

**Report to the National Hockey League Players' Association
Regarding the Union's Response to Reports by Kyle Beach
and Others Concerning Sexual Misconduct by a Former
Employee of a National Hockey League Club**

April 2022



I. Preliminary Statement

In November 2021, the National Hockey League Players' Association (the "NHLPA" or "the union") retained Cozen O'Connor ("Cozen") to investigate the NHLPA's response in late 2010 and early 2011 to reports that Kyle Beach was sexually abused by Brad Aldrich, a video coach employed by the Chicago Blackhawks (the "Blackhawks"). The NHLPA asked Cozen to report its findings and make recommendations to ensure that other NHLPA members could report similar allegations in a confidential manner with confidence that such reports would be handled appropriately.

The union's decision to retain Cozen came on the heels of a report by the law firm Jenner & Block (the "Jenner Report" or the "Report"), which was retained by the Blackhawks to investigate Beach's allegation that during the 2010 Stanley Cup playoffs Aldrich had forced him to engage in sexual relations by threatening his career if he did not submit.ⁱ Beach, who had been drafted by the Blackhawks, was assigned briefly to skate as a Black Ace with the Blackhawks during the playoffs,ⁱⁱ subsequently informed members of the Blackhawks' management of the incident, but no action was taken by them until after the playoffs.¹ At that time, Aldrich was allowed to resign and to continue to celebrate the team's Stanley Cup win, rather than being terminated immediately.² Beach himself never contacted the NHLPA directly.

Although Beach was not identified by name in the Jenner Report, he subsequently identified himself in a televised interview by Rick Westhead (the "Westhead interview"), a sports reporter for TSN. In that interview, Beach said that he learned that after Aldrich resigned from the Blackhawks, he was briefly hired as a video coach by USA Hockey. According to Beach, because of his concerns with Aldrich's behavior, Beach's then agent, Ross Gurney, contacted Don Fehr, who had recently been appointed Executive Director of the NHLPA, and asked Fehr to notify USA Hockey. Beach also claimed that he made a similar request in a telephone conversation with Dr. Brian Shaw, a psychologist who serves as one of two administrators for the Substance Abuse and Behavioral Health Program (the "SABH program"), a joint initiative by the NHL and the NHLPA. Again according to Beach, neither Fehr nor Dr. Shaw followed up on either request or had any subsequent conversations with either Beach or Gurney. Joe Resnick, a representative of one of Beach's teammates during the 2010 Stanley Cup

ⁱ The Jenner Report anonymized a number of individuals whose identities have been made public since the report was released. Because their identities have now been made public, we will refer to them by name in this report. Those individuals include Kyle Beach himself, as well as Ross Gurney, Joe Resnick, and Dr. Brian Shaw.

ⁱⁱ "Black Ace" is the colloquial term for players called up by a National Hockey League ("NHL") club from its minor league system for the duration of the Stanley Cup playoff campaign to serve as a backup to the playoff roster. Black Aces are considered part of the NHL team for the duration of the playoffs, but generally practice separately from the rest of the team.

playoffs, whom we will identify as “Black Ace 1,”ⁱⁱⁱ separately contacted Fehr by email in April 2011 to relay Black Ace 1’s concerns with unspecified behavior by Aldrich.

II. Executive Summary

Our investigation included the review of thousands of emails, relevant phone records, controlling documents and policies for the SABH program and NHL Hotline, and interviews with eleven individuals. Although both Beach and Black Ace 1 declined, through counsel, our requests to interview them, we were able to establish a comprehensive view of the communications with the NHLPA in 2010 and 2011 concerning Aldrich and Beach’s reports of his behavior.

Reconstructing a handful of conversations consisting of only several phone calls, all of which took place over 10 years ago, is by any measure a difficult task. That difficulty was compounded here by the sparse documentary trail, which consists primarily of one call (from Gurney to Fehr) and one email (from Resnick to Fehr), the few available phone records, and the decision by Beach and Black Ace 1 to decline to be interviewed by us.

The core disputes—at least as far as contact with the NHLPA is concerned—are the sharply conflicting accounts provided by Fehr and Gurney of their conversation with each other and Dr. Shaw and Beach regarding theirs.

Regarding Gurney and Fehr, Gurney told us, in substance, that he called Fehr in late December 2010 after Beach told him that he had heard that Aldrich had been hired as a video coach by USA Hockey in connection with a tournament that was held in late December or early January 2011. Gurney said that, although he had never met Fehr, he called him because he believed that as the recently appointed NHLPA Executive Director, Fehr likely would know an appropriate person at USA Hockey to contact to warn them about Aldrich’s behavior. Gurney told us that he recalled describing Aldrich as either a “pedophile” or “sexual predator” in his call with Fehr but did not provide Fehr with any details of what had allegedly transpired between Beach and Aldrich.

Fehr denied having any recollection of the call, a position he has consistently maintained in both his few public statements as well as our interviews of him. In our interviews, Fehr, an experienced lawyer, repeatedly made the point that if Gurney had either described Aldrich as a pedophile or sexual predator or requested him to contact USA Hockey, he would have remembered it. Fehr is adamant that had the incident been so reported to him, he could not, and would not, have taken—or agreed to take—any further action without being provided with more details regarding the alleged incident, including whether Beach had reported—or was prepared to report—the incident. Gurney did not state in any of his interviews, including ours, that he provided Fehr with any such details. Moreover, Gurney told us that other than the one phone call with Fehr, he did not follow up with Fehr regarding the matter, despite the fact that he had

ⁱⁱⁱ This player was identified as “Black Ace 1” in the Jenner Report; because this player has yet to identify himself publicly, we continue to refer to him by that moniker here.

continuing contact with Fehr and/or other NHLPA employees in his role as a certified NHLPA agent.

An exhaustive review of the entirety of Fehr's emails during the same time period failed to reveal any reference to his call with Gurney, much less any discussion of the alleged incident between Beach and Aldrich, a significant omission given Fehr's documented practice of immediately following up with others on matters of much less significance. Similarly, none of the witnesses whom we interviewed who had daily contact with Fehr at the time recall his having mentioned either the call with Gurney or the incident involving Beach. Finally, a review of Fehr's emails over the following decade failed to reveal any references to the call with Gurney or the Beach incident until the matter publicly surfaced in January 2021 when Beach's attorney contacted the NHLPA requesting records. Even there, Fehr's few comments were consistent with his claim that he had no recollection of the call with Gurney.

