Arbitrations CAS 2016/A/4855 Gassan Waked v. Al Shabab Club (Rafinha) & CAS 2016/A/4856 Gassan Waked v. Al Shabab Club (Tagliabue) & CAS 2016/A/4857 Gassan Waked v. Al Shabab Club (Berrio), award of 5 December 2017

Panel: Mr Nicholas Stewart QC (United Kingdom), President; Prof. Gustavo Albano Abreu (Argentina); Mr Georg von Waldenfels (Germany)

Football
Players' agent's commissions
Interpretation of an agreement

As a practical matter, an agreement which (i) is headed "settlement agreement"; (ii) refers specifically to an existing dispute under a previous agreement between the exactly the same parties; (iii) expressly recites that the parties have *"through amicable negotiations settled the dispute on the terms stated below"*; and (iv) sets out a new schedule of payments reflecting but modifying the payments specified in the previous agreement, would normally be expected immediately to extinguish the rights and obligations under the original agreement once and for all. However, there is no rule of law that this must be the effect of such a settlement agreement. Whether or not that is the effect turns on the parties' intentions on the proper interpretation of the settlement agreement in question. Tribunals charged with the task of interpretation of contracts will legitimately tend towards interpretations which avoid eccentric or legally unconventional results.

I. PARTIES AND APPEALS

1. Mr Gassan Waked (the "Appellant") is a professional football agent who is resident in the United Kingdom.

2. Al Shabab Club (the "Respondent") is a professional football club in the Kingdom of Saudi Arabia.

3. These are three appeals, between the same parties, which they have agreed should be heard and determined together in a single award.

4. The appeals are against three separate decisions of the same Single Judge of the Players' Status Committee of the Fédération Internationale de Football Association ("the Appealed Decisions"), all dated 18 August 2016 and all rejecting claims by the Appellant against the Respondent for money he alleges is due to him from the Respondent for his agency services.

II. FACTUAL BACKGROUND

A. Background Facts

5. This section II.A contains a summary of the relevant facts and arguments based on the Appellant's written submissions and evidence (the Respondent not having filed any submissions or evidence). The Panel has considered all the arguments and evidence submitted and refers to specific matters in this Award only as necessary to explain its decision.

6. These appeals stem from three separate written commission agreements (together the "Commission Agreements") made between the Appellant and the Respondent relating to three different professional football players:

   (1) Commission Agreement dated 4 June 2012 relating to the Argentine player Sebastián Lucas Tagliabue (the "Tagliabue Agreement").

   (2) Commission Agreement dated 1 July 2013 relating to the Brazilian player Rafael da Silva Francisco, also known as Rafinha (the "Rafinha Agreement").

   (3) Commission Agreement dated 18 July 2013 relating to the Colombian player Macnelly Torres Berrio (the "Macnelly Torres Berrio Agreement").

7. The appeals concern those three Commission Agreements as well as a related written agreement made on or about 21 June 2015 between the Appellant and the Respondent ("the Settlement Agreement") following dispute between those parties in relation to the Commission Agreements and a fourth agreement concerning a professional football coach M. (the "M. Agreement", which is not in evidence but the relevant terms of which are set out in the award in CAS 2015/O/4084 provided to the Panel).

8. The Tagliabue Agreement recited that the Appellant (there called "the Agent") was acting for the Respondent (there called "the Club") in its recruitment of the footballer Tagliabue from a Chilean club. It then expressly provided (*inter alia*, omitting clauses on which nothing turns in this appeal):

   2. The services of the Agent that the Club were seeking for are:

   a. to negotiate the transfer fee;

   b. to negotiate the player's terms;

   c. to set a payment schedule convenient to the Club; and

   d. to close the transaction and contracts tying all three parties

   3. The indicated task of the agent shall end with the signature of the contracts with [the Chilean club] and the Player, and the Agent will have no further right of commission once he is paid in full as stated in points 5 and 6 below.

4. In light of the services provided by the Agent in connection with the contract of the Player, the Club undertakes to pay the agent a commission valued at 7.5% (Seven and One Half a per cent) of the total value of the contract in its first 2 (Two) years and 10% (Ten per cent) of any year added to the Player's contract or New contract.

5. The total value of the first 2 (Two) years of the contract is $2,100,000 (Two Million and One Hundred Thousand US Dollars). Therefore the total commission for the guaranteed part of the contract being $157,500.00 (One Hundred and Fifty Seven Two Hundred and Ten Thousand US Dollars)[1]*.*

6. The Commission is to be paid in 1 (One) instalment no later than 1 December 2012.

9. In the event The Player is transferred by the Club for a monetary consideration, or a player exchange the Agent shall be entitled to an amount equivalent to the outstanding commission as detailed in point 5 above.

10. In the event of any upgrade in the Player's contract, the Agent shall be entitled to an equivalent of 10% of the increase in the contract. This contract shall be automatically amended to reflect the increase in commission.

11. In the event the Club takes up the option on the Player for season 2014/15, the Agent shall be entitled to a commission valued at 10% of the value of the Player's salary.

13. In case of conflict or dispute arising out of this agreement, the FIFA laws and regulations will apply according to art. 22 c) of the FIFA Regulations on the Status and Transfer of Players with an appeal to the CAS in Lausanne. As for such appeal, the parties agree that it will be dealt with in an expedite manner according to art. 44.4 of the CAS Code, with the application of FIFA laws and regulations. The Panel will consist of one arbitrator and the language of the arbitration will be English. The Parties irrevocably agree that the arbitral award is final, binding and shall be executed and enforced before FIFA committees.

9. The Rafinha Agreement recited that the Appellant (there called "the Agent") was acting for the Respondent (there called "the Club") in its recruitment of the footballer Rafinha from a Brazilian club. It then expressly provided (*inter alia*, omitting clauses on which nothing turns in this appeal):

1. This agreement follows the request made by the Club to the Agent.

2. The Player was eventually transferred to [the Respondent] for $2,500,000.00 (Two Million and Five Hundred Thousand US Dollars) and signed a 3 year employment contract valued at $3,600,000.00 (Three Million and Six Hundred Thousand US Dollars).

3. The services of the Agent that the Club were seeking for are:

a. to negotiate the transfer fee;

b. to negotiate the player's terms;

[1] The discrepancy between the figures and words is in the original.

c. to set a payment schedule convenient to the Club; and

d. to close the transaction and contracts tying all three parties

4. The indicated task of the agent shall end with the signature of the contracts with [the Brazilian club] and the Player, and the Agent will have no further right of commission once he is paid in full as stated in point 5 below.

