



Mr Thomas Sadowski Former Treasurer Bankstown Polish Club Co-operative Limited [REDACTED]	Mrs Barbara Kubiak Club Secretary Bankstown Polish Club Co-operative Limited [REDACTED]	Mr David Byrne Director Investigations, Intervention and Review Better Regulation Division Department of Customer Service [REDACTED]
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12 January 2022

Dear Sir/Madam

**Decision on disciplinary complaint under the *Registered Clubs Act 1976*
Mr Thomas Sadowski**

On 6 August 2021, the Independent Liquor & Gaming Authority (Authority) notified you of its findings on the complaint against Mr Thomas Sadowski, former treasurer of Bankstown Polish Club Co-operative Limited (Club), under the *Registered Clubs Act 1976* (Act).

The Authority invited you to make a submission on what, if any, disciplinary action should be taken against Mr Sadowski under section 57H(2) of the Act on the basis of its findings.

The Authority subsequently received and considered a submission from Liquor & Gaming NSW as the complainant. No other submission was received.

At its meeting on 15 September 2021, the Authority decided to:

- declare that Mr Sadowski is ineligible to stand for election or to be appointed to, or hold office in, the position of secretary or member of the governing body of any registered club for a period of 10 years
- order Mr Sadowski to pay the Secretary of the Department of Customer Service an amount of \$4,716.48 for the costs incurred by the complainant in carrying out the investigation in relation to him.

A statement of reasons for the Authority's decision is attached.

If you have any questions about this letter, please contact the Authority Secretariat at ilga.secretariat@liquorandgaming.nsw.gov.au.

Yours faithfully

Philip Crawford
Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Background

1. On 10 November 2020 the Independent Liquor & Gaming Authority (Authority) received a complaint (Complaint) about Mr Thomas Sadowski, a former treasurer of Bankstown Polish Club Co-operative Limited (Club).
2. The Complaint was made by a delegate of the Secretary of the NSW Department of Customer Service (Complainant) under section 57F of the *Registered Clubs Act 1976* (Act).
3. The Complainant alleged that Mr Sadowski:
 - misappropriated \$124,772.69 of the Club's monies between 2016 and 2019, through electronic transactions from the Club's bank account, and deposits of cash received for events held at the Club, into his personal account
 - has repaid some but not all of the misappropriated monies to the Club
 - acted in the role of the Club's secretary between December 2016 and August 2019 without the Authority's approval, in breach of section 34(1) of the Act.
4. Accordingly, the Complainant alleged two grounds for the Complaint under section 57F of the Act:
 - Mr Sadowski is not a fit and proper person to be a member of the governing body of the Club – section 57F(3)(g)
 - Mr Sadowski contravened a provision of the Act – section 57F(3)(d).
5. On 5 February 2021 the Authority wrote to Mr Sadowski under section 57G of the Act, notifying him of the Complaint and inviting him to show cause as to why disciplinary action should not be taken. The secretary of the Club was also provided with a copy of the letter and an opportunity to make any submissions. No submission was received from either party in response.
6. The Complainant advised on 27 April 2021, in response to the Authority's queries, that they have no concerns about the Club's current board or management. The Complainant provided information on the remedial action taken by the Club, including changes to its governing body and staff training, to prevent future risks of misappropriation of the Club's monies.
7. The Authority considered the Complaint at its meeting on 12 May 2021, and found that both grounds for the Complaint were established.
8. On 6 August 2021 the Authority issued a findings letter to Mr Sadowski, the Club and the Complainant, inviting their submissions on what, if any, disciplinary action should be taken in light of its findings.
9. On 16 August 2021 the Complainant made a submission that it would be appropriate to declare Mr Sadowski ineligible for the position of secretary or member of the governing body of any registered club for 10 years, and require him to pay the Complainant's costs in investigating the matter.
10. No other submission was received in response to the findings letter.
11. The Authority made a final decision at its meeting on 15 September 2021.

Relevant legislation

Prescribed grounds of complaint

12. Section 57H of the Act confers on the Authority powers to take a range of disciplinary action against a registered club, or person who is or was the secretary or member of the

governing body of a registered club, if it is satisfied that any of the prescribed grounds of complaint are made out.

