



**AUSTRALIAN FOOTBALL LEAGUE
NOTICE OF CHARGE
RULE 1.6**

TO: Essendon Football Club
Napier Street
Essendon VIC 3040

1. You are charged with the following offence against the Australian Football League Player Rules (March 2011) (**the Rules**):

Contrary to Rule 1.6 of the Rules, in the period from about August 2011 to about July 2012, you engaged in conduct unbecoming or likely to prejudice the interests or reputation of the Australian Football League or to bring the game of football into disrepute.

2. A statement of the grounds for the laying of the charge is attached.
3. You will be advised of the date, time and place for the hearing of the charges by the General Counsel.

A handwritten signature in black ink, appearing to read 'Andrew Dillon'.

Signed:

(General Counsel)

Print Name: Andrew Dillon

Dated: 13 August 2013

STATEMENT OF GROUNDS

Essendon Football Club, take notice that the General Counsel of the Australian Football League lays a charge against you for breach of Rule 1.6 of the Rules for having engaged in conduct unbecoming or likely to prejudice the interests or reputation of the AFL or to bring the game of football into disrepute.

The following is a statement of the grounds for the laying of the charge:

Conduct unbecoming or likely to prejudice the interests or reputation of the Australian Football League or to bring the game of football into disrepute

1. The conduct described below constituted conduct unbecoming or likely to prejudice the interests or reputation of the AFL or to bring the game of football into disrepute (as defined in Rule 1.6) on the part of the Club because, having determined to implement a scientifically pioneering program relating to the administration of supplements to its players, it:
 - (a) engaged in practices that exposed players to significant risks to their health and safety as well as the risk of using substances that were prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code;
 - (b) disregarded standard practices involving the human resources department when employing Robinson and Dank at the Club;
 - (c) failed to conduct routine, systematic pre-employment checks in respect of Robinson and Dank;
 - (d) failed to ensure that persons with the necessary integrity, reputation, qualifications and training were engaged by the Club to implement the program;
 - (e) failed to ensure that those implementing the program were adequately supervised;
 - (f) failed to devise or implement any adequate system or process to ensure that all substances provided to and used by players were safe and were compliant with the AFL Anti-Doping Code and the World Anti-Doping Code;
 - (g) failed to have proper regard to player health and safety, including failing to ensure that all substances had no potentially negative effects on players;

- (h) failed to identify and record the source from which all substances used by players were obtained;
- (i) failed to adequately monitor and record the use of substances;
- (j) failed to audit or monitor all substances held on the premises of the Club;
- (k) failed to implement a system for recording and storing all substances held on the premises of the Club;
- (l) failed to meaningfully inform players of the substances the subject of the program and obtain their informed consent to the administration of the substances;
- (m) failed to take any appropriate and adequate action when it became aware of facts that strongly suggested that unsatisfactory and potentially risky practices were occurring in relation to the administration of supplements;
- (n) created or permitted a culture at the Club that legitimised and encouraged the frequent, uninformed and unregulated use of the injection of supplements; and
- (o) failed to adequately protect the health, welfare and safety of the players.

By reason of the matters referred to in paragraphs (a) to (o) above:

- (i) players were administered substances that were prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code; alternatively
- (ii) the Club is unable to determine whether players were administered substances prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code.

Dramatis personae

2. The Essendon Football Club (**the Club**) is and was at all relevant times a “Club” for the purpose of the Rules.
3. Ian Robson (**Robson**) was at all relevant times, and until May 2013, employed by the Club as its Chief Executive Officer.
4. James Hird (**Hird**) is and was at all relevant times employed by the Club as its Senior Coach.

5. Mark Thompson (**Thompson**) is and was at all relevant times employed by the Club as its Senior Assistant Coach.
6. Danny Corcoran (**Corcoran**) was employed as Manager – People & Development until December 2012 when he was appointed as the General Manager, Football, which position he has held since then.
7. Dr Bruce Reid (**Reid**) is and was at all relevant times employed by the Club as its Club Doctor.
8. Paul Hamilton (**Hamilton**) was at all relevant times, and until December 2012, employed by the Club as its Football Operations Manager.
9. Between 25 August 2011 and 5 February 2013, Dean Robinson (**Robinson**) was employed by the Club as its High Performance Coach.
10. Between about 4 November 2011 and 4 September 2012, Stephen Dank (**Dank**) was employed by the Club as its Sports Scientist.

Attribution of conduct

11. The conduct of:
 - (a) Robson;
 - (b) Hird;
 - (c) Thompson;
 - (d) Corcoran;
 - (e) Reid;
 - (f) Hamilton;
 - (g) Robinson; and
 - (h) Dank,

is conduct engaged in by the Club for the purposes of Rule 1.6 of the Rules.

Relevant conduct

12. In or around August 2011, the Club determined to implement a scientifically pioneering program relating to the administration of supplements to its players in preparation for, and during, the 2012 AFL Premiership Season.
13. Between August 2011 and the end of 2011 the Club became aware that:
 - (a) the program was to push to the legal limit;
 - (b) the program involved innovative supplement practices and compounds;
 - (c) the program involved the use of allegedly beneficial, if exotic, mysterious and unfamiliar, compounds;
 - (d) the program's fitness strategy and use of supplements varied sharply from prior practices at the Club; and
 - (e) the program involved injecting players with an unprecedented frequency.
14. The Club, including, in particular, Robson, Hird and Robinson proposed that the program, which related to the physical and physiological development of the players, would be "cutting edge".
15. The Club undertook and persisted with the program without performing a thorough analysis of the risks of such a program to the health and safety of players, and without any similar analysis of the advantages and disadvantages of such a program.
16. The Club decided to implement the program without any meaningful input from appropriately qualified persons as to the appropriate formulation and implementation of the program.
17. The Club neither had in place, nor introduced, a clear framework of accountability and authority between the Board, the CEO, the head coach, the senior assistant coach, the football manager, the football operations manager, medical staff, the high performance coach and sports scientist.
18. The Club failed to take any appropriate steps to ensure that:
 - (a) persons with the necessary integrity, reputation, qualifications and training were engaged by the Club to implement the program;