5. In light of the services provided by the Agent in connection with the contract of the Player, the Club undertakes to pay the agent a commission valued at 7.5% of the Player's transfer fee, being $187,500 (One Hundred and Eighty Seven Thousand and Five Hundred US Dollars).

6. The Commission is to be paid in 1 (One) instalment no later than 15 January 2014.

13. In case of conflict or dispute arising out of this agreement, the FIFA laws and regulations will apply according to art. 22 c) of the FIFA Regulations on the Status and Transfer of Players with an appeal to the CAS in Lausanne. As for such appeal, the parties agree that it will be dealt with in an expedite manner according to art. 44.4 of the CAS Code, with the application of FIFA laws and regulations. The Panel will consist of one arbitrator and the language of the arbitration will be English. The Parties irrevocably agree that the arbitral award is final, binding and shall be executed and enforced before FIFA committees.

10. The Berrio Agreement recited that the Appellant (there called "the Agent") was acting for the Respondent (there called "the Club") in its recruitment of the footballer Macnelly Torres Berrio from a Chilean club. It then expressly provided (*inter alia*, omitting clauses on which nothing turns in this appeal):

1. This agreement follows the request made by the Club to the Agent.

2. The Player was eventually transferred to [the Club] for $4,750,000.00 (Four Million and Seven Hundred and Fifty Thousand US Dollars) and signed a three (3) season employment contract valued at $9,000,000.00 (Nine Million US Dollars).

3. The services of the Agent that the Club were seeking for are:

a. to negotiate the transfer fee;

b. to negotiate the player's terms;

c. to set a payment schedule convenient to the Club; and

d. to close the transaction and contracts tying all three parties

4. The indicated task of the agent shall end with the signature of the contracts with [the Colombian club] and the Player, and the Agent will have no further right of commission once he is paid in full as stated in point 5 below.

5. In light of the services provided by the Agent in connection with the contract of the Player, the Club undertakes to pay the agent a commission valued at 7.5% (Seven and One Half a per cent) of the total value of the contract in its first 2 (Two) years and 10% (Ten per cent) of any year added to the Player's contract or New contract.

6. The Commission is to be paid in 2 (Two) instalments as follows:

- $156,250.00 on 1 August 2013; and

- $200,000 On 01 March 2014.

10. In case of conflict or dispute arising out of this agreement, the FIFA laws and regulations will apply according to art. 22 c) of the FIFA Regulations on the Status and Transfer of Players with an appeal to the CAS in Lausanne. As for such appeal, the parties agree that it will be dealt with in an expedite manner according to art. 44.4 of the CAS Code, with the application of FIFA laws and regulations. The Panel will consist of one arbitrator and the language of the arbitration will be English. The Parties irrevocably agree that the arbitral award is final, binding and shall be executed and enforced before FIFA committees.

11. It is noted that although there are several provisions in common in the three Commission Agreements, there are differences. In particular, the Tagliabue agreement provides for additional payments under clauses 9 and 10 which have no equivalents in the other two Commission Agreements. However, the main points on these appeals are the same in relation to all three agreements.

12. Despite similarities, the Commission Agreements are three distinct contracts, albeit between the same parties. By contrast, the Settlement Agreement is a single contract between the Appellant and the Respondent. It recited that:

- the Appellant had filed four separate actions against the Respondent claiming compensation by reason of four agreements, being the Commission Agreements and the M. Agreement. Those applications were three at the FIFA Players' Status Committee (the "PSC"), relating one to each of the Commission Agreements, and an application CAS 2015/O/4084 relating to the M. Agreement.

- the parties had *"through amicable negotiations settled the dispute on the terms stated below"*.

Neither CAS 2015/O/4084 nor the M. Agreement is the subject of these appeals though it will be necessary to consider them in the course of this award.

13. The Settlement Agreement was signed by the Appellant and his signature dated 21 June 2015. It was also executed on behalf of the Respondent by Prince Khalid Bin Saad Al Saud. It is clear from the Settlement Agreement that the dispute in question applied to all four agreements, i.e. the Commission Agreements and the M. Agreement (together the "Four Agreements").

14. The terms of the Settlement Agreement (omitting unnecessary details) were:

1. *The [Respondent] will pay the following amounts to the [Appellant] in full and final compensation to the [Appellant] by reason of the [Four] Agreements:*

   - M. - €650,000

   - Tagliabue $157,500

   - Rafinha $187,500

   - Macnelly Torres [Berrio] $356,200

   The toal [sic] amount being €650,000 and $701,200.

2. *Through this payment, the [Appellant] will have no additional claims, present or future, against the [Respondent].*

3. *Payment of the full amount shall be made as follows:*

   - $325,000 no later than 1 September 2015

   - $325,000 no later than 1 December 2015

   - $200,000 no later than 1 April 2016

   - $250,000 no later than 1 August 2016

   - $251,200 no later than 1 October 2016

6. *One the amounts provided for in the present settlement agreement are paid by the [Respondent] to the [Appellant], the latter shall promptly inform the Players' Status Committee of FIFA and the Court of Arbitration for Sport that a settlement has been concluded and that the actions are withdrawn. Meanwhile, and until their final payment, the procedures will be suspended and if the payments are not done, they will be resumed.*

8. *In case one of the payments is not made within 7 (seven) days from due date, all the sums provided for in this agreement shall be immediately due.*

9. *If one of the payments is not made in due time and all the rest of the sums provided in this Settlement Agreement become immediately payable, the [Appellant] will seek enforcement through the Saudi Arabian Football Federation (SAFF) and the Asian Football Confederation (AFC).*

15. Arithmetically, it is obvious that the payments in Euro due on 1 September and 1 December 2015 together matched the compensation of EUR 650,000 for the M. Agreement and that the total of the further three payments due in US dollars under clause 3 matches the total of the USD 701,200 compensation for the three Commission Agreements relating to the players Tagliabue, Rafinha and Macnelly Torres Berrio.

16. The present appeals concern sums the Appellant claims are unpaid by the Respondent although overdue under each of the Commission Agreements, alternatively under the Settlement Agreement. The Appellant's case is that none of the sums due under any of those agreements has ever been paid.