13. The Authority is satisfied that the two established grounds of the Complaint are prescribed grounds under sections 57F(3)(d) and (g).

Procedure for taking disciplinary action

14. Section 57G of the Act requires the person in relation to whom a complaint is made be given notice of the complaint and invited to show cause as to why disciplinary action should not be taken.
15. The Authority is satisfied that Mr Sadowski has been afforded the requisite procedural fairness under section 57G of the Act, and given multiple opportunities to make submissions about the Complaint and whether disciplinary action should be taken.

Declaration concerning ineligibility of persons

16. Section 57J of the Act provides that the Authority may only make a declaration concerning the ineligibility of a person under section 57H(2) of the Act if that person acted in certain capacities at the relevant time, and has been given an opportunity to show cause why the declaration should not be made.
17. The Authority is satisfied that Mr Sadowski:
 - having acted as the Club's treasurer and de facto secretary at the time of the incidents which gave rise to the Complaint, is a person in relation to whom a declaration under section 57H(2) may be made
 - was given notice of the Complainant's submission proposing a declaration under section 57H(2), and an opportunity to make a submission why that declaration should not be made.

Presence of legal member of the Authority

18. Section 57K requires the presence of an Authority member who is a Judge or an Australian lawyer of at least seven years when a Complaint is determined and a decision made on the action to take.
19. The Authority is satisfied that when the Complaint was finally determined at its meeting on 15 September 2021, at least one of its members involved in the decision making was an Australian lawyer of at least seven years.

Decision

20. Notwithstanding the absence of any submissions from Mr Sadowski, the Authority has had regard to the information provided by the Complainant that he:
 - is no longer a member of the governing body of the Club after he resigned in August 2019
 - had repaid a significant portion of the misappropriated funds to the Club, and entered into a repayment agreement with the Club for the outstanding amount
 - suffered personal and financial hardship and mental health issues, which may have contributed to his conduct and continued to affect him since.
21. The Authority nevertheless considers Mr Sadowski's conduct which led to the Complaint and the Authority's findings to raise serious concerns about his competence and integrity to act in a role that could influence the management and operation of a registered club.

22. The gravity and culpability of Mr Sadowski's dishonest conduct of misappropriating the Club's monies are, in the Authority's view, exacerbated by:
- a) the repeated occurrence of the conduct over an extended period of almost three years
 - b) the large sum of monies misappropriated
 - c) his blatant disregard for the Club's interests when he was entrusted with the sole responsibility of managing the Club's finances.
23. Mr Sadowski's management of the Club's operations for the same three year period as a de facto secretary, when he had no approval to act in such capacity, adds further doubt to his ability and willingness to understand and comply with legislative requirements that are key to the performance of his roles.
24. There is no evidence before the Authority to indicate that Mr Sadowski's character and integrity have changed in any significant way since the time of the Complaint.
25. In these circumstances, the Authority considers it necessary and in the public interest to ban Mr Sadowski from participating in any role that could influence the management or operations of any registered club in the foreseeable future.
26. The Authority also considers it appropriate to require Mr Sadowski to repay the Complainant the costs it had incurred in investigating his conduct. The Authority accepts the Complainant's submission that these costs add up to a total of \$4,716.48.
27. Accordingly, the Authority has decided to take the following disciplinary action:
- a) Pursuant to section 57H(3)(g) of the Act, declare that Mr Sadowski is ineligible to stand for election or be appointed to, or to hold office in, the position of secretary or member of the governing body of any registered clubs, for a period of 10 years.
 - b) Pursuant to section 57H(3)(i) of the Act, order Mr Sadowski to pay the amount of \$4,716.48 to the Secretary of the Department of Customer Service, for the costs incurred by the Complainant in carrying out the investigation in respect of the Complaint.



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Important Information:

In accordance with section 57L of the Act, the registered club or person against whom disciplinary action is taken, or the complainant, may apply to NCAT for an administrative review of this decision under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 21 days after the person receives notification of this decision.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

This decision may be published on the Liquor and Gaming website at: <https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions/decisions-of-interest>.