The difference in recollections between Fehr and Resnick is not as sharp as that between Fehr and Gurney. Resnick, again consistent with his reported testimony in the Jenner Report, identified an email that he sent to Fehr in April 2011, referencing Gurney's call but without providing any further information. In our interview, Resnick did not recall receiving any response to his email, and none was found in our review of Fehr's emails. Resnick also did not recall any follow-up conversation with Fehr. Fehr acknowledged to us—as he did in the Jenner Report—receiving the email but had no recollection of it or following up with Resnick regarding the matter. Copies of the NHLPA's phone records and some of Fehr's personal cell phone records from the time in question were found in storage and upon review revealed a 14-minute call from Fehr to Resnick within hours of the email being sent. Fehr and Resnick were separately shown the records, and neither had any recollection of the call. Resnick did not recall discussing the issue with Fehr at any time, including later in the month of April when Resnick and other NHLPA-certified agents were in contract discussions. Likewise, Gurney also does not recall any discussions with Fehr concerning Aldrich outside of his December 2010 call described in the Jenner Report. Similarly, a search of Fehr's email account failed to reveal any reference to Resnick's email until it was located and disclosed in the run-up to the issuance of the Jenner Report, and even there nothing contradicted Fehr's statements both publicly and to us that he did not recall it.

Our investigation of each of Beach's and Black Ace 1's conversations with Dr. Shaw was significantly hampered by their refusal to meet with us. Based again on Beach's reported statements in the Jenner Report and in the Westhead interview, he recalled speaking with Dr. Shaw after being provided with his contact information by Gurney. In that conversation, Beach claims that Dr. Shaw told him that he would "handle" contacting USA Hockey to report Aldrich's behavior. In our interview with him, Dr. Shaw provided a much more detailed recollection of his telephone call with Beach than he did in connection with the Jenner Report, explaining that his interview by the Jenner investigators was cursory and focused exclusively on whether he had "met" with Beach—which he interpreted to be asking whether he had physically met with Beach—as opposed to speaking with him by phone, as was in fact the case. Dr. Shaw further recalled to us that during his call, Beach provided a graphic account of the alleged incident with Aldrich, declined any opportunity for counseling, and instead inquired only whether *someone* from the NHLPA was going to contact USA Hockey. Dr. Shaw recalled to us that he reassured Beach that someone, either from the NHLPA or Beach's agent, would—

meaning that he *assumed* someone would—but at no point told him that he (Dr. Shaw) would do so nor did he identify anyone who would. To the contrary, Dr. Shaw repeatedly made the point to us that because he viewed his conversation as a privileged communication between a prospective patient and therapist, he would not—and could not—have revealed its contents to third parties without Beach’s consent, which Dr. Shaw claims not to have received.^{iv} For similar reasons of confidentiality, Dr. Shaw did not discuss the matter at any time with Fehr until Dr. Shaw was contacted by Beach’s attorney in 2021, and even then he did not share the particulars of his conversation with Beach.

Ultimately, the failure to act on Beach’s reports stems from a failure of communication. All parties involved managed to walk away from these interactions under some misapprehension: Gurney and Beach walked away from their respective conversations believing that someone, possibly Fehr or another person at the NHLPA, or Dr. Shaw from the SABH program, had agreed to take responsibility for contacting USA Hockey; Dr. Shaw thought that others, either the union or Beach’s agent, would address Beach’s concerns about USA Hockey and that he was bound to keep what Beach had told him confidential; Resnick believed he was sharing a concern about a coach who was odd, bullying, and inappropriate, but not a sexual abuser. Fehr’s and Gurney’s differing accounts of the call are difficult to reconcile because they are fundamentally incompatible. However, given Fehr’s years of experience and training as a lawyer, his failure to recall the conversation or take any further action strongly suggest that, at a minimum, he did not leave the call with the understanding that he had agreed either personally or on behalf of the NHLPA to contact USA Hockey. Our conclusion is further supported by the absence of any evidence that Fehr either memorialized the conversation or discussed it with anyone else affiliated with the NHLPA, including his brother, Steven, who is outside counsel to the NHLPA. This departure is completely at odds with Fehr’s documented practice of routinely and promptly tasking others to follow up on matters of much less significance.

In sum, after a thorough examination of the contemporaneous record, the policies and practices in place at the union at the time, and the recollections of each of the parties to the contacts with the NHLPA or the SABH program, we cannot identify any individual wrongdoing or institutional failures of policy or procedure by either Fehr, NHLPA personnel, or the SABH program concerning the handling of Beach’s reports. Beach’s warnings about Aldrich were not addressed on account of miscommunication and misunderstanding, rather than any individual or systemic failure.

The balance of this report is divided into the following sections. Section Three describes the scope of our investigation and offers some observations of the limits inherent to this inquiry. Section Four provides a timeline of the events, including a summary of relevant testimony as contained in the Jenner Report, and makes specific reference to any relevant documentation. Finally, Section Five provides a more detailed account of our interviews with the participants in the key interactions with the NHLPA. Additionally, we also provided under separate cover to the union’s general counsel a series of recommendations to the NHLPA regarding additional

^{iv} Because we were not able to speak with Beach, we were unable to ask him whether he understood his conversation with Dr. Shaw to include such consent.

measures it may want to consider to ensure the existence of outlets for an appropriate handling equal to the significance of the matter in response to any similar allegations in the future.

III. Scope and Limits of Our Investigation

Our investigation built on the work performed in the Jenner Report. Our focus was distinct from the Jenner team, and we strove to avoid duplicating their efforts where possible. Our investigation was directed toward the contacts made with the NHLPA concerning Brad Aldrich; accordingly, unlike the Jenner Report, our investigation did not explore the circumstances of the abuse reported by Kyle Beach or the subsequent reporting of that incident within the Chicago Blackhawks organization. Rather, we sought to identify: (a) how the contacts with NHLPA representatives concerning Aldrich in late 2010 and early 2011 were handled within the NHLPA; (b) whether any additional reporting concerning Aldrich or Beach was made to NHLPA representatives beyond that identified in the Jenner Report; and (c) recommendations the union can implement to ensure that any future reports of similar allegations are handled effectively.

During the course of our investigation, we reviewed approximately 20,000 emails selected from Fehr's NHLPA email account for the period 2010-2021, as well as emails for selected periods for other NHLPA employees. We also requested and reviewed telephone records for the NHLPA as well as Fehr's personal cellphone. In addition, Resnick indicated that he reviewed his own telephone records for the same period of time, but stated he did not find any relevant records. We interviewed a total of eleven witnesses, including Fehr, Dr. Shaw, Resnick and Gurney; in the case of Fehr, Resnick and Gurney, we interviewed them twice. Beach and Black Ace 1 declined to be interviewed despite repeated requests made to their respective attorneys. Because most if not all of the witnesses reside beyond the East Coast of the United States, the interviews were conducted by Zoom, with the exception of Fehr, who was interviewed in person in Cozen's New York City offices.