- (b) systems were in place to ensure that the program was monitored, systematic and supervised.
19. On 5 August 2011 Hird was interviewed by an officer of ASADA and an officer of the AFL Integrity Unit in relation to his recent informal inquiry of an ASADA representative as to whether any AFL clubs were using peptides. During that meeting Hird was informed by the AFL's Manager Integrity Services that peptides were a serious risk to the integrity of the AFL, in the same category as steroids and HGH and implored Hird to report to the AFL if he came across any information relating to peptides. Corcoran and Hamilton were both present at the meeting.
 20. On 22 August 2011 Robinson sent to Hird the results of a clinical trial from University of New South Wales on the pathway of the effectiveness of a supplement known as Lactaway. The paper was co-authored by Dank.
 21. On 23 August 2011 Hird received from Benita Lalor (**Lalor**), the Club's then Performance Dietitian and Recovery Coordinator, her appraisal of Lactaway. Ms Lalor's appraisal included statements that suggested that there was no meaningful proof of beneficial effects, no data on the side effects/long term use of Lactaway in elite athletes and potentially relevant warnings that its use may cause additional muscle damage.
 22. Less than three minutes after receiving this information from Lalor, Hird forwarded her email to Corcoran with the comment: "This is what we are dealing with."
 23. Later on 23 August 2011 Corcoran emailed a reply to Hird stating "Jim – unfortunately they know everything and can't learn any more! Time to move on! ..."
 24. On 25 August 2011, Robinson was employed by the Club as its High Performance Coach. His mandate at the Club included the formulation and implementation of a program relating to the administration of supplements to its players. The usual human resources processes for the employment of Robinson were not followed. He was selected from outside the list of applicants being processed by the Club's Human Resources Department. The Club did not conduct any adequate checks in relation to any references or employment history. He was not the subject to any "fit and proper person" probity checks.
 25. Thompson pushed very strongly for the appointment of Robinson, notwithstanding the fact that Thompson knew or believed that there were significant concerns about the manner in which Robinson had conducted himself.

26. Thompson took no adequate steps to ensure that Robinson was subjected to appropriate employment history checks or that Robinson was appropriately supervised and managed, despite knowing or believing that such supervision and management was necessary.
27. Hird supported the appointment of Robinson notwithstanding the fact that Hird knew or believed that there were significant concerns about the manner in which Robinson had conducted himself.
28. Hird took no adequate steps to ensure that Robinson was subjected to appropriate employment history checks or that Robinson was appropriately supervised and managed, despite knowing or believing that such supervision and management was necessary.
29. Corcoran supported the appointment of Robinson notwithstanding the fact that Corcoran knew or believed that there were significant concerns about the manner in which Robinson had conducted himself.
30. Corcoran took no adequate steps to ensure that Robinson was subjected to appropriate employment history checks or that Robinson was appropriately supervised and managed, despite knowing or believing that such supervision and management was necessary.
31. Soon after Robinson's appointment, on 28 September 2011, Dank was interviewed for the position of Sports Scientist at the Club by Hird, Robinson, Corcoran, Thompson and Hamilton. Dank had come highly recommended by Robinson, who had known him since 2004. That night, Hird invited Dank and Robinson to his home to discuss what they were going to do to "turn this club around".
32. Dank was offered the role, commencing on 4 November 2011. The usual human resources processes for the employment of Dank were not followed. No background checks were conducted with his former employers. Little, if any, consideration was given to his outside business interests and the conflicts that may thereby arise.
33. Corcoran supported the appointment of Dank, failing to raise concerns regarding Dank notwithstanding the fact that Corcoran knew or believed that there were significant concerns in relation to the appropriateness of Dank for the position of Sports Scientist at the Club.
34. Corcoran took no adequate steps to ensure that Dank was subjected to appropriate employment history checks or that Dank was appropriately supervised and managed, despite knowing or believing that such supervision and management was necessary.

35. Thompson supported the appointment of Dank and failed to raise concerns regarding Dank notwithstanding the fact that Thompson knew or believed that there were significant concerns in relation to the appropriateness of Dank for the position of Sports Scientist at the Club.
36. Thompson took no adequate steps to ensure that Dank was subjected to appropriate employment history checks or that Dank was appropriately supervised and managed, despite knowing or believing that such checks, supervision and management were necessary.
37. Hird took no adequate steps to ensure that Dank was subjected to appropriate employment history checks or that Dank was appropriately supervised and managed, despite being aware of the importance of, and risks associated with, the position of Sports Scientist for the program the Club was proposing to implement.
38. Robinson took no adequate steps to ensure that Dank was subjected to appropriate employment history checks or that Dank was appropriately supervised and managed, despite being aware of the importance of, and risks associated with, the position of Sports Scientist for the program the Club was proposing to implement.
39. Proper regard to the usual human resources process for the employment of Robinson and Dank would likely have alerted the Club to potential risks to the health and safety of the players and to the potential risks of the Club failing to comply with the AFL Anti-Doping Code if these persons were employed.
40. On 4 October 2011, Robinson suggested to Dank that they call various peptides (including substances that were prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code) “amino acids or something”, a view with which Dank agreed. As a result, Robinson and Dank referred to various substances as “amino acids” or “amino acid blends”, terms of no scientific meaning. The use of these terms was common throughout the Club. There is considerable uncertainty as to the exact nature of certain so-called “amino acids” injected into the players and support staff, but it is reasonably likely that players and support staff who were injected with “amino acids” received peptides.
41. In or about October 2011, Hird received, on Club premises, vials of Melanotan II and syringes from Club High Performance Coach Dean Robinson.
42. Robinson instructed Hird how to self-administer injections of Melanotan II.

