annex 2*.

<sup>3</sup> Online media publications cited (with references, content, and transcription and translation of relevant parts if applicable) are enclosed in *Annex 4*. Time indications may not match other transcriptions: some shows are published on different platforms, apparently with different times.

<sup>4</sup> Emails mentioned are reproduced in full in *Annex 3*. Excerpts cited in the text are *verbatim*.

*misinformed about the finances of our organization and various other items, but also specifically mentioned two of our VPs by name as his source for getting this fake information: Scott Perry and Gary Jobson. To slander and to connect two of our board members to Sailing Illustrated is unacceptable, I am sure that you agree with me that something must be done about this. I suggest that we include this as a point on our meeting agenda for this weekend and discuss how we handle this going forward."*

5. Mr Yann Rocherieux (YR), WS Athlete Commission chairman and a Board member, reacted that same evening: *"Yes to be discussed... To save some of you a bit of time, Gary you are mention at least once at 53min. Sorry Scott I can't handle Tom Ehman and his show more longer, I may have miss your name before or you are coming after in the show !"*

6. GJ answered later that day: *"I can assure you that I have not spoken to Tom Ehman, or be involved in his internet program."*

7. Early the next day, on 27/02/2020, KA sent all Board members an email with an indication of times when TE allegedly mentions, among other items, "WS", "Scott", and "Gary" in his show.

8. On 28/02/2020, the Board met in London. Towards the end of the meeting KA introduced the matter he announced in his 26/02/2020 email and, after the WS staff members left, a brief discussion followed at a so-called "board-only" meeting. President KA, Vice Presidents Jan Dawson (JD), Torben Grael (TG), GJ, SP, Ana Sánchez del Campo Ferrer (AS), and Nadine Stegenwalner (NS), together with Board member YR, were in attendance. Vice President Quanghai Li (QL) was not present. Apart from KA, two Board members had listened, partially, to the show. After a short discussion, and although not in the meeting minutes, the Board made the decision that SP & GJ send a letter to TE, as parties affected by TE's alleged mentions. GJ made it clear that before sending a letter he wanted to listen to the show and, if needed, quote any inaccuracy.

9. Before the Board meeting resumed the next morning, on 29/02/2020, KA sent the other Board members an email with a draft letter addressed to TE and an indication: *"I would propose to Scott and Gary to adjust and amend the letter to their liking, but as agreed the letter should make it clear to Tom Ehman the he is not correct when using the names of World Sailings board members as proof for misinformation. Please let the board know when the letters are send in order for the board to be on the same page."*

10. At about noon that day, SP sent an email to KA and GJ without any comments, enclosing a redraft of KA's draft letter. In the redraft SP changed some words, pruned a paragraph, and changed from "I" to "we", leaving the redrafted letter as follows:

*"Dear Mr. Ehman,*

*On February 18th, a Sailing Illustrated's TFE Live show was aired on Facebook. The show raised several issues regarding World Sailing including misleading and inaccurate information about the working of our organisation, the finances of our organisation and the World Sailing Trust.*

*In the show, you specifically mentioned us as the source of this misleading and inaccurate information. We unequivocally deny these allegations and quite honestly find your actions and attacks against us and World Sailing to be completely unjustified.*

*We ask that you immediately retract your statements, especially your claim that we are the source of your misinformation.*

*Regards,*

*Gary Jobson/Scott Perry*

Vice-President  
World Sailing”

11. On the morning of Sunday 01/03/2020, KA sent Ms Rowena Farrugia (RF), WS Business Operations Manager, and Mr Daniel Smith (DS), WS Director of Communications and Digital, an email enclosing SP’s redraft, not his own first draft, and giving instructions to RF: *“Attached please find a letter to Tom Ehman. Could you please update the content as amended and send it to Tom on behalf of Gary and Scott.”*

12. The following Monday morning, on 02/03/2020, RF added GJ’s and SP’s scanned signatures stored in the WS office server to SP’s redraft and sent it to TE attached to an email from the WS Executive Office address, blind-copying KA and DS.

13. Later that day, TE forwarded GJ the email with the letter he had received from the WS office and GJ forwarded it to SP with a comment: *“Disgraceful.”*

14. The next day, on 03/03/2020, SP sent KA, copying the other Board members, an email asserting: *“I have never spoken to, written to or communicated in any way with Mr. Ehman;”* complaining that the letter had been sent *“without Gary’s or, for that matter, my consent;”* stating: *“I have now listened to Mr. Ehman’s program and it is very apparent that I am NOT the ‘Scott’ he mentioned. [...] It is patently obvious that you made a mistake. Unfortunately your mistake is causing me considerable embarrassment;”* and announcing: *“I will today send a letter to Mr. Ehman apologising for the joint letter which was sent without Gary’s permission or mine as I was awaiting Gary’s comments. I will further explain that I agreed to send the letter at your urging because you misunderstood the ‘Scott’ he was speaking about.”*

15. KA answered the same day copying the whole Board that *“I was asking you and Gary to send the letter! For you to ask me or WS to send the letter and then not even having listen to the issued when forwarded to you before the board meeting must be your own responsibility. I have not been informed about any information for the letter not to be send. I your letter it says ‘Amended draft letter to Tom Ehman’, –no more no less! Scott, I am not following Sailing Illustrated, but was given the feed from well-meaning MNA’s for whom it was not apparent that the Scott mentioned was not a board member.”*