17. It is important to note that while the Commission Agreements obviously preceded the three claims which the Appellant made to the FIFA Players' Status Committee, as they were based on those agreements, the Settlement Agreement was made *after* those claims had been filed. It was also made just under a month after the Appellant had filed a request for arbitration on 28 May 2015 before the Ordinary Arbitration Division of the CAS which started the proceedings CAS 2015/O/4084 mentioned in paragraph 12 above.

B. Proceedings before the FIFA Players' Status Committee

18. On 10 December 2014 the Appellant filed three claims against the Club before the FIFA Players' Status Committee ("the PSC"), one relating to each of the three Commission Agreements and each being a claim for unpaid commission: 15-00738/vmo (Rafinha), 15-00734/vmo (Tagliabue) and 15-00737/vmo (Macnelly Torres Berrio) (the "PSC Claims").

19. On the same day the Appellant also filed a claim against the Respondent before the PSC for unpaid commission under the M. Agreement. That claim was rejected by FIFA on 7 May 2015 on the ground that the services provided by the Appellant under the M. Agreement were outside the scope of the FIFA Players' Agents Regulations and the claim was therefore not within the jurisdiction of the PSC. There was no challenge by the Appellant to that FIFA ruling so that claim did not proceed before the PSC.

20. The Club responded to all three of the continuing claims by a single letter to FIFA dated 16 May 2015 in which it detailed payments it said had already been made to the Appellant in relation to the Commission Agreements. The letter concluded: *"As for the remaining outstanding amount will be transferred to Mr. Waked as soon as possible"*.

21. The Appellant's lawyers responded with a letter to FIFA dated 9 June 2015 explaining why the payments detailed in the Club's letter 16 May 2015 related to other matters and were not payments of any part of the sums then being claimed before the PSC.

22. On 25 June 2015 the Appellant's lawyers wrote letters to FIFA in each of the three cases. Those letters were in closely similar terms and each stated:

> *"I would like to inform you that the Parties have reached a Settlement Agreement in the above-captioned proceedings. I herein request a suspension. In case the Al Shabab fails to comply with the terms of the afore-referred Settlement Agreement we will contact you within the shortest deadline in order to resume the present proceedings"*.

That reference was clearly to the Settlement Agreement dated 21 June 2015.

23. FIFA responded in each case by letter dated 8 July 2015. It sent copies of the correspondence to the Club and asked the Appellant to inform FIFA by no later than 28 July 2015 if FIFA's intervention was still required.

24. Then on 15 July 2015 the Appellant's lawyers again wrote letters to FIFA in each of the three PSC Claims in closely similar terms. Each letter stated:

> *"As per the settlement agreement entered by and between the Parties we herein request on behalf of the Players' Agent Ghassan Waked that the present proceedings are suspended until the 30th of September 2015 when the Respondent is meant to comply with its financial obligations vis-à-vis the Appellant in relation with the afore-referred settlement agreement"*.

That reference was also clearly to the Settlement Agreement dated 21 June 2015.

25. FIFA wrote to the Appellant's lawyers by faxed letter dated 15 October 2015 asking the Appellant to inform FIFA by no later than 28 October 2015 if FIFA's intervention was still required.

26. The Appellant's lawyers responded by faxed letter that same day 15 October 2015:

"I duly acknowledge receipt of your today's fax and within the given deadline I would like to point out that according to my information, ***no agreement has been reached and no payment has been done by the Respondent, so the claim shall continue****"*.

The bold underlining was in the original letter but those words were not strictly accurate as the parties had made the Settlement Agreement. However, it is clear from the Single Judge's decisions that he was not misled by that assertion and fully understood the sequence of events and agreements.

27. FIFA sent a faxed letter to the Club on 29 October 2015 in each of the PSC Claims inviting the Club to submit its closing arguments within 10 days. It was therefore apparent that FIFA had revived the proceedings on the Appellant's claim in all three cases.

28. The Appellant's lawyers wrote to FIFA on 27 November 2015 in the Rafinha and Macnelly Torres Berrio cases, stating in each case that the first two instalments of the Settlement Agreement should have been paid but that the Appellant did not acknowledge receipt of these payments. The letter continued:

> *"Accordingly, we make reference to our precedent communications and herein request that the Settlement Agreement is disregarded as it has not been respect (sic) by the Respondent and therefore a formal decision shall be rendered by the Players' Status Committee on the basis of our claim"*.

There is no equivalent letter in the FIFA file for the Tagliabue case supplied to the Panel. The probability is that there was such a letter but that it is simply now missing from the file. But in any case it would have been clear to the Club from the overall correspondence that the Appellant was adopting the same position in all three of the PSC Claims.

29. At this point the Claimant's lawyers were unequivocally indicating that with the revival of proceedings in the three cases before the PSC, the legal basis of each of the Appellant's three claims was the relevant Commission Agreement and *not* the Settlement Agreement.

30. On 18 August 2016 the Single Judge of the PSC, Mr Johan van Gaalen, issued the Appealed Decisions. While the detailed facts obviously differed among the three cases brought by the Appellant, the Single Judge's analysis was essentially the same in each case. He rejected all three of the claims and in each case ordered the claimant Mr Gassan Waked (the Appellant in these CAS proceedings) to pay final costs of CHF 15,000 (of which CHF 5,000 had already been paid in advance).

31. The Single Judge's decision and the grounds in each case were notified to the parties by FIFA on 25 October 2016. The formal order in each case was as follows:

    1. *The claim of the Claimant, Ghassan Waked, is rejected.*

    2. *The final costs of the proceedings in the amount of CHF 15,000 are to be paid by the Claimant, Ghassan Waked. Considering that the latter already paid the amount of CHF 5,000 as advance of costs at the start of the present proceedings, the Claimant, Ghassan Waked, has to pay the remaining amount of CHF 10,000* ***within 30 days*** *as from the date of notification of the present decision to the following bank account* *with reference to [case number.*

32. In summary, the basis of the Single Judge's decision and reasoning in each case was:

    (i) The Appellant's lawyers' letter dated 25 June 2015 (see paragraph 22 above) had confirmed that the parties had concluded a settlement agreement;

    (ii) The Commission Agreement and the Settlement Agreement had been concluded by the same parties as to the present dispute and related to the same contractual object;

    (iii) The Settlement Agreement extinguished the rights and obligations under the Commission Agreement and replaced the Commission Agreement;

    (iv) Clause 6 of the Settlement Agreement did not "hinder" the validity of the Settlement Agreement;

    (v) These conclusions were "corroborated" by the fact that clause 9 of the Settlement Agreement obliged the Appellant to seek enforcement through the Saudi Arabian Football Federation and the Asian Football Confederation;

    (vi) Considering the fact that the Appellant insisted on basing his claim on the initial Commission Agreement, nevertheless having concluded a settlement agreement with the Club, the matter had been settled amicably and the claim was therefore rejected.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

A. Filing of appeals and consequent procedural steps to 10 January 2017

33. On 14 November 2016, the Appellant filed three separate statements of appeal with the CAS against the Appealed Decisions in accordance with Article R47 *et seq.* of the Code of Sports-related Arbitration (the "Code"). Each statement of appeal named the Club as first respondent and the Fédération Internationale de Football Association ("FIFA") as the second respondent.