43. Hird was aware that Robinson asked Hird no questions about his medical history prior to providing Hird with the Melanotan II and gave no advice as to any potential adverse reactions to the substance.
44. Hird made no adequate inquiries as to the substance he was being advised to inject himself with and:
- (a) made no inquiries as to whether Robinson was qualified or authorised to advise as to the self-administration of injections; and
 - (b) made no inquiries as to whether the substance he was being provided with was or might be prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code.
45. Hird was aware that, to his knowledge, Robinson took no record of the details of the provision of the substance to Hird.
46. Following his self-administration of injections of Melanotan II Hird suffered [REDACTED] side effects. [REDACTED]
[REDACTED]
47. [REDACTED]
48. Notwithstanding his first-hand experience of the unsatisfactory manner in which Robinson supplied substances to be injected at the Club, including the fact that he had suffered side effects about which he had not been warned, Hird did not recognise or respond to the indication that the supplements program potentially posed a risk to the players' health, welfare and safety.
49. Commencing in November 2011, Dank co-ordinated the private blood testing of players, using an external NSW-based facility, without the knowledge of other representatives of the Club. Such blood testing was the subject of referral by doctors other than Reid, none of whom were members of the medical staff at the Club.
50. The players' blood was analysed for, *inter alia*, Insulin Growth Factor 1, which is prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code. Analysing players' blood for Insulin Growth Factor 1 is inconsistent with the rational and legitimate analysis of players' blood in accordance with the reasonable practice of the medical departments of AFL Clubs.

51. With the assistance of Shane Charter (**Charter**), a convicted drug dealer, Dank ordered various peptides, or the raw materials for such peptides. The compounding of these substances was undertaken by Nima Alavi (**Alavi**) at the Como Compounding Pharmacy (**Como**). At least some of these substances were intended by Dank for administration to players at the Club and were in fact administered to players at the Club.
52. On 2 December 2011, Charter returned to Melbourne with raw material for GHRP-6, CJC-1295, Thymosin Beta-4 and IGF1-LR3. During December 2011, he also ordered from China, via email, on behalf of Dank: GHRP-2, GHRP-6, CJC-1295, Hexarelin, Thymosin beta-4 and Mechano growth factor. These substances were delivered to Alavi.
53. On 10 January 2012, the Club was billed by Como for 14 vials of Hexarelin at a cost of \$4,200.
54. On 13 January 2012, Reid became aware that players had been administered Tribulus orally and had been injected with AOD-9604 without his approval.
55. In the period between 13 January 2012 and 15 January 2012 Reid expressed his concern to Hird and to Hamilton that players had been getting injections of a peptide that he knew nothing about while the players and he had been told that they were getting vitamins and amino acids.
56. As discussed between Hird and Reid at the time that Reid expressed his concern about the players receiving peptide injections, on or about 17 January 2012 Reid wrote a letter addressed to Hird and Hamilton setting out the substance of his concerns.
the letter stated as follows:

Dear James/Paul

I have some fundamental problems being club doctor at present.

This particularly applies to the administration of supplements.

Although we have been giving supplements for approximately three months, despite repeated requests as to exactly what we are giving our players and the literature related to this, have at no time been given that until last Sunday [15 January 2012]. Last week the players were given subcutaneous injections, not by myself, and I had no idea that this was happening and also what drug was involved.

It appears to me that in Sydney with Rugby League the clubs do not answer to the governing body (e.g. A.F.L.). It seems that their whole culture is based on trying to beat the system as are close to the edge as one can. It is my belief in A.F.L. that we should be winning flags by keeping a drug free culture.

It is all very well to say this is not banned and that is not banned but for example, the injection that we have given our players subcutaneously, was a drug called AOD/9604, is an Oligomeric Peptide. This drug is derived from the growth hormone. This molecule has been constructed so it has removed what we call IGF1, which is part of the growth hormone that causes muscle and organ growth and bone length and photosynthesis.

It is at the moment used for fat metabolism but also bone strength in children and may have some side effects that may be beneficial in bone growth. This to me just seem ludicrous at this stage where the only trials I have got are on how to lost weight and fat around the abdomen.

If we are resorting to deliver this altered growth hormone molecule, I think we are playing at the edge and this will read extremely badly in the press for our club and for the benefits and also for side effects that are not known in the long term, I have trouble with all these drugs.

I am still not sure whether AOD/9604 is approved by the drug authorities in Australia at this stage. Just because it is not classified as illegal, doesn't mean that it can be used freely in the community, it cannot. The other interesting thing about AOD/9604, is that its market in America is in body builders. This also should raise a red flag if we are worried about perception.

When it comes to Actovegin, this has been used around the world for many years. There is some flimsy evidence that it may help in speeding up the healing of tendons when they are damaged, though after speaking to radiologists, the recent opinion is that platelets and one's own blood, probably does a better job.

We are claiming that we should use it as a recovery agent. To me it seems ludicrous that a few mls of calf's blood spun down, is going to give you a concentration of growth factors and other factors that would speed up recovery.

I am very frustrated by this and now feel I am letting the club down by not automatically approving of these things. I need to collect my thoughts as these drugs have been given without my knowledge.

I am sure Steve Danks believes that what we are doing is totally ethical and legal, however, one wonders whether if you take a long stance and look at this from a distance, whether you would want your children being injected with a derivative hormone that is not free to the community and whether calf's blood, that has been used for many years and is still doubted by most doctors, is worth pursuing.

Kind Regards

Dr. Bruce Reid

M.B.B.S.