16. SP replied some time later: *“You instructed Rowena to send a letter under Gary’s and my electronic signatures without waiting for Gary opinion which he clearly stated at the Board meeting that he would only give AFTER listening to Tom Ehman’s program. To now try to somehow blame me for sending a letter which was not authorised is simply ridiculous. [...] The question is did Gary and I agree that the letter be sent – the answer is we clearly DID NOT !!!!! I am sending an apology to Tom Ehman today.”*

17. KA replied: *“I have never received any information not to send the letter, –if, –why would I ask it to be send! Yes I forwarded your letter to Rowena to be send! I was clearly leaving the content up to you and Gary and you came back with an amended letter saying WE instead of I as in the draft forwarded to you. I your letter it says ‘Amended draft letter to Tom Ehman’, – no more no less! Not that it should not be send or I have made the amendments without listening to the Show. How should I now that you would send an amended letter without having heard the feed??”*

18. A few minutes later SP sent TE an email, copying GJ, stating:

*“Dear Mr. Tom Ehman,  
I owe you an apology.*

*At the recently convened meeting of the Board of Directors of World Sailing the President, Kim Andersen, informed the Board that you, in your 18th February 2020 program, mentioned*

*Gary Jobson and myself as the source of information about World Sailing's financial difficulties. The President further urged Gary and myself to write a letter to you seeking an apology for having mentioned us as the source of the financial information.*

*During the meeting the President sent both of us a letter which he drafted. I made some corrections to the letter and asked Gary for his comments. Gary very wisely stated at the Board meeting that he would only agree to send a letter after he had listened to your 18th February program.*

*In any event the letter was sent to you yesterday with both Gary's and my electronic signatures without either of our permissions.*

*I have now listened to your 18th February program which, by the way, I found very interesting. It is patently obvious that the 'Scott' you mention in the program is Scott Macleod not Scott Perry.*

*Please accept my apology for this sad confusion.*

*Yours Sincerely,*

*W Scott Perry*

*Director*

*World Sailing"*

19. TE answered later: *"Thanks, Mr. Perry. Much appreciated. I shall await a letter of apology from Mr Andersen."* A teaser for his next show was posted on Facebook: *"TUESDAY'S TFE LIVE... You won't believe the latest from the World Sailing clown show led by the beleaguered and befuddled President, Kim Andersen [...]. At least Vice President Gary Jobson [...] is not one of the Bozos. I'll fill you in on tomorrow's show [...]. Edit: Mr Scott Perry [...] is also not a Bozo. Good man, like Gary Jobson. You'll learn why on Tuesday's TFE LIVE."*

20. The same day, GJ sent the Board an email with an enclosed document where he offered his summary of what had happened: *"During our Executive Session at the Board meeting in London, Kim Andersen pointed out that there were some inaccurate comments expressed by Sailing Illustrated's host, Tom Ehman, attributed to me and Scott Perry. A draft letter was presented to us asking Tom Ehman for an apology. I stated that I would have to hear what was said on the program before I sent a letter to Mr. Ehman and that I would use the transcription to refute any inaccurate information. I have now listened to the program that mentions me. Tom Ehman is the narrator and here is the transcript from his program: [...]. This is the only reference about me that I found in the 1 hour and 42 minute program. Scott Perry is not mentioned anywhere in the program. There is a reference to Scott MacLeod, who is a marketing manager for the New York Yacht Club's America's Cup challenger, 'American Magic.' I see no reason to demand an apology."* He then commented on TE's assertions in the show: *"While I have never been on the Sailing Illustrated program, nor have I discussed World Sailing with Tom Ehman, he is correct that I was one of the advocates of dismissing Andy Hunt. It is unclear where he learned this fact, but it is accurate. As far as 'agreeing' with Tom Ehman, I take some exceptions to his comments, but overall he is not far off the mark when he speaks about the difficulty of marketing the sport of sailing during this time period. He is quite critical of World Sailing and our finances, but then so are we. It doesn't seem like he has accurate information on our actual financial position. I am not the correct Board member to refute Ehman's statements on our finances. Someone closer to our financial situation would be more appropriate to address this."* He ended the document by stating: *"To my great horror, I learned yesterday that a letter was sent to Tom Ehman with my signature demanding an apology. I did not write this letter. I did not approve this letter. And, I did not sign this letter. You*

*will recall during our discussion about this matter at the Board meeting I said, that I needed to hear the program before I would make any comments. This is a serious breach of trust.”*

21. A few minutes later, KA replied to GJ, copying the whole Board: *“I have already answered the proceedings from my side, –receiving the letter amended by Scott stating WE instead of I, one would assume that you and Scott had coordinated your feedback. As already said I would never asked the office to send the letter had I had any knowledge of you and Scott would not have the letter send!”*