At the outset, it is worth repeating that our investigation was necessarily limited in certain material respects. Our investigation was, at heart, an attempt to reconstruct events from eleven years ago based primarily on the understandably imperfect and incomplete recollections of a few individuals, uncorroborated by documentary evidence. The witnesses we spoke to either had not taken any contemporaneous notes or no longer retained any notes they had taken. Moreover, witnesses' recollections were unavoidably influenced by the Jenner Report; every witness we spoke to had read and, in many cases, already been interviewed for that report. The assault Beach described in the Report and its mishandling by the Blackhawks has been the subject of a great deal of high-profile press coverage. Beach's interview on TSN was widely viewed throughout the league. Many of the witnesses relevant to this investigation have borne the brunt of public scrutiny and, occasionally, condemnation, concerning their knowledge of Aldrich's behavior. All of these factors contribute to the difficulty of recreating what, precisely, was said in a handful of phone calls eleven years ago.

We have endeavored to state clearly what can be confidently determined, and to relate accurately the differing accounts where individuals' recollections diverge. That said, our report should be read in the light of these fundamental limitations.

IV. Relevant Timeline of Events

The crux of our investigation involves two points of contact between players, including Beach or players' representatives on the one hand, and individuals associated with the NHLPA on the other. First, representatives of two players on the 2010 Blackhawks' playoff roster twice contacted Fehr concerning Aldrich in late 2010 and early 2011. Second, those players each contacted Dr. Shaw, the NHLPA-appointed administrator of the SABH program in roughly the same time period.^v In order to place these key points of contact in context, this section provides an overview of the timeline of events beginning with Aldrich's alleged assault of Beach in May 2010. Much of this timeline before November 2010 is drawn from the testimony relayed in the Jenner Report.

A. Leadership of the NHLPA in 2010

The NHLPA was in a period of transition throughout 2010. At the same time that the Blackhawks were mounting their successful run in the Stanley Cup playoffs, the union was in the process of selecting a new Executive Director. Don Fehr, the recently retired, longtime former head of the Major League Baseball Players Association, served as a consultant to the NHLPA's search committee and ultimately was interviewed for the position himself.³ In the fall of 2010, the search committee recommended Fehr be appointed Executive Director. The union ratified that decision in December 2010, and Fehr assumed the day-to-day responsibilities of the position in mid-January 2011.⁴ Although, in the final months of 2010, it was widely understood throughout the league that Fehr would be the next Executive Director of the NHLPA he had not yet officially started or taken over leadership of the union.

B. Aldrich's Assault and the Aftermath Within the Blackhawks Organization

As extensively detailed in the Jenner Report, on either May 8 or 9, 2010, Blackhawks video coach Brad Aldrich sexually assaulted Kyle Beach, a then-20 year-old prospect who had been temporarily called up to join the Blackhawks' playoff squad, a position known colloquially as a "Black Ace." In the days that followed, Beach relayed what happened to him to members of the Blackhawks' coaching staff as well as his player agent, Ross Gurney. There were also reports within the Blackhawks organization that Aldrich had had inappropriate communications with another Black Ace, referred to in the Jenner Report as "Black Ace 1." The Jenner Report concluded that senior Blackhawks' management discussed the reports of Aldrich's behavior and decided to not to address them while the playoffs were ongoing. Instead, on June 16, 2010, less

^v The SABH program is a joint initiative between the NHLPA and the NHL pursuant to their collective bargaining agreement. The program has two joint administrators, one appointed by the league and the other by the union. Dr. Shaw is the union-appointed administrator, a position he has held since its inception in 1995. The program is designed to provide a structure to permit players to seek help with behavioral issues—primarily, substance abuse—in a confidential manner. As Dr. Shaw explained to us, the SABH program works on a referral model: because teams and players are scattered all across North America, the program maintains a network of care providers to which the program can refer players who seek assistance. But, as discussed further in Section Five below, Dr. Shaw emphasized that the administrators do not provide clinical care themselves.

than one week after the Blackhawks won the Stanley Cup, Aldrich was quietly asked to resign, which he did, but he continued to be paid until the end of August 2010 and to celebrate the team's Stanley Cup as late as October 2010.⁵

Both Beach and Black Ace 1 reported to the Blackhawks' training camp in September 2010 where, the Jenner Report relates, there were widespread rumors among players about Aldrich's sexual behavior in connection with Beach and, possibly, Black Ace 1. Neither player made the NHL team, and both were assigned to the Rockford Icehogs, Chicago's American Hockey League affiliate at the end of the month.

According to Gurney, at some point in November 2010, Beach learned that Aldrich was working in some capacity^{vi} at USA Hockey.⁶ USA Hockey is the national governing body for the sport of ice hockey in the United States and, accordingly, is involved with many competitions, teams, and programs for minors.⁷ Beach found the information about Aldrich's association with USA Hockey very distressing,^{vii} and requested Gurney's help in trying to inform USA Hockey that Aldrich was a "sexual predator."⁸ It was Beach's desire to warn USA Hockey that prompted the contacts with the NHLPA that are the subject of our investigation.

C. December 2010 – Initial Contact with the NHLPA Concerning Aldrich

At some point in late December 2010, Gurney recalls calling Fehr to discuss Aldrich, with the goal of requesting Fehr's help in contacting USA Hockey on Beach's behalf. This call is the first point of contact with the NHLPA concerning Aldrich. Fehr and Gurney's differing recollections of this call are discussed in greater detail in Section Five below. Although we reviewed phone records from Fehr's cell phone and the NHLPA office lines for this period, we

^{vi} The Jenner Report identifies that Aldrich was not, as Beach believed at the time, an employee of USA Hockey. Rather, it states Aldrich was involved in some capacity with a team that was participating in the International Ice Hockey Foundation (IIHF) World Junior Championship, a USA Hockey tournament that was held in Buffalo, New York from December 26, 2010 to January 5, 2011. Subsequent reporting, however, stated that it was in fact Aldrich's uncle Scott who worked with a team at the Buffalo tournament, and that Brad Aldrich worked as a video coordinator for Team USA at the IIHF World Women's Under-18 Championship, another tournament in which USA Hockey was involved that took place in Stockholm, Sweden later in January. In any case, Aldrich's association with USA Hockey was limited to a single tournament in this time period. Gurney told us that he only learned that Aldrich's involvement with USA Hockey was limited in this way sometime later.