Senior Medical Officer

57. On 15 January 2012, Robinson developed a new supplementation protocol (**the Protocol**), which was sent by email to Hird, Dank and Reid. The email relevantly provided:

Steve [Dank] once you have identified a supplement we would benefit from that is not contravening any laws of sport based on the WADA code, you have agreed to the following points with Dr Bruce Reid.

- Provide [Reid] with a summary of the literature which will include:
 1. Both the scientific name and its common name.
 2. All clinical findings both positive and negative.
 3. State to the best of your knowledge the known or potential side effects both short and long-term.
 4. Complete list of references for his perusal should be need an[y] further information.
 5. Statement from you that this supplement is not contravening any WADA guidelines.
- Once [Reid] has received the above information he will have sufficient time to make a recommendation as to its suitability for the use with our players. If Dr Reid requires further information this will be provided to him so he can be

completely comfortable that in the event of him recommending the supplement, in the best of his knowledge it does no harm. He will present his recommendation back to [Hird], [Robinson] and to ... Dank.

- If the supplement is recommended then a letter of informed consent will be produced and given to the player to sign prior to the first administration of the supplement, the player will have a right of refusal and also be able to refuse the supplement at any point in the future. As part of this informed consent the player will also be made aware that it is our competitive advantage and in being so that they are not permitted to speak about our supplement program outside of [Reid], [Hird], [Robinson] and ... Dank.

58. The only supplement that received any form of approval by Reid was AOD-9604, which was informally approved by him in February 2012. This form of approval did not comply with the Protocol because:

- (a) Robinson did not provide Reid with a summary of the literature that properly satisfied the requirements of items (1) to (5) of the Protocol in respect of AOD-9604; and
- (b) Reid did not present a recommendation to Hird, Robinson and Dank in respect of AOD-9604.

59. Reid should not have given any form of approval to the administration of AOD-9604 to players because:

- (a) the literature provided to him by Robinson on 15 January 2012 included statements that:
 - (i) “Development was terminated following an oral phase 2B human clinical trial in February 2007 which failed to prove efficacy”;
 - (ii) “If AOD was legal/more easily obtainable, users advise they would use AOD more often”;
- (b) he made no direct inquiries of ASADA in relation to whether AOD-9604 was a prohibited substance;
- (c) he did not receive any document from Dank or Robinson demonstrating that ASADA had stated that AOD-9604 was not a prohibited substance;

- (d) if he had made inquiries of the individual responsible for heading five of the six clinical trials that had been conducted in respect of AOD-9604, Professor Gary Wittert, MD, FRACP, FRCP, he would have been informed that:
- (i) it had not been established that it was safe to inject AOD-9604 on an on-going basis;
 - (ii) there was no evidence that AOD-9604 had any beneficial effect on muscle and indeed it is designed not to have.
60. Immediately after sending the email with the Protocol, Robinson emailed Reid material on a number of WADA prohibited substances, including steroids, testosterone, SARM S-22, CJC-1295, HGH, GHRP-6 and Mechano Growth Factor.
61. Notwithstanding that the email from Robinson referred to WADA-prohibited substances, Reid failed to recognise and properly respond to this indication that Robinson may have been administering or proposing to administer prohibited substances to the players.
62. On 18 January 2012, the Club was billed by Como for seven vials of Hexarelin and 26 vials of “peptide Thymosin” at a combined cost of \$9,860.
63. Notwithstanding that the Club was billed for substances prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code, no person at the Club recognised and properly responded to this indication that players may have been, or may be about to be, administered prohibited substances.
64. On 30 January 2012 Hird forwarded a text message to Corcoran stating, in part:
- No stress but need to organise a meeting with you me Reidy, Danksy and Weapon the day you get back. Reidy has stopped everything which is getting a little frustrating. Need to get your United Nations skills back into action.
65. On 30 January 2012 Corcoran forwarded a text message to Hird stating, in part:
- You know I read a book on world doping while away and once lay people start injecting players there are always issues!! We must be careful for a host of reasons.
66. On 30 January 2012 Hird forwarded a text message to Corcoran stating, in part:

Understand about the injecting and don't want to push the boundaries. Just need to make sure we are doing everything we can within the rules. As the other clubs are a long way ahead of Reidy and us at the moment.

67. On 8 February 2012, at a meeting of players of the Club, Dank introduced four substances that were purportedly approved for use in accordance with the Protocol, namely:
- (a) AOD-9604;
 - (b) Thymosin;
 - (c) Colostrum; and
 - (d) Tribulus.
68. Following that meeting, 38 players at the Club signed "Patient Information/Informed Consent" forms in relation to these four substances. In relation to these substances, those 38 players agreed to:
- (a) one AOD-9604 injection per week for the season;
 - (b) one Thymosin injection once a week for six weeks and then one injection per month;
 - (c) two Colostrum daily in each training week and two colostrum post-game. The dose may vary according to training needs; and
 - (d) one Tribulus forte daily in each training week and one Tribulus prior to the game. The dose may vary according to training needs.
69. If the dosages the subject of the "Patient Information/Informed Consent" forms were administered, the playing group would receive in the order of:
- (a) more than 1,500 injections of AOD-9064 and Thymosin; and
 - (b) more than 16,500 doses of Colostrum; and
 - (c) more than 8,000 doses of Tribulus.