22. That same day, TE aired the Sailing Illustrated show number 269 on his Facebook channel making display of what had happened. At about minute 7:53 he announced: *“What is this WS madness that has been going on in the past couple of days? Or in the past three years. Here’s the deal. This is the WS Board of Directors. The WS Board of Directors met in London on Friday and Saturday, I think it was, late last week. [...] The most incredible thing happened in the last 24 or 30 hours. [...]”* At about 10:05 he explained: *“At this executive board meeting the other day, the Board was told by Mr Andersen—and we can now tell you, this is, we’ve discovered what is the real problem in WS—the Board was told by Mr Andersen something that was completely false and the Board just sort of went along with it.”* He displayed the email from the WS Office and commented: *“And on Monday I got an email saying ‘Please find attached letter from World—‘form’, look at, look at this, who writes this stuff? This is our World governing body and their office in the WS Executive Office—‘Please find attached a letter form—meaning ‘from’—WS vice-president.’ Well, from two WS vice-presidents. Because Mr Andersen told the Board that he was tired of this two particular vice-presidents telling me stuff—which wasn’t true—and that I had said on the show of February 18th that the two of them were telling me stuff—which of course was also not true—.”* He then displayed the letter sent with the email and said: *“So here’s the letter that came attached to that email [...] from Gary Jobson and Scott Perry. Now look at those signatures. They produced the letter at the Board meeting and asked people to sign it but it doesn’t take a rocket scientist to figure out that those are probably cut and paste or—you know—signatures. Right? Well they weren’t. As it turns out, they were cut and paste, rather.”* He displayed an excerpt of the letter and read: *“And here’s what the letter said. [Mr Ehman reads the letter. He stresses ‘misleading and inaccurate information’ and laughs. He continues reading.] ‘In the show you specifically mentioned us’—meaning Jobson and Perry, Scott Perry—‘as the source [...] and quite honestly find’—‘quite honestly’ [Mr Ehman snorts], who writes this stuff? —‘find your actions [...] your claim [Mr Ehman stresses ‘claim’] that we are the source of your misinformation.’ Well, guess what? I never claimed that. I never mentioned—I have never talked to Scott Perry, I don’t know the gentleman, I’ve not even had a communication with him, until today. He sent me a very nice email. Gary I’ve known all my adult life, in fact, since we raced against each other as college sailors. And I texted Gary yesterday. I said ‘Hey, have you seen this letter? Did you sign this letter?’ He called me up. I won’t discuss the details, but in effect he confirmed that no, he had not seen the letter, he had not authorised the letter to be sent, he had not signed the letter. Julia? Somebody cut and paste the signature under the letter. Now—and Gary is a real gentleman—I had said in that show nice things about Gary, saying—you know—he’s worked behind the scenes to get rid of Mr Hunt—which everybody knows, he’s told that any number of people—and I commended Gary any number of times for having worked to help get rid of Mr Hunt.”* He continued: *“Scott Perry, as I said, I’ve never mentioned his name. I did in that show, after talking about Scott MacLeod, who is the esteemed commercial director for the New York Yacht Club American Magic and star of the World Match Racing Tour and on and on and on, I’ve known forever. I did mention Scott in the context of WS’s ridiculous sponsorship policies of trying to have sponsors, trying to go out and sell sponsorships, and I said—well, Scott says—after we talked about MacLeod, Scott MacLeod: ‘don’t count your chickens before they hatch. It’s one thing to have a memorandum of agreement, don’t*

count that as a sponsorship deal. Until you have a contract, until signed, until you have the check in the mail don't count on a sponsorship deal.' Well, of course, what happened is that WS is gone off as everybody knows and they're 2.2 million dollars in the hole right now—I'm reliably informed—headed for 3 million dollars in the hole by the end of this year relying on future television revenues from the Olympics which may or may not happen. In any event, I was not talking about Scott Perry. I have never talked to Scott Perry. As far as I know he is a very bright, successful guy, living in Uruguay. American. Because I just wouldn't quote him and I haven't quoted him." He displayed the email sent by SP and said: "So today, and I did not even send him an email yesterday. I've had no contact until today when this email arrived. [Mr Ehman reads the email] 'WS financial difficulties' He is confirming; everybody knows about great financial difficulties. [He continues reading the email] From Mr Scott Perry who is on the Board, as a director. So kudos to both of them, to Scott and Gary, for telling the truth and doing the right thing. And I can tell you that Mr Kim Andersen, 'Chaotic Kim Andersen', obviously is telling his Board one thing—and I don't even, I wonder [...] if Kim Andersen even looked at the thing, the show, or one of his staffers said 'oh, you should have heard Ehman and he named Jobson and Scott Perry as his sources.' Excuse me, this guy is an idiot. And I've said all along he's had a heart of gold and he must be a nice guy, he's busting his [noise covers the word] for the sport. But I've changed my mind now. When you go and put people signatures on a letter and send it to somebody you don't know what the hell you're talking about and worse than that the assertions in the letter are completely and utterly false. This guy, am sorry to say, is just an idiot." He posted a picture of KA and commented: "He is 'Chaotic Kim Andersen' if ever there was one, he has five-ring fever, he wants to be on the Olympic Commission and he's never gonna get there. Because one hears he's held in very low esteem in the IOC because, again, he's telling people one thing and it turns out not to be true. [...]" At about 19:39 he concluded: "So this is absolutely idiotic. This guy, as we've been saying, has to go. The election is in November [...]. We are trying to do the right thing for the sport and have sane leadership that tells the Council, does not tell stories, fibs, lies, to their Board and to the Council. I mean, I don't know how else to put it. It's just astonishing that this guy would do that and then attach, have the staff, presumably he didn't do it himself, and have the staff then put signatures on a letter and send it to me. [...]"

23. The next day, on 04/03/2020, GJ sent SP an email stating: "I am done with Kim Andersen. No integrity. From me he will only hear silence."

24. Later, SP answered GJ "I can possibly understand how Kim might have misunderstood my sending him and you the corrected/amended Tom Ehman draft letter as my consent for it to be subsequently sent to Tom. But there is absolutely no way Kim could have misunderstood your very clear message that the letter was not to be sent until after you heard the Tom Ehman program !!!!"