^{vii} Gurney recalled calling Joe Resnick, a representative of Black Ace 1, at some point in November 2010 when Beach was having a "hard time" dealing with the news about Aldrich and USA Hockey, although Gurney was not sure of the timing. Gurney and Resnick both recall that there was a call between them at some point, and that Gurney talked to Resnick in very "general terms" about Aldrich. Resnick recalls the conversation being limited to Aldrich having threatened to negatively impact Beach and Black Ace 1's careers, but, as discussed further in Section Five below, is confident that Gurney did not raise the prospect of anything sexual involving Aldrich.

were unable to find any contemporaneous record of this call.^{viii} The phone logs, and the incomplete record they represent, are discussed further below.

According to Gurney, he informed Fehr of a “difficult situation” with one of his players who had an “issue with a former coach” now at USA Hockey. He recalled that the point of his call was to ask Fehr to reach out to USA Hockey to relay Beach’s concern and that Fehr told him that “we” know people at USA Hockey. Gurney also recalled that the notion of referring Beach to professional help came up almost as an afterthought, in response to Fehr’s asking if there was anything else the NHLPA could do. Gurney also remembered sharing his personal concern about the distress his player was in, and that Fehr suggested the player could reach out to Dr. Shaw.⁹

Gurney also recalled that he contacted Joe Resnick, a representative of Black Ace 1, at some point after his call with Fehr. Although he was less confident about what was said in this call than he was about his call with Fehr, Gurney believed that he relayed to Resnick that the NHLPA would help with contacting USA Hockey and in getting Beach help.¹⁰ Resnick generally recalls having a conversation with Gurney about Aldrich, *see* footnote vii above, although he does not recall what was said in more than general terms.¹¹ However, in the email Resnick eventually sent to Fehr in April 2011, discussed further below, Resnick references that he “know[s] that you [Fehr] have spoken with Ross Gurney” concerning the “incident with [Gurney’s client] and [Aldrich].”¹² That email demonstrates, at a minimum, that Gurney and Resnick had some communication about the Gurney-Fehr call after it took place.

D. Early 2011 – Beach and Black Ace 1 Call Dr. Shaw

At some point in early 2011, both Beach and Black Ace 1 called Dr. Shaw concerning Aldrich. It has proven very difficult to pinpoint when these calls occurred. Gurney recalls that he passed the referral to Dr. Shaw along to Beach essentially immediately following his call with Fehr in late December, and believes that Beach called Dr. Shaw in January of 2011, sometime after the holidays.¹³ Dr. Shaw, on the other hand, recalls receiving calls from both players later, in the spring of 2011. Although he was not confident about the timing, Dr. Shaw believed that he received the calls from Black Ace 1 and Beach close together, that the Black Ace 1 call occurred first, and that Black Ace 1 called to provide some background about Aldrich being inappropriately close to players so that Dr. Shaw would have some context when Beach called.¹⁴ Because we were unable to speak with either Beach or Black Ace 1, we could not probe their recollections as to when the calls to Dr. Shaw occurred or whether they were coordinated in some way. The Jenner Report also does not relate Beach’s specific recollection as to the timing

^{viii} We identified two short calls made from the NHLPA office line to Gurney’s cell phone on the afternoon of December 1, 2010. We ruled out these calls as evidence of relevant contacts for two reasons: First, as discussed in Section Five below, the NHLPA office phone records aggregate all extensions together for outgoing calls, such that we are unable to ascribe any particular outgoing call to an individual staff member. Player agents such as Gurney are certified by the union, and it is very common for certain NHLPA staff members to call agents. Second, Gurney is confident in placing the relevant call with Fehr in late December, which puts these December 1st calls before the first contact with the NHLPA concerning Beach and Aldrich.

of his contact with Dr. Shaw, noting only that Beach recalled that Gurney put him in touch with Dr. Shaw after Gurney “contacted the NHLPA in the fall of 2010.”¹⁵

All that said, we can be somewhat more confident about when Black Ace 1’s call to Dr. Shaw took place. In Resnick’s April 18, 2011 email to Fehr, discussed further below, he relates that he “got [Black Ace 1] in touch with Dr. Shaw approximately 2 weeks ago.”¹⁶ This statement places Black Ace 1’s call to Dr. Shaw sometime in the first week of April 2011. The question that remains unresolved, however, is whether Beach called Dr. Shaw in January, as Gurney remembers, or did not call until closer in time to Black Ace 1’s call in April (either before or after), as Dr. Shaw recalls.

Regardless of precisely when it took place, Dr. Shaw has a detailed recollection of the substance of Beach’s call concerning Aldrich. That call is discussed in greater detail in Section Five below. Briefly, Dr. Shaw recalls that Beach described Aldrich’s assault in graphic detail, that Beach was distressed and traumatized, that his primary focus was on making USA Hockey aware of Aldrich’s misconduct, and that he declined to be referred to professional psychological counseling through the SABH program.¹⁷ Dr. Shaw related that he considered the content of the call to be confidential and therefore did not report the call to Fehr or anyone else at the NHLPA, and that he did not create a file for Beach because Beach did not want to be referred for treatment through the program.¹⁸

E. April 2011 – Email to Fehr Concerning Aldrich

As mentioned above, at 12:04pm local time on April 18, 2011, Resnick emailed Fehr about Aldrich. This is the only point of contact with the NHLPA in writing that we were able to identify. This email, and the recollections surrounding it, are discussed in greater detail in Section Five below. Resnick wrote:

Don,

I know you have spoken with Ross Gurney regarding an incident with his client and a Chicago staff member during the Stanley Cup Playoffs last year.

[Black Ace 1] was involved as well and I got him in touch with Dr. Shaw approximately 2 weeks ago; however, I did want to have a follow up with yourself.¹⁹

Resnick listed his office phone number in the body of his email; both his office and cell numbers were listed in his signature block.²⁰

Resnick does not recall sending this email; nor does he recall what prompted him to send this email at the time he did.²¹ Resnick does recall contact with Gurney about the subject, although he does not specifically recall the conversation he referenced in his email. According to Resnick, Gurney talked about Aldrich and Beach only in very general terms, and did not describe anything in the nature of a sexual assault. Resnick received only the impression that Beach had had trouble with Aldrich threatening that he could harm Beach’s career. Resnick was aware of a text that Aldrich had sent to one of either Beach or Black Ace 1, threatening to

negatively impact the player's career if the player did not spend more time with Aldrich.²² And, when Resnick discussed Aldrich with Black Ace 1, Resnick recalls that Black Ace 1 described Aldrich as "creepy," but did not say anything sounding in a sexual incident.²³ Resnick is confident that he emailed Fehr only to communicate these general concerns about Aldrich, and was unaware of any allegations of sexual assault or predation that he could have related to Fehr.²⁴ Resnick is also sure, based on his standard business practice, that he would have followed-up on this email with a phone call if he had not gotten a response, although he does not have a specific recollection of such a call.