70. Notwithstanding that this would represent:
- (a) an extraordinary escalation in the frequency with which players were to be injected and otherwise administered supplements; and
 - (b) players being injected with supplements with a frequency unprecedented at the Club
- no person at the Club recognised and properly responded to this indication that the supplements program potentially posed a risk to the players' health, welfare and safety, nor did any person at the Club recognise the need for, and demand the implementation of, a system for the comprehensive recording of the provision of supplements to the players.
71. Thymosin, Colostrum and Tribulus were not approved by Reid, in accordance with the Protocol, or otherwise.
72. The Thymosin referred to on the "Patient Information/Informed Consent" forms and administered to the players was:
- (a) Thymosin Beta-4 which is prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code (the relevant facts in relation to this allegation are set out in Annexure A to this Notice of Charge); alternatively
 - (b) a substance in respect of which the Club had failed to reasonably satisfy itself was not prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code.
73. Thymosin Beta-4 and AOD-9604 are both peptides.
74. If Hird or any person at the Club had conducted any adequate inquiries in relation to the four substances referred to on the "Patient Information/Informed Consent" forms they would have discovered that Thymosin Beta-4 and AOD-9604 are both peptides.
75. Notwithstanding the fact that:
- (a) Hird had been informed by the AFL's Manager Integrity Services that peptides were a serious risk to the integrity of the AFL, in the same category as steroids and HGH and had been implored to report to the AFL if he came across any information relating to peptides;
 - (b) Hird was aware that Lalor had expressed reservations about the efficacy and safety of a supplement advocated by Dank and Robinson;

- (c) Hird was aware that he had advocated to Robinson and Dank that they devise and implement a supplements program that was to push the legal limit but not to cross the line;
- (d) Reid expressed concern to Hird about the manner in which the Club's supplements program was being implemented and made specific reference to peptides;
- (e) Hird had received supplements from Robinson and had suffered significant side-effects from those supplements about which he had not been warned by Robinson;
- (f) Corcoran had warned Hird about the need for caution in relation to lay people injecting players and for a host of reasons;
- (g) the content of the "Patient Information/Informed Consent" forms itself revealed that the Protocol was not being followed because Hird knew that he had received no recommendation from Reid in relation the four substances referred to on the "Patient Information/Informed Consent" forms

Hird failed to:

- (i) inquire as to whether the players were receiving peptides;
- (ii) inquire of the AFL or ASADA as to whether the supplements program was compliant with the AFL Anti-Doping Code;
- (iii) take any or any adequate steps to ensure that an adequate system and regulatory process was established in relation to the supplements program;
- (iv) recognise that the Protocol, even if adhered to, was manifestly inadequate for the purposes of regulating the supplements program and ensuring that player welfare was safeguarded;
- (v) take any or any adequate steps to ensure that the Protocol was being observed;
- (vi) recognise or properly respond to the indication that the supplements program potentially posed a risk to the players' health, welfare and safety.

76. Notwithstanding the fact that:

- (a) Corcoran had been informed by the AFL's Manager Integrity Services that peptides were a serious risk to the integrity of the AFL, in the same category as steroids and HGH and had observed that Hird been implored to report to the AFL if he came across any information relating to peptides;
- (b) Corcoran was aware that Lalor had expressed reservations about the efficacy and safety of a supplement advocated by Dank and Robinson;
- (c) Corcoran was aware that Hird had advocated to Robinson and Dank that they devise and implement a supplements program that was to push the legal limit but not to cross the line;
- (d) Reid had "stopped everything" due to concerns about the supplements program;
- (e) Corcoran held the view (and had warned Hird) about the need for caution in relation to lay people injecting players and for a host of reasons;

Corcoran failed to:

- (i) inquire as to whether the players were receiving peptides;
 - (ii) inquire of the AFL or ASADA as to whether the supplements program was compliant with the AFL Anti-Doping Code;
 - (iii) take any or any adequate steps to ensure that an adequate system and regulatory process was established in relation to the supplements program;
 - (iv) recognise that the Protocol, even if adhered to, was manifestly inadequate for the purposes of regulating the supplements program and ensuring that player welfare was safeguarded;
 - (v) take any or any adequate steps to ensure that the Protocol was being observed;
 - (vi) recognise or properly respond to the indication that the supplements program potentially posed a risk to the players' health, welfare and safety.
77. On 29 February 2012, Como issued an amended invoice to the Club which re-credited the Club for the costs of the Hexarelin and "peptide Thymosin".

78. On 8 March 2012, Dr Robin Willcourt (**Willcourt**) advised Dank by SMS that the cost of TA-65 was \$1,450. This substance was later administered to [REDACTED] a player at the Club. The use of TA-65 was not approved by Reid, in accordance with the Protocol, or otherwise.
79. On 13 March 2012, players at the Club commenced treatment at Skinovate Clinic, Suite 1, 143 Napier Street, Essendon. The invoices and an explanatory letter sent to the Club indicate that 155 intravenous (IV drip) treatments were administered to players (and perhaps others) from March 2012 to July 2012. The treatments were described as “sodium ascorbate solution (Vitamin C) and B-Dose (Vitamin B complex)”.
80. The intravenous (IV drip) treatments were not approved by Reid, in accordance with the Protocol, or otherwise.
81. In the period from 12 to 15 April 2012, three players were treated at Beechmont Natural Clinic, 32C Jardine Road, Lower Beechmont, Queensland. The invoices indicate that those players received injections of Traumeel, Vitamin B12 and Actovegin.
82. Reid was present on 15 April 2012 when two of the three players were treated, yet none of these substances were approved by Reid, in accordance with the Protocol, or otherwise.
83. Notwithstanding that by reason of his presence during this treatment of players Reid became aware that players were receiving treatment in breach of the Protocol, Reid failed to recognise and properly respond to this indication that Robinson and Dank may have been breaching the Protocol in other respects and that therefore the supplements program potentially posed a risk to the players’ health, welfare and safety.
84. In April 2012, Dank arranged for Dr Malcolm Hooper (**Hooper**), a chiropractor, at HyperMed to administer injections of Cerebrolysin and amino acid mix to the players. Patient files maintained by HyperMed record 32 Cerebrolysin injections and 112 “amino acid” injections were administered to players.
85. Hooper states that the amino acids injected into 34 Essendon players by him were sourced from a patient (**Patient A**) who suffers from a form of muscular dystrophy.
86. Patient A was being treated by Hooper and Willcourt was the medical practitioner from whom Patient A obtained the necessary scripts for his treatment regime.