25. That day in SailingAnarchy.com, a website, a post signed Peter Huston stated: "just die already. World Sailing President Kim 'Kaos' Anderson forged the signature of World Sailing Directors Gary Jobson and Scott Perry in a letter to Tom Ehman. How Anderson has not resigned yet is beyond my comprehension and shows how utterly dysfunctional, if not corrupt, World Sailing is."

26. The same day in FareVela.net, an Italian language website, an article signed Michele Tognozzi began with: "[Google translation] Governance World Sailing: what are you sailing at the Tom Ehman Show, sailing at a crossroads? San Francisco, USA - An episode of fire last night at the TFE Live of Sailing Illustrated, the biweekly show produced by Tom Ehman that analyzes and comments on international sailing. The subject of the first part of the episode, visible below, was the crisis of the Governance of World Sailing led by the Danish Kim Andersen. In particular, a false step by the president was highlighted, which would have induced two members of the Board, the American Gary Jobson and the Uruguayan Scott Perry, to distance themselves from the statements on the WS financial crisis, transmitted in the episode of February 18 last of the same show by Tom Ehman, of which they were believed to be the source of Andersen. Unless then discover, in a letter signed

*(visible below) by Scott Perry himself in Ehman, that the two board members mentioned were not the source of these statements and that Andersen would have intentionally forced their hand. [...]"*

27. The next day, on 05/03/2020, GJ sent Mr Jon Napier, formerly WS Director of Legal Affairs and Governance, and Ms Kendall Harris, WS Director of Legal and Governance, an email with the document sent to the Board the previous day and commented: *"I believe you both were in the room when the Sailing Illustrated issue came up. You will recall that I was very clear that I needed to hear what was said on the program before I could react to the comments. I also stated that I would include the transcript in the letter to reference any inaccurate statement. After listening to the program, I was only mentioned once in a kind of incoherent rant. But, the reference to me was accurate. Goodness knows how Tom Ehman gets his information? I did not feel I should demand an apology. As I mentioned in my letter to the Board, a letter was sent out with my signature that I did not write, I did not approve and I did not sign. In fact, it is not my actual signature. For the record, Tom Ehman did call me after receiving the letter (which I was not copied on). He was polite. I told him that I was not the author, nor did I authorize the letter. He accepted that explanation. I do not know who wrote the letter but Kim Andersen had Rowena send it out. Rowena, of course, was simply doing what she was told to do, so I have no problem at all with her. But, I consider this action to be a serious offense. I do not plan any further action. I am forwarding this to you for your files, in case, anything like this comes up again."*

28. That day in Sailweb.co.uk, a website, an article signed Gerald New asserted: *"World Sailing – Another foot in mouth incident. A row has broken out between World Sailing and Sailing Illustrated, the American on-line sailing news show. World Sailing (WS) President Kim Andersen accused Sailing Illustrated presenter Tom Ehman of publishing false statements about the WS financial position, on the 18 February show. Andersen apparently informed the World Sailing board that Ehman had mentioned WS Vice-Presidents, Gary Jobson and Scott Perry, as the source of the information indicating that WS had financial problems. Andersen then drafted a letter which he urged Gary Jobson and Scott Perry to sign. This they refused to do, as they wanted to review the programme content first. But... the letter was sent to Ehman with Jobson and Scott Perry's electronic signatures attached, without their permission. Scott Perry then followed that letter with his own letter to Tom Ehman, 'apologising for the sad confusion' in the unapproved letter, and accepting that the Scott mentioned on the programme was Scott Macleod and not himself, Scott Perry. Tom Ehman denies discussing the WS financial situation with either Gary Jobson or Scott Perry. This seems to be another 'foot in mouth' incident for the beleaguered President of World Sailing, who is facing an election at the end of his four-year term at the General Assembly, in October 2020. Kim Andersen's position is surely untenable if this latest unnecessary action is confirmed and he should stand down immediately. It really is time for World Sailing to get its act together, and the sooner the better. Sailing, the sailors and the many hard working WS members deserve better than this."*

29. On 06/03/2020, Mr Vittorio d'Albertas posted a video with Mr Pietro Pinucci on his Youtube channel where he echoed Mr Michele Tognozzi's article and reported on TE's 03/03/2020 show.

30. On 07/03/2020, KA sent all other Board members an email:

*"There has been a lot of back and forth stemming from Sailing Illustrated that is causing confusion in our board and now in our sport.*

*As mentioned last week, I received inputs from members of the sailing community that Sailing Illustrated were referencing two of our board members as sources that were giving information about World Sailing. I later heard the session myself and came to the same conclusion, believing that this media were misinformed and wrongly using members of our board.*

*In order to protect these individuals, the board and World Sailing I wrote to you before the board meeting about this topic so that we could discuss it together. (See attached letter 1)*

*As discussed in the board meeting when we addressed this point, we agreed to draft and send a letter stating that Scott and Gary were not the source claimed in this media and did not appreciate the attack on WS and them. We agreed that I would draft the letter and forward it to the board, then upon receiving feedback on the letter it would then be sent.*

*The draft was done and sent to you all that same evening. (See attached letter 4)*

*The next day, during the board meeting, I received an amended letter from Scott with no further instructions (attachment 2, see attached Word document – the amended letter). There were no additional amendments or feedback from the board, therefore after the board meeting the amended letter was forwarded to the WS office for release (attachment 3).*

*I did what we agreed and I did it to protect our board members and World Sailing.*