Fehr does not recall receiving Resnick's email, or having any subsequent phone call with Resnick.²⁵ Our review of the email's metadata determined that Fehr did not reply to or forward the email until 2021, when he identified and produced it in response to the Jenner & Block investigation.

We also identified evidence of additional communications between Fehr and each of Resnick and Gurney in April 2011. We caution that these communications are only circumstantial evidence of contacts concerning the Beach matter; none of the participants recalls the following communications or was able to shed light on the substance of what was said.

- At 3:00 pm local time on April 18, 2011, the same day Resnick sent the email, there was a 14-minute call from Fehr's cell phone to Resnick's office line.²⁶
- On April 20, 2011, there was an entry in Fehr's calendar for a call with Gurney.^{ix, 27}
- At 12:43pm on April 20, 2011, there was a call lasting 4 minutes and 42 seconds from the NHLPA office line to Gurney's cell phone.²⁸
- At 1:12pm on April 21, 2011, there was a call lasting 36 seconds from the NHLPA office line to Gurney's cell phone.²⁹
- At 3:05pm the same day, there was a call lasting 1 minute and 30 seconds from the NHLPA office line to Gurney's office phone.³⁰

Again, we cannot be certain that any of these communications related to Aldrich, although it seems likely that the April 18th call from Fehr's cell phone to Resnick mere hours after Resnick's email is related. Other than this phone call, however, we cannot definitively say who at the NHLPA placed the calls from its office line, as those records do not identify what extension was used to place an outgoing call. Moreover, the NHLPA phone records log only outgoing calls, so a call that was placed to the NHLPA office would not appear. Neither Gurney nor Resnick have or were able to obtain their respective phone records from this time.

Although we did not find any other evidence of discussions concerning Beach or Aldrich in 2010 or 2011, we did identify an email from Fehr in 2021 where, in response to initial requests

^{ix} Fehr explained to us that these calendars were kept by his assistant, who maintained them as to-do lists; items that were not completed would be repeated on subsequent days until they were either completed or no longer necessary. The April 20th entry to call Gurney is struck through, which Fehr explained meant the entry was either completed or deemed no longer necessary; the Gurney entry does not appear on subsequent days.

for documents and information from Beach’s lawyer, he observed that he “[didn’t] recall anything about this” but did “have a memory of something related to sexual or other abuse in Chicago’s organization.”³¹ When asked what that email referred to, Fehr told us that he did not know and does not recall anything on the subject beyond what he described in the email. He stated: “I don’t remember anything more than something nagging at the back of my mind, but I don’t know what it is.”³² We do not find this email to be inconsistent with Fehr’s position, expressed in both the Jenner Report and to us, that he does not recall the conversation with Gurney or any subsequent discussions with either Resnick or Gurney concerning Aldrich.

* * *

There is no evidence of any further contacts with or reporting to the NHLPA concerning Beach, Aldrich, or Black Ace 1 after April 2011. The inquiry into how the reports the NHLPA received were handled and what should be done differently in the future therefore turns on an examination of what, precisely, was communicated in each of the points of contact identified above. It is to that examination we now turn.

V. Findings Concerning Contacts with the NHLPA and SABH

As the above timeline demonstrates, we identified three key points where NHLPA personnel or, in the case of Dr. Shaw, a third party associated with the SABH program, had contact with Kyle Beach, Black Ace 1, or their representatives concerning Brad Aldrich. The difficulty in reaching any definitive conclusion as to who, if anyone, is responsible for the failure to adequately act on those contacts is that, in the face of conflicting and imperfect memories of isolated conversations that took place over a decade ago, it is impossible to conclude with any certainty exactly what was reported and to whom it was reported.

At bottom, we can be confident only that: (a) Gurney called Fehr at some point in late December 2010, that conversation dealt in some way with Aldrich, and resulted in the suggestion that Beach speak to Dr. Shaw; (b) Beach and Black Ace 1 each called Dr. Shaw on one occasion; and (c) Resnick was informed by Gurney about the latter’s conversation with Fehr and the referral to Dr. Shaw, and emailed Fehr in April 2011, making reference to those two points and, obliquely, to Aldrich. Beyond those fixed points, much about precisely what was communicated to the NHLPA and to Dr. Shaw, and in what language, remains uncertain.

A. The December 2010 Gurney-Fehr Call

This first point of contact is both the most important and most confounding. It is the first report to the NHLPA, and the only phone call with Fehr that any participant remembers clearly. At the same time, it is difficult to reconcile Gurney’s recollection of this conversation with Fehr’s recollection and his subsequent behavior.

In our interviews, Gurney’s account of this call was essentially consistent with his testimony in the Jenner Report. Gurney explained that the call was motivated by Beach’s desire to warn USA Hockey about Aldrich. He told us that neither he nor Beach, who are both Canadian, knew anyone at USA Hockey, and that Gurney suggested calling Fehr, who he knew would be coming in as the new Executive Director of the NHLPA, because Fehr was “the second most powerful man” in professional hockey after the Commissioner of the NHL. Gurney said

that his call to Fehr was the first time the two had ever spoken, and that he began by apologizing that they were meeting under these circumstances. Gurney told us that he informed Fehr in general terms that he had a “difficult situation” with one of his players who had an issue with a former coach who was now at USA Hockey. He recalled Fehr responding that “we”—in the sense of the union, rather than Fehr personally—knew people at USA Hockey and that “we” could reach out to that organization. He remembered that Fehr asked if there was anything else the NHLPA could do, which is how the conversation evolved to address Gurney’s concerns about Beach’s mental health and Fehr’s suggestion that Gurney put his player in touch with Dr. Shaw. Gurney, however, consistently has maintained that the directive from Beach, and the whole motivation and thrust of the call, was to get word to USA Hockey about Aldrich.³³

While Gurney acknowledged that he described the issue with Beach and Aldrich to Fehr in only general terms, and did not go into any of the graphic details relayed in the Jenner Report, he is adamant that he used either the term “pedophile” or “sexual predator” to describe Aldrich.³⁴ Indeed, we interviewed Gurney on a second occasion to ensure that we were correct on this point, and Gurney is certain that he used one of those terms.³⁵ Gurney explained that he remembers those terms, and in particular the term “pedophile,” because he recalled thinking to himself at the time that he had always associated the term with a predator of children, when Beach was, in fact, 20 years-old at the time.³⁶