87. Patient A had pursued experimental supplement treatments in Italy and Mexico. Patient A's treatment regime consisted of the subcutaneous injection of unspecified Amino Acids, Cerebrolysin, SARM-22 and AOD-9604.
88. Patient A used the services of Alavi's Como Compounding Pharmacy to fill Willcourt's scripts. In respect of his Amino Acid treatment, Patient 'A' personally bought two large (500ml) vials of Amino Acid over-the-counter at a local chemist in Mexico without a prescription.
89. Patient A states that he had loaned the Amino Acid to Hooper on the understanding that Doctor Hooper intended to show them to the Club.
90. Hooper states that 34 Essendon players were injected with an Amino Acid compound sourced by Patient A from a Chemist in Mexico. The identity and integrity of the commodity was inferred by Hooper from labelling without independent or professional verification. Additionally, the Amino Acid appears to have been in storage at HyperMED for a considerable time prior to its use.
91. Save for the above, Hooper does not know the content or source of the amino acids he injected into the players at HyperMed.
92. The Club:
 - (a) did not know and does not know the content or source of the amino acids Hooper injected into the players at HyperMed; and
 - (b) failed to reasonably satisfy itself that the substances Hooper injected into the players at HyperMed were not prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code. Neither Cerebrolysin nor the amino acid mix was approved by Reid, in accordance with the Protocol, or otherwise.
93. The Club had neither conducted any adequate inquiries to determine, nor had any reasonable way of knowing, the content or origin of the amino acid mix.
94. In May 2012, Corcoran directed Football Administrator, Dean Wallis, to create a database to record the players' weekly supplementation, however, this task was not immediately implemented. That database was not implemented until 27 June 2012. The implementation was not properly or systematically arranged and failed to accurately or comprehensively record supplements received by the players.

95. On 15 June 2012, Robinson emailed Reid a list of supplements to be administered between the mid-year bye and the 2012 Grand Final, which included Thymodulin, Cerebrolysin and intravenous immune boosters.
96. As noted at paragraph 92(b) above, Reid did not approve the use of Cerebrolysin, in accordance with the Protocol, or otherwise. He also did not approve Thymodulin and intravenous immunity boosters in accordance with the Protocol, or otherwise.
97. Notwithstanding that, by reason of the receipt of the email from Robinson dated 15 June 2012, Reid became aware that players were receiving treatment in breach of the Protocol, Reid failed to recognise and properly respond to this indication that Robinson and Dank may have been breaching the Protocol in other respects and that therefore the supplements program potentially posed a risk to the players' health, welfare and safety.
98. Hird, Corcoran, and Thompson failed to act when informed by Club strength scientist Suki Hobson in or about April or June 2012 that Dank was storing Hexarelin, a growth hormone stimulating peptide, which was prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code, in his office. Hird, Corcoran and Thompson failed to ensure or reasonably satisfy themselves that the matter had been suitably investigated, that the substance had not been used by the players and failed to suitably investigate or reasonably satisfy themselves of the reason why such substances were on Club premises.
99. Upon becoming aware, in approximately mid May 2012 that Reid was concerned about the fact that players were receiving off-site injections at HyperMed, a meeting was convened between Reid, Thompson, Dank and the Club's Sports Psychologist, Jonah Oliver (**May Meeting**).
100. During the May Meeting, Thompson resolutely advised Dank that the injecting of players was to cease.
101. Despite:
 - (a) having been informed by Reid that he was concerned about their receipt of injections at HyperMed; and
 - (b) having observed Dank receive a firm direction that the injecting of players was to cease,none of the persons attending the May Meeting:

- (i) informed the players that they were to receive no more injections from Dank or at the direction of Dank;
 - (ii) took any adequate steps to ensure that any other person at the Club so informed the players; and
 - (iii) took any appropriate action to investigate the nature of the substances used, to ascertain whether their use had been the subject of compliance with the Protocol and to inform the AFL and the players of the use of unknown substances.
102. After the May Meeting and until at least 5 August 2012 the players continued to receive injections from Dank.
103. Despite being aware of the use of various substances as part of the program, none of which – apart from AOD-9604 – had received any form of approval by Reid, Hird, Corcoran and Thompson allowed the supplements program to continue.
104. Further, Robson, as CEO of the Club, at no stage did anything to inquire into, or review, the supplements program.
105. During 2012, Hird received “amino acid and multi vitamin” injections from Dank.
106. The injections were administered to Hird in Dank’s office.
107. Hird was, or ought to have been, aware that Dank’s office was not secure, was disorganised and lacked the appropriate standards of organisation, cleanliness and hygiene that should reasonably have existed if it was to be used as the location for the administration of injections.
108. Hird was aware that Dank asked Hird no questions about his medical history prior to administering the injections and gave no advice as to any potential adverse reactions to the substances he proposed to administer to him.
109. Beyond asking Dank what he proposed to inject him with, Hird made no inquiries as to the substance he was to be injected with and:
- (a) made no inquiries as to whether Dank was qualified or authorised to administer injections;
 - (b) made no inquiries as to what “amino acids” were; and