*I hope this clarifies the situation, and that we can continue working together to deliver good work for our sport.”*

31. SP answered half an hour later, copying the whole Board: *“Sorry your email does not clarify why you sent the letter despite the fact that Gary Jobson clearly stated at the Board meeting that the letter was not to be sent BEFORE he had a chance to listen to Tom Ehman’s program. As the letter went out under 2 signatures, Gary’s and mine, you should have waited for Gary’s input. I was waiting for Gary’s input and was shocked to learn that it was sent without Gary’s permission, or mine for that matter.”*

32. Later in the day, GJ sent an answer to KA and later copied SP: *“I do not know why you sent a letter to Tom Ehman with my signature. I was very clear that I was not sending any communication until I had a chance to review the comments on Sailing Illustrated. Whoever told you about me and Scott Perry did you a terrible disservice. It is extremely upsetting that you sent a letter on my behalf without my permission. After reviewing the Sailing Illustrated program, I found there wasn’t much there regarding me and nothing at all regarding Scott Perry. Your only honorable option is to issue an apology to me, Scott Perry and Tom Ehman. I suggest you send this in the next few days. Kim, have the courage to do the correct thing.”*

33. On 11/03/2020, MS Kendall Harris answered GJ’s email from 05/03/2020: *“I note you do not want to take any further action but from a practical perspective, I will ask that the electronic signature we have on file is deleted, and remind all staff that electronic signatures should not be applied to documents without the written consent of the person involved so we avoid anything similar happening again.”*

34. On 16/03/2020, GJ and SP notified the Ethics Commission of their intention to file a complaint.

35. On 28/03/2020, two articles signed Mikkel Thommessen were published on seilmagasinet.no, a Norwegian language website: *“Påstand om false underskrifter [Allegations of false signatures]”* and *“Klossete håndtert, sier Andersen [Clumsily handled, says Andersen].”* The first article cited GJ as saying that *“he and Scott [Perry] have now announced that the case will be brought to the WS Ethics Commission”* and included a phone interview with GJ where the signatures were mentioned, replayed on 07/04/2020 by TE in his Sailing Illustrated show number 282.

36. Further media mentions of the situation described above appeared later. Among others:

- on 30/03/2020, in an article signed Morten Brandt on baadmagasinet.dk, a website in Danish language: *“Brænder platformen under Kim Andersen? [Does the platform burn*



*under Kim Andersen?],” where GJ and SP are both credited with saying they intended to take the matter to the WS Ethics Committee in a few weeks;*

- on 09/04/2020, in an article signed Richard Gladwell on sail-world.com, a website: *“World Sailing’s financial challenges become ‘more acute’ – Board member”*;
- on 10/04/2020, on scuttlebutteurope.com, a website, reposting the 05/03/2020 article *“World Sailing – Another foot in mouth incident”* from Sailweb.co.uk;
- on 17/04/2020, in an article signed Søren Øverup on baadmagasinet.dk: *“World Sailing: Kampvalget er en realitet [World Sailing: The battle choice is a reality]”*;
- on 03/05/2020, in an article signed Øyvind Bordal1 on baadmagasinet.dk: *“World Sailing: Presset øges mod præsident Kim Andersen [World Sailing: Pressure is increasing against President Kim Andersen]”*;
- on 11/06/2020, in an article signed Mikkel Thommessen on seilmagasinet.no: *“Åpenhjertig Jobson [Honest Jobson]”*;
- on 22/06/2020 in an article signed Mikkel Thommessen on seilmagasinet.no: *“IOC bekrefter støtte til seilsporten [The IOC confirms support for sailing].”*

37. On 22/04/2020, GJ and SP filed a Complaint against KA before the WS Ethics Commission.

38. On 30/04/2020, the WS Ethics Commission appointed JMP as EO, pursuant to WS Regulation 36.5; explained that the EO’s mission is governed by the WS Code of Ethics, WS Regulation 36 (as *lex specialis* to Regulation 35), and the Ethics Commission Rules of Procedure; and reminded the Parties that *“that the entire Investigation shall be kept confidential according to Art. 1.7 of the Code of Ethics and Art. 11 of the Ethics Commission Rules of Procedure.”*

39. On 02/05/2020, the EO sent an email to KA informing him of his nomination and asking for all emails and documents relating to the matter of the Complaint be sent to him and offering the possibility to send comments in writing.

40. From 04/05/2020 to 18/05/2020, KA and his legal counsel sought to stay the procedure and to remove JMP as EO. On 14/05/2020, KA’s legal counsel wrote to the Ethics Commission, among other considerations:

*“Whilst our client is prepared to exhaust all administrative remedies, he expressly reserves his right to ultimately have matters determined by the Courts of England and Wales by application of English law if he considers that the procedures followed in this important issue are flawed. Sports ethics and disciplinary issues form the foundations of good governance of sport and cannot be dealt with in a vacuum, without due regard to the principles of natural justice. [...]”*

41. On 19/05/2020, the Ethics Commission communicated its decision not to hear the appeal and therefore confirmed the nomination of the EO.

42. Meanwhile, on 07/05/2020, the EO interviewed RF <sup>(5)</sup>, who was accompanied by Mr Alastair Fox, WS Director of Events. Among other things, she stated that she was not aware of any rules or protocols applying to the use of Board members’ signatures.