34. Each statement of appeal requested that:

    (i) the proceedings be submitted to a panel of three arbitrators (and the Appellant nominated Mr Gustavo Albano Abreu as his chosen arbitrator in accordance with Article R48 of the Code); and

    (ii) the procedures in all three appeals be consolidated under Article R52 of the Code; and

    (iii) the proceedings should be expedited in accordance with Article R44.4 of the Code (though as these are appeals, the correct reference should have been to Article R52 of the Code).

35. By letters dated 16 November 2017 to the Appellant and the two named Respondents, the CAS Court Office notified the parties that the three cases had been assigned to the Appeals Arbitration Division of the CAS and invited the Respondents to inform the CAS Court Office within two days whether they agreed that:

    (i) all three cases should be submitted to the same panel in accordance with Article R50 of the Code (Article R52 of the Code concerns the consolidation of appeals against the same decision); and

    (ii) there should be an expedited procedure in accordance with Article R52.

    The letter also invited the Respondents jointly to nominate an arbitrator within ten days under Article R53 of the Code and directed the Appellant to file an appeal brief in accordance with Article R51 of the Code.

36. On 21 November 2016 FIFA wrote to the CAS noting that the appeals did not appear to contain any substantial request against FIFA. Accordingly, FIFA requested that it should be excluded from all three appeals.

37. By letter dated 21 November 2016 to all the parties, the CAS Court Office gave the Appellant a deadline to state whether he maintained FIFA as a respondent in the three appeals. In the meantime, the deadlines given to the Respondents as mentioned in paragraph 35 above were suspended.

38. On 24 November 2016 the Appellant filed a single appeal brief dealing with all three appeals.

39. By a letter dated 25 November 2016, the CAS Court Office directed the Club and FIFA as Respondents to submit answers pursuant to Article R55 of the Code within twenty days.

40. By a separate letter also on 25 November 2016 the CAS Court Office gave the Appellant a final deadline of 29 November 2016 to state whether he wished to maintain FIFA as a respondent; and on 26 November 2016 the Appellant's lawyers wrote confirming that the Appellant accepted FIFA's request to be excluded.

41. The proceedings were accordingly amended by the CAS to remove FIFA as a respondent. By letter dated 28 November 2016 new deadlines were given by the CAS Court Office to the Club as remaining sole Respondent on the points mentioned in paragraph 34 above.

42. There was no response from the Club in relation to any of those points before or after the deadlines set on 28 November 2016.

43. By letter dated 1 December 2016 the CAS Court Office notified the parties that no expedited proceedings would be implemented.

44. On 7 December 2016 the CAS Court Office notified the parties that the President of the CAS Appeals Arbitration Division had decided to submit all three cases to the same panel under Article R50 of the Code.

45. By 20 December 2016 there had been no answer from the Club filed as directed on 20 November 2016 and no other communication from the Club to the CAS. By letter of 20 December 2017, the parties were invited to inform the CAS Court Office by 27 December 2016 whether they preferred a hearing or for the Panel to issue an award based solely on the parties' written submissions. On the same day the Appellant's lawyers responded that the Appellant deemed a hearing necessary. The Club did not respond to the invitation.

46. The Respondent not having made any nomination of an arbitrator, by letter dated 10 January 2017 the CAS Court Office notified the parties that the Panel appointed to decide these appeals was constituted as:

President: Mr Nicholas Stewart QC, barrister in London, United Kingdom

Arbitrators: Prof. Gustavo Albano Abreu, professor in Buenos Aires, Argentina

Dr. Georg von Waldenfels, lawyer in Munich, Germany

B. Order on the Appellant's request for production of documents

47. In section IV B) of his appeal brief the Appellant made the following request for the Panel to order production of the following documents by the Club in relation to appeal CAS 2016/A/4856 (Tagliabue):

(1) the transfer agreement concluded with the Emirati club Al Wahda Football Club Abu Dhabi on/around 1 July 2013 related to the transfer of the services of the professional footballer Sebastián Lucas Tagliabue.

(2) any and all the employment contracts and subsequent amendments to its terms that the Club may have concluded with the player Tagliabue from 4 June 2012 until he was transferred to Al Wahda Football Club.

48. Those orders were sought under Articles R57 and R44.3 of the Code. The point of request (1) was potentially to support a claim by the Appellant under clause 9 of the Tagliabue Agreement. The point of request (2) was potentially to support a claim under clause 10 of the Tagliabue Agreement. In his appeal brief the Appellant expressly reserved the right to further supplement his written submissions and amend his request for relief if it was considered that clause 10 had been triggered.

49. By letter dated 14 February 2017 the CAS Court Office notified the parties that the Panel ordered the Club to produce within 14 days:

- The written transfer agreement made in or about July 2013 between the Club and the Emirati club Al Wahda Football Club Abu Dhabi relating to the transfer of the services of the professional player Sebastián Lucas Tagliabue.

- The first written employment contract made in 2012 between the Club and the player Tagliabue and all (if any) subsequent written documents which:

  (a) extended or purported to extend the contractual term of the player Tagliabue's employment by the Respondent; or

  (b) otherwise amended or purported to amend the terms of the player Tagliabue's employment by the Respondent.

50. The Club has never produced any document pursuant to those orders and the Appellant has taken no further steps in these appeals to enforce or otherwise obtain production of any such document.

C. Further procedural steps since 10 January 2017

51. Under its powers in Article R57 of the Code, on 14 February 2017 the Panel requested FIFA to communicate its files in relation to the claims made by the Appellant in the three cases before the PSC with which these appeals are concerned. Those files were duly provided on 8 March 2017 and on 9 March 2017 the CAS Court Office sent copies of the files to the Panel and to the parties.