- (c) made no inquiries as to whether the substances he was to be injected with were or might be prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code.
110. Hird was aware that, to his knowledge, Dank took no record of the details of the administration of substances to Hird.
111. Notwithstanding his first-hand experience of the unsatisfactory manner in which Dank administered injections, Hird did not:
- (a) inquire of Dank as to whether he was administering injections to players in his office;
 - (b) inquire of Dank as to whether Dank was keeping a detailed record of all supplements administered to players;
 - (c) inquire of Dank as to whether all supplements administered to players were prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code; or
 - (d) recognise or respond to the indication that the supplements program potentially posed a risk to the players' health, welfare and safety.
112. During 2012, Hird received from Dank tablets to aid concentration.
113. The tablets were provided to Hird at the Club.
114. Hird was aware that Dank asked Hird no questions about his medical history prior to supplying the tablets and gave no advice as to any potential adverse reactions to the tablets he proposed to supply to him.
115. Hird:
- (a) made no inquiries as to whether a prescription was required for the tablets;
 - (b) made no inquiries as to whether Dank was qualified or authorised supply the tablets; and
 - (c) made no inquiries as to whether the tablets he was supplied with were or might be prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code.
116. Hird was aware that, to his knowledge, Dank took no record of the details of the administration of substances to Hird.

117. It is reasonably likely that the tablets supplied to Hird were Ephedrine and Propranolol.
118. Ephedrine is a mild stimulant to enhance mental performance.
119. Propranolol is a prescription medication used in the management of cardiovascular disease and neural conditions. It is also used in stress situations to control nervousness and reduce tremor.
120. There are health risks related to the use of Ephedrine and Propranolol.
121. Hird had obtained no prescription for Propranolol.
122. Notwithstanding his first-hand experience of the unsatisfactory manner in which Dank supplied tablets, Hird did not recognise or respond to the indication that the supplements program potentially posed a risk to the players' health, welfare and safety.
123. During his employment at the Club, Dank was involved with a "draft human trial protocol" in relation to AOD-9604 which was being conducted by Metabolic Pharmaceuticals Pty Ltd. Robinson, at least, was aware of this issue, having received, on 21 February 2012, a forwarded email from Dank which referred to the "draft human trial protocol". Having regard to the above matters, and the nature of Metabolic Pharmaceuticals Pty Ltd's research work, it is likely that the draft human trial protocol involved tests conducted on Essendon players, none of whom had knowledge of such research.
124. During the relevant period, the Club caused the following substances to be administered to players at the Club:
 - (a) Actovegin;
 - (b) unspecified amino acids
 - (c) unspecified multi-vitamins;
 - (d) AOD-9604 creams;
 - (e) AOD-9604 injections;
 - (f) Cerebrolysin;
 - (g) Colostrum;

- 
- (i) Lactaway;
 - (j) Lube-all-plus;
 - (k) Melatonin;
 - (l) Melanotan II;
 - (m) TA-65;
 - (n) Thymosin Beta 4;
 - (o) Traumeel; and
 - (p) Tribulus.

125. The use of these substances by the players was not approved by the Club's medical staff, with the exception of AOD-9604, which was the subject of some sort of informal approval by Reid in February 2012.
126. In many instances the use of these substances failed to have proper regard to player health and safety.
127. Proper records were not maintained by the Club as to precisely which players received which of the substances referred to in paragraph 124 above, in which quantities and when, during the relevant period.
128. The duration of the effect of peptides, including Hexarelin, remains speculative for lack of sound clinical data on their use under well-defined conditions. However, if Hexarelin is administered in sufficient doses or in repeated doses to cause sustained growth hormone release, the effects (including recovery from post-treatment withdrawal effects) may last many months or even up to a year or longer, depending on dose and duration of use. Thymosin Beta-4 is even less well understood, and while not a growth hormone releaser, it could well have equally sustained effects, again depending on dose and duration of use.
129. Players, coaching staff and administrative staff were injected in Dank's office at the Club by one of Dank or Robinson. The office was not secure, was disorganised and lacked the appropriate standards of organisation, cleanliness and hygiene that should reasonably

have existed if it was to be used as the location at which numerous players and/or staff received injections.

130. Hexarelin, a substance prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code, was:
 - (a) kept in Dank's office in an unlocked fridge;
 - (b) injected into a member of the Club support staff by Dank on multiple occasions; and
 - (c) was provided by Dank to another member of the Club support staff to be self-injected.

131. SARM-22, a substance prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code, was kept on the premises of the Club and was injected into a volunteer member of the football department of the Club and was provided to that volunteer member for self-injection.

132. Over the course of the relevant period, Dank also treated support staff at the Club by injection with:
 - (a) AOD-9604;
 - (b) Melanotan II, a substance listed under Schedule 4 of the Standard for Uniform Scheduling of Medicines and Poisons (**SUSMP**), without a prescription;
 - (c) Melatonin, a substance listed under Schedule 4 of the SUSMP, without a prescription; and
 - (d) unspecified or inadequately identified substances such as "amino acids".

133. The Club failed to reasonably satisfy itself Hexarelin, being a substance prohibited by the AFL Anti-Doping Code and the World Anti-Doping Code, was not being administered to players in circumstances where:
 - (a) on 10 January 2012, the Club was billed by Como for 14 vials of Hexarelin at a cost of \$4,200;
 - (b) on 29 February 2012, Como issued an amended invoice to the Club which re-credited the Club for the costs of the Hexarelin, however the reason for the re-

crediting was not because the Club had not received Hexarelin (as Hexarelin was in fact present at the Club and was provided by Dank to staff of the Club).

134. It is likely that not all persons who administered injections to players and staff of the Club (namely, Dank and Robinson) were qualified to do so and, in any case, no checks were undertaken by the Club in relation to this issue.
135. Dank's lack of organisation and failure to use an appropriate and responsible system for the administration of supplements to players resulted in him not knowing which players had been injected with which supplements on which occasion. As a result, players were offered further injections by Dank at irregular intervals. In those instances, it was left to the individual players to inform Dank as to when they had previously received an injection.