Gurney’s certainty on this point is what remains confounding. Gurney is sure that he described Aldrich as either a pedophile or sexual predator, but those terms are also the sorts of words that one would expect to catch the attention of—and be memorable for—the listener. Fehr concedes as much but is equally adamant that he does not recall any conversation with Gurney, about Beach, Aldrich, or otherwise. Fehr observed in our interview, however, that if he had been asked to call USA Hockey to warn them that one of their employees had committed some sort of sexual assault, that is the sort of request that he likely would have recalled as it would have prompted him to press for details. Similarly, had he heard the term sexual predator or pedophile, he would have asked for more details and likely would have recalled it.³⁷ He noted that, as described in the Jenner Report (and, indeed, in Gurney’s account to us), Gurney related what was at most a second-hand, uncorroborated accusation of a crime. Fehr said that he would not have been able to act on that report with respect to USA Hockey or any other third party without additional information, lest he be put in the position of relating allegations about another organization’s employee that he, Fehr, had no way to verify, and could not even say he had heard directly from the victim.³⁸

We find this point persuasive. It is unlikely that Fehr, a lawyer by training, would have agreed to take on the responsibility of accusing Aldrich—a former employee of an NHL organization unrelated to the union Fehr was about to take over and someone Fehr himself had never met—of sexual misconduct with a player whom Fehr had also never met, based solely on the conclusory information provided to him by that player’s agent. Fehr made the same point when we asked whether he thinks he would have remembered if Gurney had used the terms “pedophile” or “sexual predator”; because, Fehr observed, these terms involve a suggestion or accusation of potentially criminal wrongdoing, the use of those terms would have prompted him to ask follow-up questions.³⁹ Moreover, as noted earlier, our observations of Fehr’s work habits, based both on our interviews of a number of people who have worked closely with him and our review of a decade’s worth of his emails, show that he has a practice of quickly documenting and

delegating others to follow up on matters of far less significance. For example, Fehr in our first interview with him was specifically asked whether he recalled discussing the call with Gurney with his brother, Steven, who, as previously noted is an outside attorney for the NHLPA. Fehr denied having had such a conversation, which went uncontradicted by his brother, who participated in the interview.⁴⁰ Similarly, we interviewed Roman Stoykewych, a senior attorney with the NHLPA who was hired in 2008, Melissa Elliot, Fehr's administrative assistant at the time, Jonathan Weatherdon, the NHLPA's long standing Director of Communication, and Jim McKenzie, the union's divisional player representative responsible for the Blackhawks at the time, all of whom were in frequent if not daily contact with Fehr; none of them recalls Fehr's mentioning either the call or the incident. The absence of any evidence that Fehr reached out to any of these individuals after his call with Gurney provides further support for our conclusion that Fehr did not walk away from the call understanding that he, the union, or Dr. Shaw was expected, much less had agreed, to reach out to USA Hockey on Beach's behalf.

As noted above, we also identified a January 2021 email from Fehr, prompted by inquiries by Beach's lawyer, in which he described "hav[ing] a memory of something related to sexual or other abuse in Chicago's organization."⁴¹ However, Fehr was not able to identify with any more specificity what he remembered, describing it only as "something nagging at the back of [his] mind."⁴² The impact of this email is, at best, equivocal. It provides some suggestion that, at some point before either Beach's lawsuit or the Jenner Report came out, someone had told Fehr of something relating to the Blackhawks that sounded in a sexual space. However, due to the passage of the intervening decade, the absence of any contemporaneous documents suggesting Fehr was aware of allegations of sexual assault specifically, and Fehr's lack of recollection, we are unable to say what, if anything, this email demonstrates about what was communicated to Fehr in 2010 and 2011 concerning Aldrich.

B. The Player Calls with Dr. Shaw

The second point of contact is where our findings depart most significantly from the Jenner Report. According to the Report, Beach was referred to Dr. Shaw through his agent at Fehr's suggestion. The Report relates that Dr. Shaw "confirmed that he met or spoke with [Beach] at least once, but stated that he did not have any records related to [Beach] or any recollection of the meeting."⁴³ In contrast, when he spoke with us, Dr. Shaw related that he had a vivid memory of his phone call with Beach, and that he told the Jenner investigators that he did not recall any "meeting" because he understood the investigators to be asking only whether he had physically "met" with Beach.⁴⁴ The Report also relates that Dr. Shaw did not recall speaking with Black Ace 1;⁴⁵ although Dr. Shaw did not, in his interview with us, recall his phone call with Black Ace 1 with any of the granular detail that he remembered his call with Beach, he did recall a single phone call and could tell us its general contours.⁴⁶

Dr. Shaw first explained his role in some detail. As the union-appointed administrator of the SABH program, a position he has held for approximately twenty five years, Dr. Shaw serves in an intake and referral capacity for players seeking assistance. As he described it, the SABH program was created for and is primarily geared toward the treatment of addiction and substance abuse issues. Dr. Shaw emphasized that his role is to field calls from players, identify whether they are interested in seeking a referral for treatment, and, if so, refer the players to psychologists or other clinical practitioners within the SABH network. His role as administrator also involves

coordinating payment for players' care under the auspices of the SABH program. He clarified that, although he sees patients in a clinical capacity in his own practice, he does not serve in a treating role with respect to the SABH program, and has never treated an active NHL player. That said, he does hold the contents of the calls he fields from players as confidential. Finally, he explained that, because his role in speaking to players is limited to identifying whether they are interested in a referral for treatment, he does not create a file or other record for players who decline a referral.⁴⁷

Dr. Shaw told us that he received a phone call from Beach in early 2011. Dr. Shaw recalled that Beach was "concerned, very concerned," and explained that he, Beach, had been referred or told to call Dr. Shaw through the NHLPA. Dr. Shaw told us that the call lasted approximately ten to twenty minutes, during which Beach reported that he had been sexually assaulted by Aldrich in 2010. Beach described the assault in some detail, and answered Dr. Shaw's questions about what actions he had taken thereafter. Specifically, Dr. Shaw remembered that Beach said he had not gone to the police, but had reported the assault within the Blackhawks organization. Dr. Shaw recalled that Beach wanted "someone" to contact USA Hockey and tell them what he had experienced; Beach was concerned that USA Hockey needed to know about it because he had learned that Aldrich was now working there. Dr. Shaw explained that Beach was very upset during this conversation; accordingly, Dr. Shaw sought to reassure him by telling him words to the effect that "someone" or "they" would "handle" or "take care of" contacting USA Hockey. Dr. Shaw also emphasized that he asked several times whether Beach wanted a referral for treatment or therapy, and that each time Beach declined that offer. Accordingly, Dr. Shaw never opened a file for Beach.⁴⁸