52. Under its powers in Articles R57 and R44.3 of the Code, the Panel by a letter dated 7 April 2017 sent by the CAS Court Office on the Panel's behalf, directed the Appellant to file a witness statement on or before 21 April 2017 confirming (if it should be the case) that he had

never received either full or part payment of any of the sums due to him under any of the Settlement Agreement and the three Commission Agreements.

53. By letter to the CAS Court Office dated 11 April 2017, the Appellant's lawyers sent a signed statement of the Appellant dated 7 April 2017, headed "Affidavit" and stating:

"I, Gassan Waked, holder of UK Passport [number and date of issue given] do solemnly swear that I never received a full or partial payment of any of the following agreements:

- *Settlement agreement of 21 June 2015.*
- *Commission agreement of 1 July 2013 (player Rafinha)*
- *Commission agreement of 4 June 2012 (player Tagliabue)*
- *Commission agreement of 18 July 2015 (player McNelly Torres)".*

54. Following that statement, the parties were asked again, by letter from the CAS Court Office dated 13 April 2017, whether they wished a hearing to be held or if they would agree that an award be rendered on the basis of the written submissions.

55. The Appellant's lawyers replied by letter 13 April 2017. They enclosed a copy of an award in CAS 2015/O/4084, a case in which Mr Gassan Waked was the claimant and Al Shabab Club was the respondent. That decision is considered below in this award. The letter stated that the Appellant considered that the present case could be adjudicated exclusively based on the written submissions already filed on behalf of the Appellant. The letter added: *"However, shall the Panel deem necessary to cross-examine Mr Waked in line with its prior evidentiary request, the Appellant would be pleased to attend an oral hearing"*.

56. On 24 April 2017, when there had still been no communication at all from the Respondent to the CAS since the filing of the statement of appeal the CAS Court Office notified the parties by letter that in accordance with Article R57 of the Code, the Panel had decided to render an award on the basis of the written submissions, without holding a hearing. That letter also enclosed an Order of Procedure which the parties were requested to sign and return by 1 May 2017.

57. On 3 May 2017, when neither party had signed and returned the Order of Procedure, the CAS Court Office wrote to the parties giving them a new deadline of 5 May 2017 to do so. On 3 May 2017 the Appellant's lawyers returned the Order of Procedure signed by them on his behalf.

58. On 23 May 2017 Squire Patton Boggs (UK) LLP ("SPB"), lawyers in London, wrote to the CAS stating that they had recently been instructed by the Club in these appeals. They informed the CAS that the parties' representatives had agreed a short stay of the proceedings for 15 days. A stay of 15 days was duly granted by the CAS and notified to the parties by letter 24 May 2017. On that same day SPB sent to the CAS a copy of a power of attorney dated 10 May 2017 appointing SPB to act in matters including these appeals.

59. Following agreement between the parties, the CAS granted further suspensions of the proceedings until 14 June 2017 and then until 1 September 2017.

60. By letter to the parties dated 4 September 2017, the CAS Court Office notified the parties that in the absence of any news from the parties, the present proceedings would resume. The suspension had therefore ended and the proceedings then resumed.

IV. SUBMISSIONS OF THE PARTIES

61. This section is a summary of the parties' positions. It does not include every submission, which is not necessary, but all submissions have been considered by the Panel in reaching our decision on this award.

A. The Appellant's submissions

62. Key points in the Appellant's submissions are:

(1) The Club has never paid any sums due under the three Commission Agreements.

(2) The Appellant has therefore remained entitled to receive from the Club the sum of USD 701,250 under the Commission Agreements, being the total amount of the payments mentioned in clauses 5 and 6 of each of the Commission Agreements.

(3) The Club is also bound to pay the Appellant a further sum of USD 157,500 under clause 9 of the Tagliabue Agreement, because on or about 1 July 2016 the player Tagliabue was transferred by the Club to Al Wahda Football Club, United Arab Emirates. No payment of that sum has ever been made by the Club.

(4) Those financial entitlements of the Appellant were beyond reasonable doubt when the Appellant and the Club entered into the Settlement Agreement on 21 June 2015.

(5) Following the suspension of the PSC Claims from late June/early July 2015, the first payment due under clause 3 of the Settlement Agreement was EUR 325,000 on 1 September 2015 but that payment was never made either then or later.

(6) The Appellant's request to FIFA on 15 October 2015 for resumption of the PSC Claims was in full compliance with clause 6 of the Settlement Agreement.

(7) Nowhere in the Settlement Agreement was it indicated that the Settlement Agreement would supersede or replace the Commission Agreements or deprive them of their binding nature and legal effect. The Settlement Agreement indicated the opposite.

(8) In deciding that the Settlement Agreement replaced the Commission Agreements in full, the PSC Single Judge was wrong. That decision failed to respect the contractual freedom of the parties and had no proper basis in the contracts between the parties or any statements by them.

(9) Clause 6 of the Settlement Agreement clearly indicated that in the case of non-payment, the PSC Claims would resume and it would be for the PSC to issue decisions on those claims. Clause 9 of the Settlement Agreement simply provided the mechanism for enforcement of any decision issued by the PSC. The effect of this submission was that the Single Judge had been wrong in regarding clause 9 as supporting (or in his word "corroborating") his conclusion that the Settlement Agreement extinguished the rights and obligations under the Commission Agreements.

63. Those points (1) to (9) were all directed to the Appellant's primary position that the Settlement Agreement had not extinguished the rights and obligations under the Commission Agreements; and that on the resumption of the PSC Claims the Appellant was entitled to enforce his rights to payments under the Commission Agreements. In these appeals the Appellant also made alternative submissions if the Panel should decide that the Settlement Agreement had entirely replaced and extinguished the Commission Agreements. Key points of those alternative submissions are:

(10) Clauses 6 and 9 of the Settlement Agreement together constituted a pathological arbitration clause which should have been considered by the Single Judge as failing to give jurisdiction to the Saudi Arabian Football Federation or the Asian Football Confederation, with the result that it was the PSC which was competent to decide the Appellant's claims under the Settlement Agreement.