43. On 11/05/2020, the EO interviewed DS.

44. On 18/05/2020, KA’s legal counsel submitted his Response to the Complaint.

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<sup>5</sup> Interviews are available to the parties to the Complaint and will thereafter be retained by World Sailing for a minimum of 3 years in a secure place in compliance with Regulation 36.6.c.

45. On 21/05/2020, the EO interviewed KA, who was accompanied by his legal counsel. KA explained he listened twice to TE's show: once, before sending his 26/02/2020 email to the other Board members (see 4), and a second time, to record the times when TE allegedly mentioned different items, times he reported to the other Board members in his 27/02/2020 email (see 7).
46. On 22/05/2020, the EO separately interviewed SP and GJ. GJ mentioned the signature used under his name on the letter sent to TE had been forged. Although not in the Complaint, the EO undertook to investigate the allegation.
47. On 27/05/2020, the EO interviewed AS.
48. On 29/05/2020, the EO interviewed NS.
49. On 02/06/2020, the EO and RF exchanged emails regarding the signatures used on the letter sent to TE.
50. On 02/06/2020, the EO interviewed YR.
51. On 03/06/2020, the EO received an email from QL stating that he did not attend the Board meeting of 28/02/2020. The EO conducted no interview with QL.
52. On 05/06/2020, the EO received an email from Mr Jon Napier.
53. On 06/06/2020, the EO interviewed JD.
54. On 08/06/2020, the EO received an email from JD and another from Ms Kendall Harris.
55. On 10/06/2020, the EO and GJ exchanged emails regarding GJ's signature. It surfaced that a few years ago GJ had given his consent to his name being applied to a document he needed to sign and this "signature" had been scanned and kept, and then used in the letter sent to TE. GJ was satisfied with the clarification.
56. On 12/06/2020, the EO interviewed TG.
57. From the interviews it appeared that all Board members interviewed thought that KA did not doubt GJ's and SP's loyalty and that he did not intend to hurt them (GJ or SP); all but GJ thought this episode had not affected the way the Board worked.
58. On 31/07/2020 the EO produced and sent his Opinion to KA, GJ, SP, and the Ethics Commission.

## Grounds for a decision

### KA

59. After listening twice to TE's show (see 45), KA was mistaken to believe TE had mentioned GJ and SP as his sources. TE mentioned GJ in passing and *not* as his source, and he never mentioned SP (see 3). How KA could listen *twice* to the show and fail to grasp what TE actually said remains unexplained.
60. The allegation that TE had mentioned GJ and SP as his sources, reportedly from unidentified "well-meaning MNA's" referred to by KA (see 15), was false. Therefore, the informants were wrong or not well-meaning and KA was ill-advised to act as he did when prompted by them.
61. KA should not have spread misinformation among the WS Board about the false allegation that TE had mentioned GJ and SP as his sources (see 4). He should have avoided replicating the alleged TE's behaviour he was complaining about.
62. Arguably, pushing for action against journalists is at best useless and at worst reckless, even when they are wrong. It tends to be interpreted as a show of weakness and embattlement and gives them material and recognition. Above all, they will always have the last word. When they are

not wrong, it usually ends in PR disaster. KA should not have pushed for (see 9), nor instructed any letter be sent to TE (see 11) complaining about mentions he had not made and asking him to retract statements he had not issued.

63. KA should not have ordered the staff to send a letter on behalf of two other Board members before receiving their formal approval, especially when the Board's decision was for GJ and SP to send a letter *and* GJ had asked to listen to TE's show before any letter was sent (see 8 and 9). Although KA might interpret SP's redraft (see 10) as SP's go-ahead, he could not interpret the absence of feedback from GJ as a go-ahead.

64. KA gave the order to send the letter to TE on a Sunday morning (see 11), after the Saturday Board meeting, when the staff was not available yet. He need not have rushed; he should have waited that GJ and SP send a letter, as agreed by the Board and acknowledged by himself (see 8 and 9), or, if he thought action was needed promptly, he should have prodded them.

65. As the originator of the whole episode (see 4), KA should not have kept his stance, repeatedly refused to accept his own mistakes, failed to acknowledge them, rejected all responsibility, and escalated an argument with SP and GJ (see 15, 17, 21, and 30). He should have apologised to them right away and settled the argument by direct and open personal interaction instead of sending defensive emails unsuccessfully.

66. KA's statement "*I did what we agreed and I did it to protect our board members and World Sailing*" (see 30) appears void: ordering a letter be sent on GJ's and SP's behalf was not what the Board agreed (see 8) and KA's actions did not protect WS or its Board members.

67. KA was ill-advised to threaten "*to ultimately have matters determined by the Courts of England and Wales by application of English law*" (see 40). In doing so he explicitly refused to be bound by the Constitution, the Regulations, and the institutions stemming from them if their application could be contrary to his personal interest. He also undermined their authority and effectiveness as the common rules for all WS Parties and weakened the presidential stance. Making this statement did not enhance his rights as a citizen and was rather a show of distrust and disrespect towards the institutions he presides over and has the obligation to uphold. He should have refrained.

## GJ

68. GJ, having announced from the onset he had not talked to TE (see 6), was right to insist on waiting and listening to TE's show before any letter was sent to TE, especially as *he* was asked to send a letter (see 8 and 9). Furthermore, he was prudent in doing so and not acting on *prima facie* allegations.

69. GJ deserved an apology from KA for putting him at the forefront of a mistaken, public action stemming from KA's mistakes, urge to act, failure to respect GJ's demand to verify before acting, and disregard for GJ's right to control what was written in his name.