Dr. Shaw explained to us that he assumed that either Gurney or someone at the NHLPA would be the one to "handle" contacting USA Hockey. He offered assurances to Beach that he was sure USA Hockey would be contacted only to address Beach's obvious distress about getting the word out about Aldrich. But he never believed that he was offering to be the person to contact USA Hockey about Aldrich on Beach's behalf, nor did he think that he made such a suggestion to Beach. Indeed, Dr. Shaw observed to us that he does not know anyone affiliated with USA Hockey.⁴⁹

Dr. Shaw also remembered a phone call from Black Ace 1, which he also remembered receiving in early 2011.^x Although he did not recall the details of what was said with the same acuity as he did his conversation with Beach, Dr. Shaw did recall the general contours of what Black Ace 1 had to say. Dr. Shaw remembers Black Ace 1 calling to describe Aldrich as a person who was "inappropriate" with the Black Aces called up for the Blackhawks' 2010 playoff run. According to Dr. Shaw, Black Ace 1 described a few situations that illustrated this inappropriateness, none of which involved assault. Rather, Black Ace 1's emphasis was on establishing that Aldrich was inappropriate and "too close" to the Black Aces, and that Aldrich was "a guy we should be concerned about." Dr. Shaw did not recall Black Ace 1 asking Dr. Shaw to do anything with this information, and remembered that Black Ace 1 also declined a referral for treatment. Instead, Dr. Shaw interpreted Black Ace 1's call as an attempt to provide some background on Aldrich, to ensure that he, Dr. Shaw, would find Beach's report credible.

^x See the discussion in Section Four above concerning the timing of Beach and Black Ace 1's calls to Dr. Shaw.

(Dr. Shaw also noted that he found this unnecessary, because he found Beach’s account to be “100% credible.”) Dr. Shaw could not be sure whether Black Ace 1 or Beach had called first, but he certainly understood the calls to be linked and remembered receiving them close together in time.⁵⁰

We were unable to speak with either Beach or Black Ace 1 and, consequently, do not have the benefit of their recollections of their calls with Dr. Shaw. In public comments following the publication of the Jenner Report, however, Beach stated that he had “reported every single detail to an individual at the NHLPA, who I was put in contact with,” presumably referring to Dr. Shaw.⁵¹ Beach has also been quoted as saying that “Dr. Shaw told me [during a phone call] he would handle it and make sure that Team USA was aware that Brad Aldrich is a sexual predator,” but that “[a]fter that one conversation, the NHLPA cut me loose. I never heard from them again.”⁵²

Without speaking to Beach it is difficult to reconcile his description of this call with Dr. Shaw’s. However, Dr. Shaw acknowledges that he assured Beach that “someone would handle” contacting USA Hockey. It is easy to see how Beach could have understood Dr. Shaw to have meant that he himself would contact USA Hockey, or see to it that someone did. Indeed, given that the referral to Dr. Shaw grew out of Gurney’s call to Fehr, in which Gurney was looking to get word to USA Hockey, it is no surprise that Beach may have called Dr. Shaw with the erroneous expectation that Dr. Shaw was going to be the point of contact with USA Hockey. If Beach called Dr. Shaw with that expectation, he would have been very likely to misunderstand Dr. Shaw’s comment about someone “handl[ing] it.”

C. The Resnick Email

The final point of contact with the NHLPA—Resnick’s April 18, 2011 email to Fehr—is the most concrete because it is the only one in writing. The text of this email is reproduced in Section Four, above. It provides the clearest objective evidence that the NHLPA was alerted in some way about concerns about Aldrich, and corroborates Gurney’s account that he called Fehr about the subject.

In some ways, however, this point of contact is also the most misleading: on first inspection, the reader naturally assumes the email to be a report about Beach’s assault and to suggest that at least one other member of the Blackhawks was victimized by Aldrich. Resnick is adamant, however, that he was never aware of any allegations of sexual misconduct, and could not have been trying to relay them to Fehr because he did not know there were any sexual allegations to report. And Resnick is clear that Black Ace 1, the other player referenced in the email, never suggested that he was assaulted. Resnick also told us that Black Ace 1 subsequently denied that he was ever assaulted by Aldrich in a 2021 email to Resnick.⁵³

Resnick recalled that Gurney reached out to him approximately a year after Beach had been assaulted by Aldrich (although Resnick only learned about the assault when the facts came to light in 2021). He remembered Gurney telling him about an issue he had with “this video coach,” Aldrich; while he does not recall the specific words Gurney used to describe the issue, Resnick said that Gurney was vague and certainly did not mention anything in the nature of a sexual assault, which he is confident he would have remembered. Resnick assumed that Gurney

had called him because he represented Black Ace 1, who was close with Beach, and believed that Gurney's aim was to find out whether Black Ace 1 had also had any similar "issue" with Aldrich. Resnick is sure that if Gurney had related or inquired about anything sounding in a sexual space concerning Aldrich, he would remember that clearly now and would certainly have taken different action in response. Instead, Resnick believes that he called Black Ace 1 to ask about Aldrich, and that Black Ace 1 described Aldrich as "creepy." Resnick does not specifically recall calling Black Ace 1, or any follow up call to Gurney relating what Black Ace 1 told him, but believes that he, Resnick, would have made such calls based on his regular business practices.⁵⁴

Resnick has no recollection of sending the April 18, 2011 email to Fehr. He was able to tell us what he believes as to why he sent it and what he meant, but was clear that he has no independent recollection of sending the email or any subsequent conversations with Fehr that it may have prompted. He explained to us that he knew, at the time, that both Black Ace 1 and, thanks to Gurney, Beach were having issues with Aldrich. He recalled knowing about a text message Aldrich sent to one of either Beach or Black Ace 1—Resnick cannot recall which—in which Aldrich threatened to harm the player's career if the player did not spend more time with him. And Resnick understands from reading his email, although he does not independently recall, that Gurney must have shared that he had spoken to Fehr about Aldrich. Resnick therefore believes that he sent the email essentially to flag to Fehr, who had already been told about Aldrich, that Black Ace 1 had had an issue with Aldrich as well. He explained his thinking that, if Aldrich had "bothered" these players, he may have "bugged" other players as well, and that Fehr, as head of the players' union, would want to know. Resnick also believed that, based on his regular business practices, he would have followed up an email like the one he sent with a phone call if he had not received a response. But, he does not specifically recall any follow-up conversations with Fehr.⁵⁵