(11) The flaw which created that pathological arbitration clause was that neither the Saudi Arabian Football Federation nor the Asian Football Confederation had been shown to have established any dispute resolution chamber to resolve this sort of dispute, even less one which could be considered an independent and duly constituted impartial court of arbitration. The burden of proof on the question whether such bodies had been established lay on the Club and it had not produced anything to satisfy that burden.

(12) The Club should be ordered to pay the Appellant the sum of USD 701,200 under clause 2 of the Settlement Agreement (which is the total amount of payments specified in clause 2 excluding the first two payments of USD 325,000 each).

64. The primary relief requested by the Appellant is based on the Commission Agreements and is for the Panel to:

1. *Accept the appeals against the decisions of the Single Judge of the FIFA Players' Status Committee dated 18 August 2016.*

2. *Adopt an award annulling those decisions and declaring that:*

a.1 The Appellant shall be paid by the Respondent the amount of USD858,750.

a.2 5% per annum interest shall be paid on the following amounts from the due dates:

- On USD157,500 from 1 December 2012

- On USD157,500 from 1 July 2013

- On USD156,250 from 1 August 2013

- On USD187,500 from 15 January 2014

- On USD200,000 from 1 March 2014

a.3 Fix the sum of CHF30,000 to be paid by the Respondent to the Appellant, to help the payment of the Appellant's legal fees and costs.

a.4 Condemn the Respondent to pay the whole of the CAS administration costs and arbitrators' fees.

a.5 Award any such other relief as the Panel may deem necessary or appropriate.

65. The alternative relief requested by the Appellant is based on the Settlement Agreement and is for orders in the same terms as set out in paragraph 66 above but with the substitution for a.1, a.2 and a.3 of the following claims:

b.1 The Appellant is entitled to be paid the amount of USD701,200 as provided for in article 1 of the Settlement Agreement

b.2 5% per annum interest on the following amounts from the due dates:

- On USD200,000 from 1 April 2016

- On USD250,000 from 1 August 2016

- On USD251,200 from 1 October 2016

B. The Respondent's position

66. The Club as Respondent has never filed any answer or made any submissions at all in these appeals, although its lawyers SPB have expressly stated in correspondence that the Club reserves all its rights in relation to jurisdiction and that the Club has not accepted the CAS jurisdiction in these appeals.

V. CAS JURISDICTION AND ADMISSIBILITY

67. Article R47 of the Code states:

An appeal against the decision of a federation, association or sports-related body may be filed with the CAS insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body.

68. Article 58.1 of the FIFA Statutes states:

> *Appeals against final decisions passed by FIFA's legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of notification of the decision in question.*

69. The Players' Status Committee is plainly a legal body of FIFA for the purposes of Article 58.1. The Single Judge correctly determined that the PSC was the competent body of FIFA to decide on these claims, by virtue of Article 30.2 of the Players' Agents Regulations 2008.

70. The PSC's decisions in all three cases were notified to the Appellant on 25 October 2016. The Appellant filed statements of appeal with the CAS in all three cases on 14 November 2016, which was within the 21 day period stipulated by Article 58.1.

71. The CAS jurisdiction and the admissibility of these three appeals are clear.

VI. APPLICABLE LAW

72. Article R58 of the Code states:

> *The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.*

73. In the present case there is no indication whatever of any choice of law by the parties within the Commission Agreements, the Settlement Agreement or otherwise. FIFA is domiciled in the Swiss Confederation. Despite the erroneous reference to Article 22 c) of the Regulations on the Status and Transfer of Players, it is clear from clause 10 of each of the Commission Agreements that the parties had chosen that relevant FIFA laws and regulations should apply to decide any disputes. The Panel will therefore apply the statutes and regulations of FIFA, so far as relevant, and subsidiarily the law of the Swiss Confederation.

VII. MERITS

74. It is clear on the evidence before the Panel that the Respondent has never made any payment of or towards the sums which it was obliged to make under the Commission Agreements. It is equally clear that the Respondent has never made any payment of or towards the amounts described in clause 1 of the Settlement Agreement as:

- Tagliabue USD 157,500
- Rafinha USD 187,500

- Macnelly Torres USD 356,200

The Panel draws that conclusion from the Appellant's signed statement to that effect dated 7 April 2017 and the fact that it has been provided to the Respondent but remains uncontradicted by the Respondent or by any other evidence before the Panel.

75. The Single Judge also clearly accepted that no such payments had been made. His reasoning for nevertheless rejecting the Appellant's claim is set out in paragraph 32 of this award. It was not elaborated and essentially came down to a single main point: the making of the Settlement Agreement extinguished the rights and obligations under the Commission Agreements.

76. This Panel acknowledges that as a practical matter, an agreement which (as in this case):

- is headed "SETTLEMENT AGREEMENT";
- refers specifically to an existing dispute under a previous agreement between the exactly the same parties;
- expressly recites that the parties have *"through amicable negotiations settled the dispute on the terms stated below"*; and
- sets out a new schedule of payments reflecting but modifying the payments specified in the previous agreement

would normally be expected immediately to extinguish the rights and obligations under the original agreement once and for all.

77. However, there is no rule of law that this must be the effect of such a settlement agreement. Whether or not that is the effect turns on the parties' intentions on the proper interpretation of the settlement agreement in question. An element in that exercise of interpretation is the original agreement under which the dispute has arisen (meaning in this case the three Commission Agreements and also the M. Agreement) but it is the effect of the Settlement Agreement which is the key point.

78. The Single Judge correctly identified a tension between clauses 6 and 9 of the Settlement Agreement as lying at the heart of this issue. That tension reflects a distinctly untidy fit between the Settlement Agreement and the Commission Agreements.

79. Looking first at clause 6 of the Settlement Agreement, it provides in the first place that until all the payments due under the Settlement Agreement have been made, the three PSC Claims and the M. Claim (the "Four Actions") were *"suspended"*. It then states expressly and unequivocally that if the payments under the Settlement Agreement were *"not done"*, the Four Actions *"will be resumed"*. The point at which the payments under the Settlement Agreement would be treated as *"not done"* could only have been the point at which any of those payments was not made on the due date specified in the Settlement Agreement. That point arrived on 2 September 2015, when the first payment of EUR 325,000 had not been made on the due date

1 September 2015 (which under clause 8 triggered liability on the Club to pay the whole amounts of EUR 650,000 and USD 701,200 on 9 September 2015).