70. GJ should not have escalated the argument with KA (see 20 and 32). They should have settled it by direct and open personal interaction instead of exchanging emails unsuccessfully.

71. GJ should not have announced publicly he and SP would bring a Complaint before the WS Ethics Commission (see 35 and 36). He should have refrained.

## SP

72. SP acted as if KA's assertions concerning TE's alleged mentions were correct and hence contributed to the response decided by the Board by redrafting KA's draft (see 10). SP made an understandable error of judgement in trusting KA's assertions. As he was allegedly mentioned in

TE's show, he would have been sensible to verify it before acting and not to rely on GJ's announced verification.

73. If he did not mean the letter could directly be sent on his behalf as he had redrafted it, SP was ill-advised to send back a redraft without any comment (see 10). He should have made his intentions clear, although GJ did, to no avail.

74. When he realised KA was mistaken, SP should not have rushed and sent TE an apology (see 18) about a letter he had not sent himself, but had implicitly approved by redrafting it and sending it back without any comment. Furthermore, he was ill-advised to send the apology he sent because it added to the confusion, exposed dissent among Board members, and closed the way to other actions the Board could consider. He should have refrained and considered common action within the Board.

75. SP deserved an apology from KA for putting him at the forefront of a mistaken, public action stemming from KA's mistakes and urge to act.

76. SP should not have escalated the argument with KA (see 14, 16, and 31). They should have settled it by direct and open personal interaction instead of exchanging emails unsuccessfully.

## WS Board

77. Apart from KA, the majority of Board members did not seem to care much about TE's alleged assertions, as shown by the fact that only two of them had listened to the show, and only partially, before the 28/02/2020 Board meeting (see 8). In doing so, the Board made, of necessity, a decision 'in principle'—and based on unverified assertions—that a letter be sent, and did not correct KA's mistake.

## Staff

78. KA did not order the staff to copy any signature to the letter sent to TE (see 11); he asked the letter to be sent on GJ's and SP's behalf as if they had agreed to it. The staff member involved dutifully followed the president's instruction unaware of the background and of any rule or procedure governing the use of Board member's signatures (see 42), added the scanned signatures available on the office server, and sent the letter to TE (see 12).

79. WS as an organisation failed in not having rules or procedures, or not making them known by the staff (see 42), about the safekeeping and correct use of Board member's signatures. So-called electronic—in fact, scanned—signatures should not be applied to documents without the written or otherwise verifiable and storable consent of the person involved, on a per document basis. The existence and application of such rules or procedures are within the responsibility of the CEO, with the director of legal affairs being involved in drafting and updating them. The lack of CEO at the time of the facts is not a valid reason for WS not to have such rules or procedures: they should have been in place as soon as scanned signatures began to be used.

80. The lack of such rules or procedures, intended for the staff, cannot constitute an excuse to Board members' actions or nonactions mentioned above.

81. About three months after the WS Director of Legal and Governance wrote to GJ: *"from a practical perspective, I will ask that the electronic signature we have on file is deleted, and remind all staff that electronic signatures should not be applied to documents without the written consent of the person involved"* (see 33), the file with GJ's signature was still on WS servers and nobody interviewed by the EO was aware of any such instruction.

82. It is unclear whether errors listed above could have been avoided had a CEO been in place. The lack of CEO cannot constitute an excuse to Board members' actions or nonactions mentioned above.

## Decision

83. According to Rule 1.1.a of the WS Code of Ethics (the Code), the president and Board members "*shall be bound by, respect and comply with*" the Code as WS Parties. Furthermore, according to Rule 1.1.c, "*any other regulations or provisions regarding ethics and conduct in respect of World Sailing Parties continue in force provided they do not conflict with the [provisions of the Code].*"

84. The following Rules have a direct connection with the case at hand:

*Rule 1.2.a: "Safeguarding the dignity of the individual is a fundamental requirement of World Sailing."*

*Rule 1.3.e: "World Sailing Parties shall use due care and diligence in performing any function for World Sailing. They must not act in a manner that will or is likely to tarnish the reputation of World Sailing."*

*Rule 1.8.a: "World Sailing Parties shall ensure that the principles and rules of the Code of Ethics are always applied."*

85. Therefore, the questions the EO endeavours to answer to form his opinion are:

*1. Did actions referred to in the Facts section affect the dignity of individuals?*

*2. Were functions for WS performed without due care and diligence?*

*3. Did actions referred to in the Facts section tarnish the reputation of WS?*

*4. Did WS Parties fail to ensure the principles and rules of the Code of Ethics were applied?*

86. The TE show was a minor point brought to the Board's table, discussed briefly out of the "official" Board meeting, by a president weary of being constantly under attack and who mistakenly thought he had caught the attacker on the wrong tack. The matter did not raise particular interest from other Board members, most of whom did not listen to the show before the meeting. However, it would be inappropriate to charge those who did not listen beforehand with lack of due care and diligence: most of them were traveling to London from far-away places when they were sent notice and the three Board members who *had* listened beforehand failed either to understand what TE really said or to bring it to the Board table. GJ actually applied due care and diligence, and prudence, when he insisted on listening to the show before any letter was sent to TE, especially as the board decided *he* (and SP) had to send it. Together with the other Board members present but GJ, SP trusted KA's assertions; he contributed to carry out the Board's decision by later sending back a redraft of KA's draft letter, a logical action as he (SP) was expected to send it too.