**ANNEXURE A:
NOTICE OF CHARGE
RULE 1.6
(ESSENDON FOOTBALL CLUB)**

1. On 2 August 2011 Dank forwarded a text message to Robinson stating:

Hi mate. Just in consult for a shoulder reconstruction. This case will be of interest to you. We are utilizing Thymosin post surgically for one shoulder but prophylactically for the other. Thymosin is so effective in soft tissue maintenance.

2. Dank was referring to Thymosin Beta-4 and not Thymosin Alpha as the functions of Thymosin Beta-4, but not Thymosin Alpha or Thymomodulin, include tissue regeneration and recovery functions.

3. On 23 August 2011 Dank forwarded a text message to Robinson stating:

Don't forget how important Thymosin is. This is going to be our vital cornerstone next year. It is the ultimate assembly regulatory protein and biological modifier.

4. Dank was referring to Thymosin Beta-4 and not Thymosin Alpha as the functions of Thymosin Beta-4, but not Thymosin Alpha or Thymomodulin, include tissue regeneration and recovery functions.

5. Prior to 26 November 2011 Dank informed Charter that he needed Thymosin Beta-4.

6. On 26 November 2011 Charter travelled to Shanghai, China in order to procure the raw materials for peptides including Thymosin Beta-4. He procured those raw materials from GL Biochem (Shanghai) Ltd (**GL Biochem**).

7. On 1 December 2011 Dank forwarded a text message to Robinson stating

Collingwood is on TA65

8. On 1 December 2011 Dank forwarded a further text message to Robinson stating:

I am planning with [Alavi] at the moment. We are planning something better.

9. On 1 December 2011 Charter initiated inquiries with GL Biochem for a second order of peptides.

10. Between 1 December 2011 and 8 December 2011 Charter ordered raw materials for the second purchase of peptides including the raw materials for Thymosin Beta-4.
11. Charter's order did not contain Thymosin Alpha.
12. Charter only ever procured Thymosin Beta-4 for Dank, not Thymosin Alpha.
13. On 2 December Charter returned to Melbourne from Shanghai with the raw material in respect of the first purchase of peptides including Thymosin Beta-4.
14. On 11 January 2012, Charter forwarded a text message to Dank stating:

Which peptides do you need (compounded) next?

15. In his reply Dank requested "Thymosin Beta 4 and "CJC-1295"
16. Charter then queried:

what sort of quantities?

17. Dank replied to Charter stating:

Thymosin 20 of 5ml vials.

18. Charter then forwarded a text message to Alavi stating:

Hi Mate. Thymosin – 20 x 5ml vials. Steve's request.

19. On 12 January 2012, Charter emailed a document to both Dank and Alavi which described "How to Use TB-500 (Thymosin Beta 4)". The document described the optimum means by which to prepare, administer and store Thymosin Beta-4. Within the body of the accompanying email Charter asked Dank to check the document to ensure his concurrence with the protocols suggested "so we can make [the Thymosin Beta-4] up accordingly". The document contained the statement that it was "For research purposes only".
20. Within Charter's document it is recommended that Thymosin Beta-4 be administered subcutaneously, at the optimum frequency of "**one vial per [subcutaneous] injection per week for 6 consecutive weeks, then 1 vial per month**". The frequency rate of administration for 'Thymosin' on the players' "Patient Information/Informed Consent" form is '**1 Thymosin injection once a week for six weeks and then 1 injection per month**'.

21. On 15 January 2012, Charter contacted Alavi via SMS stating:

Hi Mate. Thymosin – 20 x 5 ml vial Steve request. Do you know when it will be ready.

22. In reply Mr Alavi stated:

Should be ready today sometime.

23. On 16 January 2012, Alavi advised Charter via SMS that he had:

a few problems with the Thymosin formulation. Not dissolving very well, also I am sending you a trial which may be of interest.

24. Mr Charter then replied to Alavi that he had:

contacted the manufacturer to get some ideas. Try the CJC that is the next one [Dank] needs.

25. The Club was originally billed by Alavi for 7 vials of Hexarelin (in addition to those supplied on 10 January 2012) and 26 vials of “peptide Thymosin” (at a combined cost of \$9860) which are listed on the invoice as having been delivered on 18 January 2012.

26. On 29 February 2012, Como issued an amended invoice to the Club which re-credited the Club for the costs of the Hexarelin and “peptide Thymosin”.

27. In late May 2012 Dank discovered that the Thymosin he had been providing the players (Thymosin Beta-4) was in fact prohibited.

28. [REDACTED]
[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

30. A document purportedly dated 27 February 2012 and purportedly signed by Alavi attests to the “fact” that “the product Thymomodulin (Thymosin) is compounded at the premises [of Como Compounding Pharmacy] in [a] sterile laboratory [and that it] does not contain any banned substances in accordance with the WADA code”.

before removing from the invoice altogether. To date, no other supplier of Thymosin to Essendon Football Club has been identified.



**AUSTRALIAN FOOTBALL LEAGUE
NOTICE OF HEARING
RULE 1.6**

TO: Essendon Football Club
Napier Street
Essendon VIC 3040

1. You have been charged with the following offence against the Australian Football League Player Rules (March 2011) (**the Rules**):

Contrary to Rule 1.6 of the Rules, in the period from about August 2011 to about July 2012, you engaged in conduct unbecoming or likely to prejudice the interests or reputation of the Australian Football League or to bring the game of football into disrepute.

2. The hearing of the charges will take place at 8:30 am on 26 August 2013 at AFL House, 140 Harbour Esplanade, Docklands VIC 3008.
3. You are entitled to be present throughout the hearing, to be represented and to make submissions.

A handwritten signature in black ink, appearing to read 'Andrew Dillon', is positioned above the 'Signed:' label.

Signed:

(General Counsel)

Print Name: Andrew Dillon

Dated: 13 August 2013