80. It followed that according to clause 6 of the Settlement Agreement, the Four Actions automatically resumed on 9 September 2015, although in practical terms some notification to the FIFA PSC was obviously needed as the body under whose jurisdiction and direction the cases had been brought and would then proceed. That notification was given by the Appellant's lawyers' letter to FIFA 15 October 2015 (see paragraph 26 above).

81. The Panel sees no basis whatever for rejecting and not implementing, so far as possible, that clear agreement between the Appellant and the Club that the Four Actions would be *"resumed"*. Any other conclusion would be to ignore the express wording of the second sentence of clause 6 and give it no effect whatever in precisely the circumstances in which it was expressed to apply.

82. That leads on the next question, which is what was meant by the Four Actions being *"resumed"*. The starting point is that this part of clause 6 would have made no sense at all unless *some* contractual obligations were to be enforced by the resumed proceedings (there being no non-contractual obligations to be considered here).

83. The only possible contractual obligations were those found in:

- the Commission Agreements and the M. Agreement; or
- the Settlement Agreement.

84. The Panel does not find it tenable that the parties intended the resumption of the Four Actions to be for enforcement of the Settlement Agreement but not of the Four Agreements. There are telling objections to that being the parties' intention:

(1) It is irreconcilable with clause 9 of the Settlement Agreement, which expressly states that if the sums provided in the Settlement Agreement become immediately payable (by clause 8), the Appellant *"will seek enforcement through the Saudi Arabian Football Federation (SAFF) and the Asian Football Confederation (AFC)"*. This is a strong indication that resumption of the Four Actions was intended to be resumption of those claims *based upon the Commission Agreements* (and the M. Agreement). It would not have made sense for the resumption of the Four Actions to have been based on the Settlement Agreement, as clause 9 expressly provided a different enforcement route for any claim under the Settlement Agreement. This on its own is a compelling point in favour of the Panel's interpretation, even without the support of the following point.

(2) Even leaving aside the Panel's doubts indicated above, the reference in clause 6 of the Settlement Agreement to the Four Actions being *"resumed"* is more naturally read and understood as contemplating revival of the claims as already formulated in the Four Actions. Moreover, at the very least it would be an unlikely understanding of *"resumed"* to suppose that it meant resumption to the *exclusion* of the claims as already formulated and

based on the Commission Agreements and the M. Agreement. The Panel considers that much clearer wording would have been required to achieve that result and make reliance on the Settlement Agreement the *only* valid basis on which those existing proceedings could be resumed (and if such clear wording had been included in clause 6, the Panel then goes back to the compelling point above: in that case, clause 9 would have made no sense at all).

85. In reaching this conclusion, the Panel does recognise that the overall result is unusual. On the one hand, on the Club's failure to make any payment under the Settlement Agreement, clause 6 of the Settlement Agreement contemplated automatic resumption and enforceability of claims made under the Commission Agreements (and the M. Agreement). On the other hand, the effect of clauses 8 and 9 was that at the same time sums became due and enforceable directly under the Settlement Agreement itself. These unusual aspects of the Panel's decision stem from the unusual structure of the agreements made between the parties.

86. While there was some match between the sums due under the Four Agreements and the sums in clause 1 of the Settlement Agreement, the sums labelled by reference to Tagliabue, Rafinha and Macnelly Torres were less in total (USD 701,200) than the sums which had been claimed by the Appellant in the PSC Claims under the Commission Agreements (USD 858,750). In the case of M. the difference was that under clause 5 of the M. Agreement the Club was to pay the Appellant a total of EUR 1,300,000 whereas under the Settlement Agreement the sums designated by reference to M. were only EUR 650,000.

87. On this Panel's interpretation of the Settlement Agreement, if there was default by the Club in making the payments specified by the Settlement Agreement, the Appellant then had two options:

- seek payments under the Four Agreements, by resumption of the PSC Claims and the arbitration CAS 2015/O/4084; or

- seek payment of the total sums due under clause 8 of the Settlement Agreement, through the Saudi Arabian Football Federation and the Asian Football Confederation.

88. Clearly the Appellant could not have double recovery. However, even with that obvious qualification the continuation of parallel or overlapping but differing rights and obligations was an unusual result. It is apparent, though not spelled out in his written reasons, that this was a problem which must have troubled the Single Judge and contributed to his conclusion that the rights and obligations under the Four Agreements had been extinguished once and for all upon the making of the Settlement Agreement.

89. The Panel does not simply brush aside this problem, which we have given the most careful consideration. Tribunals charged with the task of interpretation of contracts will legitimately tend towards interpretations which avoid eccentric or legally unconventional results. The result here can certainly be regarded as falling within that category. Nevertheless, the Panel concludes that the Single Judge's view, that the Settlement Agreement did extinguish all rights

and obligations under the Four Agreements, cannot be sensibly reconciled with the express terms of the parties' agreement, especially clause 6 of the Settlement Agreement.

90. The combined effect of the Four Agreements and the Settlement Agreement does not appear to have been particularly well thought out by those involved in the preparation and execution of the Settlement Agreement. However, the task of the Panel is to ascertain the parties' intentions as expressed in the Settlement Agreement when it is interpreted in the context of the Four Agreements and the Four Actions. The Panel's conclusion is that on the true construction of the Settlement Agreement the rights and obligations under the Commission Agreements continued in force but:

- were suspended for as long as there was no failure by the Club to make the payments when due under the Settlement Agreement; and

- would be extinguished once and for all when full payment had been made to the Appellant of all the sums due under the Settlement Agreement.

91. There were potential circumstances in which the Appellant would have been regarded in law as having irrevocably elected for one or other of the two sets of obligations (i.e. those under the Four Agreements and those under the Settlement Agreement) and abandoned the other ones. In that context a further point which the Panel has also considered is the effect of the proceedings in CAS 2015/O/4084, which ended with an award of the sum designated as "M. - EUR 650,000" in clause 1 of the Settlement Agreement.

92. The sole arbitrator's award in CAS 2015/O/4084 was made on 14 February 2017. He ruled that the Club should pay the Appellant EUR 650,000 plus interest at 5% per annum from 8 September 2015. That award was unequivocally made as enforcement of the first two payments of EUR 325,000 each due under clause 3 of the Settlement Agreement, which were plainly earmarked in the Settlement Agreement as payments of the item "M. - EUR 650,000" in clause 1. The award of interest from 8 September 2015 was made on the footing that by virtue of clause 8 of the Settlement Agreement, the whole amount of EUR 650,000 fell due 7 days after the due date for payment of the first instalment, even though the second instalment of EUR 325,000 would not otherwise have fallen due until 1 December 2015.