87. KA rushed a flawed matter based on a false premise. He ordered a letter be sent that had not been approved by one of its signatories, without their explicit consent (in fact, with the *explicit* lack of consent of GJ and only the assumed implicit consent of SP) and without their knowledge. In doing so he disregarded GJ's explicit request for time to check the alleged information and for control over the content of a communication *he* was meant to sign. He also exposed both GJ and SP to public embarrassment: the assertions in the letter were incorrect and therefore their demand for redress absurd, and the letter was sent to a media outlet overtly critical of KA and WS that used it to continue discrediting them, with good reason this time. In so doing, KA disregarded

GJ's and SP's dignity, failed to apply sufficient due care and diligence in performing his presidential duties, and brought disrepute towards himself and towards WS.

88. When confronted with these facts, KA repeatedly failed to recognise his mistakes, escalated an email-based conflict with GJ and SP, blamed them—especially SP—for his own unwarranted actions, and arrogantly and defiantly attempted to close the matter on his own terms. Furthermore, with his actions KA showed lack of empathy towards GJ's and SP's feelings and opened a chasm in the Board at a difficult time for WS. The fact his own feelings were maybe bruised by the constant attack he was enduring from outside WS could be an explanation for some of his actions, but not a valid reason to avoid recognising his own errors and bear the brunt of them in front of his Board colleagues. By trampling GJ's and SP's rightful feelings he disregarded their dignity.

89. Although KA asserted he listened twice to TE's show, he did not grasp what TE really said and stormed into action on a hint; he did not *listen* to GJ and rashly followed his line of thought; he disregarded GJ's absolute right to control what was said in his name; and he dented GJ's and SP's credibility. Therefore, he did not apply sufficient due care and diligence in performing his presidential duties.

90. As a result, WS appeared on several media around the world in connection with a letter containing false assertions and the subsequent clash among Board members. Therefore, KA opened himself, the Board, and WS to scrutiny and criticism that tarnished their respective reputations.

91. After the letter was sent to TE, the escalation of the conflict between KA and GJ and SP spilled out on different media outlets. GJ and SP made known their difference with KA and their submission of a complaint to the WS Ethics Commission. Although their actions were in response to KA's failings towards them, they fed the scrutiny and criticism the president and WS faced.

92. KA, GJ, and SP, as a group of knowledgeable and experienced adults, expectedly working together towards a common goal in favour of sailing and sailors, failed to stand the pressure and solve their differences internally. They collectively acted unbecomingly and applied an insufficient level of due care and diligence in performing their WS functions as Board members.

93. A minor item, "clumsily handled" (as KA reportedly told a media outlet, see 35) by KA himself, grew out of proportion and out of hand because of KA's mistakes, ill judgement, haste, stubbornness, and arrogance. Therefore, he did not apply sufficient due care and diligence in performing his presidential duties.

94. Regardless of his right to it and to a revision of any action or decision by all available legal means, when threatening "*to ultimately have matters determined by the Courts of England and Wales by application of English law*" KA showed a distinct distrust in, and disrespect for WS institutions, he undermined their authority and effectiveness, and he weakened the presidential stance, all deeds incompatible with his presidential role. In doing so, he failed to ensure the principles and rules of the WS Code of Ethics were applied.

95. Therefore, the EO's answers to the questions in 85 above are:

1. *Yes, actions referred to in the Facts section affected the dignity of individuals.*

KA's actions, as explained in 87 and 88.

2. *No, due care and diligence was not always used in performing functions for WS.*

By KA, as explained in 87, 89, and 93; collectively, and to a much lesser extent, by KA, GJ, and SP, as explained in 92. It is to note that GJ did apply due care and diligence at an early stage, as explained in 86.

*3. Yes, actions referred to in the Facts section tarnished the reputation of WS.*

KA's actions, as explained in 87 and 90; GJ's and SP's actions, to a much lesser extent, as explained in 91.

*4. Yes, a WS Party failed to ensure the principles and rules of the Code of Ethics were applied.*

KA failed, as explained in 94.

96. KA failed on all four accounts analysed. Furthermore, he bears the brunt of responsibility of the whole development because he caused it by his premature and unwarranted actions and aggravated it by an escalation in the unseemliness of his responses. Contempt of the institutions of the very organisation he presides over is arguably the most unbecoming of them.

97. It must be noted, however, that there is no evidence that KA doubted GJ's and SP's loyalty, that he wanted to hurt either of them, or that he wanted to tarnish anyone's reputation.

98. Mainly out of frustration with KA's actions and lack of proper response, GJ and SP also failed, to a much lesser extent, on two accounts.

99. Therefore, with due consideration of the full exposition above and following Regulation 36.10, the EO hereby decides:

*A) To issue a warning to KA and thereafter take no further action.*

*B) To take no further action towards GJ and SP.*

## **Final remarks**

100. WS, as any organisation, needs internal rules or procedures, and awareness of their existence, to ensure the safekeeping and proper use of Board member's signatures by the staff, such as requiring verifiable and storable confirmation before using them. Had such rules or procedures existed and been known and applied by the staff, they would have constituted a procedural protection against the episode under scrutiny. This is a matter the organisation must address urgently.

101. The preceding saddening report must not make forget that all parties mentioned contribute voluntary work to reach a worthy common goal: to promote the sport of sailing, to make it more relevant and attractive, and to help sailors around the world fulfil their dreams.

102. This document, together with its four annexes, presents the EO's findings, grounds for a decision, and decision, for want of more information or better criteria.

Encamp, Andorra, on 31/07/2020.