93. A point to note is that if that EUR 650,000 had fallen due for payment on 8 September 2015 (and this Panel accepts the CAS 2015/O/4084 sole arbitrator's conclusion on that point) then it followed under clause 8 that so did all the other payments mentioned in clause 1 of the Settlement Agreement, i.e. the payments designated Tagliabue USD 157,500, Rafinha USD 187,500 and Macnelly Torres USD 356,200. However, it was not necessary for the sole arbitrator to mention that point or include any reference to those other payments in his award. There was no claim before him for those amounts.

94. This Panel does not know whether the Club has complied with the award by paying the EUR 650,000, but it makes no difference to its conclusions. Whether or not it has, the obtaining of that award was an enforcement by the Appellant of rights under the Settlement Agreement. In this Panel's view it was also a clear election to abandon his rights under the M. Agreement.

95. This Panel has asked itself whether the obtaining of that award on 17 February 2017 also constituted an election by the Appellant, and an irrevocable election, to pursue his rights under the Settlement Agreement only and to abandon his rights under the Commission Agreements. The Panel finds that it did not, for the following reasons:

(1) Although the Settlement Agreement was strictly a single contract to settle all the disputes under four separate previous agreements, it is unrealistic not to recognise from the terms of clause 1 that the sum of EUR 650,000 was intended as a compromise of the claim under the M. Agreement (with a 50% discount) and was not regarded by the parties as related to the Commission Agreements. It was distinct from the US dollar sums specified in the Commission Agreements and the Settlement Agreement. The enforcement of the Appellant's claim to that distinct EUR 650,000 item under the Settlement Agreement did not imply any abandonment by the Appellant of his claims under the Commission Agreements.

(2) By the date of the award in CAS 2015/O/4084 the Appellant had already filed his statements of appeal in the three cases now before this Panel. Throughout the proceedings on the PSC Claims, then in the statements of appeal and throughout these CAS appeal proceedings, the Appellant has maintained the consistent position that in relation to Rafinha, Tagliabue and Macnelly Torres Berrio he was seeking to recover payments due under the Commission Agreements and not the Settlement Agreement (except in these appeals only as an alternative to the primary relief based on the Commission Agreements). In those circumstances the Panel does not see that the Appellant can be taken to have elected to abandon his claims under the Commission Agreements and to rely entirely on the Settlement Agreement for his agency services relating Rafinha, Tagliabue and Macnelly Torres Berrio. Moreover, the Panel also sees nothing which has rendered enforcement of the Commission Agreements inconsistent with any step taken by the Appellant so as to make enforcement of the Commission Agreements either (i) impossible or (ii) in practical terms unworkable.

96. The interplay of these Commission Agreement and the Settlement Agreement is not at all as usually found when disputes under existing agreements are settled by a later agreement. However, on the Panel's examination and analysis of these particular contracts on the evidence before it, it has come to the firm conclusion that the Appellant remains entitled to enforce rights to payment in accordance with the Commission Agreements and that those rights have not been extinguished by the Settlement Agreement. The Single Judge's decision is therefore set aside.

97. In principle it is therefore the primary relief to which the Appellant is entitled on these appeals, as set out in paragraph 64 above. The Panel need not consider any further the alternative relief based on the Settlement Agreement.

The claim under clause 9 of the Tagliabue Agreement

98. The Appellant is not entitled to the whole sum of USD 858,700 claimed as the primary relief. That sum includes an item of USD 157,500 claimed under clause 9 of the Tagliabue

Agreement, allegedly triggered by the transfer of the player Tagliabue on or around 1 July 2013 from the respondent Club to Al Wahda Football Club, United Arab Emirates (as asserted in paragraph II.7 of the appeal brief). The flaw in this item of the Appellant's claim is that the assertion in the appeal brief is unsupported by evidence. The Appellant's request (1), noted in paragraph 47 above, was specifically designed to plug this gap in the evidence but the Panel's order produced no response. The Panel does not infer from that non-response that there is such a transfer agreement or that there was a transfer of the player Tagliabue to Al Wahda Football Club. Under Article 8 of the Swiss Civil Code the Appellant has the burden of proving that transfer and he has not done so on the evidence before the Panel.

99. The Panel is nevertheless at least comfortably satisfied on the evidence that all the other sums claimed as set out in paragraph 64 above are due and remain unpaid under the Commission Agreements. The Club will therefore be ordered to pay the total sum of USD 701, 200 plus interest at 5 % per annum in accordance with Article 104 of the Swiss Code of Obligations, which provides:

> *"A debtor in default of payment of a pecuniary debt must pay default interest at the rate of 5% per annum even where a lower rate of interest was stipulated by the contract"*.

100. The dates from which interest at 5% per annum will run are:

- On USD 157,500 from 1 December 2012 (Tagliabue Agreement)

-- On USD 156,250 from 1 August 2013 (Berrio Agreement)

- On USD 187,500 from 15 January 2014 (Rafinha Agreement)

- On USD 200,000 from 1 March 2014 (Berrio Agreement)

ON THESE GROUNDS

The Court of Arbitration for Sport orders that:

1. The appeals filed by Mr Gassan Waked against Al Shabab Club concerning the two decisions of the Single Judge of the FIFA Players' Status Committee passed on 18 August 2016 with respect to Messrs Berrio and Rafinha are upheld.

2. The appeal filed by Mr Gassan Waked against Al Shabab Club concerning the decision of the Single Judge of the FIFA Players' Status Committee passed on 18 August 2016 with respect to Mr Tagliabue is partially upheld.

3. The three decisions of the Single Judge of the FIFA Players' Status Committee dated 18 August 2015 are set aside.

4. Al Shabab Club is ordered to pay Mr Gassan Waked the following sums together with interest at 5 % per annum from the dates stated below until payment:

   USD 157,500 with 5% interest *per annum* from 1 December 2012 (Tagliabue Agreement)

   USD 156,250 with 5% interest *per annum* from 1 August 2013 (Berrio Agreement)

   USD 187,500 with 5% interest *per annum* from 15 January 2014 (Rafinha Agreement)

   USD 200,000 with 5% interest *per annum* from 1 March 2014 (Berrio Agreement)

5. (…).

6. (…).

7. All other motions or prayers for relief are dismissed.