We also asked Resnick about referring Black Ace 1 to Dr. Shaw, which Resnick mentioned doing in his email to Fehr. Resnick explained that he uses Dr. Shaw regularly for many of his clients, describing him as "someone to vent to" when his players are frustrated or have other issues they want to talk about. Resnick told us that Black Ace 1 had had a number of significant frustrations that year, chief among them not being called up to the NHL team, and was at times somewhat demanding. Thus, Resnick explained, after his conversation with Gurney about Aldrich, he referred Black Ace 1 to Dr. Shaw because Resnick "wanted him to have someone to talk to." Resnick does not believe that referring Black Ace 1 indicates that either he or Black Ace 1 were aware of anything on the order of a sexual assault, although he thinks that this was the only time he referred Black Ace 1 to Dr. Shaw. Resnick explained that he treats Dr. Shaw as a "go-to person" and refers players to him regularly, and that doing so for Black Ace 1 was not anything unusual.⁵⁶

As noted above, Fehr has no recollection of receiving Resnick's email. He told us that he does not believe that he forwarded or replied to it at the time, which is consistent with our review of his email account. He believed that the first time he forwarded it to anyone was when he found the email in 2021 in response to inquiries by the Jenner investigators, which is also consistent with our findings. He had no recollection of any subsequent conversation with Resnick in response to the email, nor was he familiar with the identity of Black Ace 1.⁵⁷

We identified a number of calls logged in phone records that may have been prompted by Resnick's email. The most likely of these is a 14-minute call from Fehr's cell phone to Resnick's office phone, which took place only a few hours after Resnick sent his email.⁵⁸ Fehr does not recall this call or its substance, but acknowledged that his reaction to seeing the record of the call was "so I did call him."⁵⁹ Fehr also told us that, ordinarily, he would not be the individual at the NHLPA to have contact with player agents; normally, those interactions would be with other NHLPA staff.⁶⁰ This call from Fehr to Resnick is, therefore, unusual, and it seems very likely to be the "follow up" call that Resnick requested in his email.

We interviewed Resnick a second time to ask about this call entry. Like Fehr, Resnick has no memory of this call or its substance, and the information in the phone record did not refresh his recollection. Resnick reiterated, however, that he is sure that some sort of follow up conversation would have taken place because this was not the sort of thing that he would leave hanging. He also emphasized that he would not have discussed any sexual assault or similar incident with Fehr because he was not aware of any.⁶¹

As discussed in Section Four above, we also identified a handful of calls from the NHLPA office line to Gurney in the days after Fehr received Resnick's email, as well an entry in Fehr's calendar for April 20, 2011 for a call with Gurney.⁶² It is more difficult to say definitively that these calls are evidence of conversations relating to Resnick's email, but it is at least plausible that they are. In particular, the calls from the office line in conjunction with Fehr's calendar entry suggest that at least one of the calls may have been from Fehr and, given that Gurney was referenced in Resnick's email, this evidence is indicative that Fehr and Gurney may have spoken about Aldrich in April 2011. When asked, Fehr did not recall any call with Gurney, and these records did not refresh his recollection.⁶³ He observed, however, that Gurney represented many players, that it was negotiation season, and that he, Fehr, did not know if anyone else in the NHLPA office would have had reason to be calling Gurney at this time.⁶⁴ Gurney told us that the only time he spoke to Fehr was his December 2010 call discussed above.⁶⁵ He was confident that he would remember if he had had any subsequent call with Fehr and his recollection did not change when he was shown Fehr's calendar entry and the phone records.⁶⁶

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/s/ Nicole H. Sprinzen

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J. Bruce Maffeo

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Endnotes

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- ¹ Jenner & Block LLP, *Report to the Chicago Blackhawks Hockey Team Regarding the Organization's Response to Allegations of Sexual Misconduct by a Former Coach*, Oct. 2021 (hereinafter, "Jenner Report"), at 68-69.
- ² *Id.*
- ³ Cozen O'Connor Interview of Donald Fehr on March 3, 2022.
- ⁴ *Id.*
- ⁵ Jenner Report at 68-69.
- ⁶ Cozen O'Connor Interview of Ross Gurney on January 24, 2022.
- ⁷ "About Us," *USAHockey.com*, available at <https://www.usahockey.com/about>.
- ⁸ Cozen O'Connor Interview of Ross Gurney on January 24, 2022.
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ Cozen O'Connor Interview of Joseph Resnick on January 18, 2022.
- ¹² Email from Joseph Resnick to Donald Fehr, April 18, 2011 (hereinafter, "Resnick Email").
- ¹³ Cozen O'Connor Interview of Ross Gurney on January 24, 2022.
- ¹⁴ Cozen O'Connor Interview of Dr. Brian Shaw on January 20, 2022.
- ¹⁵ Jenner Report at 67.
- ¹⁶ Resnick Email.
- ¹⁷ Cozen O'Connor Interview of Dr. Brian Shaw on January 20, 2022.
- ¹⁸ *Id.*
- ¹⁹ Resnick Email.
- ²⁰ *Id.*
- ²¹ Cozen O'Connor Interview of Joseph Resnick on January 18, 2022.
- ²² *Id.*; Jenner Report at 67.
- ²³ Cozen O'Connor Interview of Joseph Resnick on January 18, 2022.
- ²⁴ *Id.*
- ²⁵ Cozen O'Connor Interview of Donald Fehr on March 3, 2022.
- ²⁶ Donald Fehr Verizon Cell Phone Records, April 2011.
- ²⁷ Calendar Entry for Donald Fehr, April 20-21, 2011.
- ²⁸ NHLPA Telus Phone Records, April 2011.
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ Email from Donald Fehr on January 18, 2021 (hereinafter, "Fehr Email").
- ³² Cozen O'Connor Interview of Donald Fehr on March 3, 2022.
- ³³ Cozen O'Connor Interview of Ross Gurney on January 24, 2022.
- ³⁴ *Id.*; Cozen O'Connor Interview of Ross Gurney on March 7, 2022.
- ³⁵ Cozen O'Connor Interview of Ross Gurney on March 7, 2022.
- ³⁶ Cozen O'Connor Interview of Ross Gurney on January 24, 2022.
- ³⁷ Cozen O'Connor Interview of Donald Fehr on March 3, 2022; Cozen O'Connor Interview of Donald Fehr on March 18, 2022.
- ³⁸ Cozen O'Connor Interview of Donald Fehr on March 3, 2022.
- ³⁹ *Id.*
- ⁴⁰ *Id.*
- ⁴¹ Fehr Email".
- ⁴² Cozen O'Connor Interview of Donald Fehr on March 3, 2022.
- ⁴³ Jenner Report at 67.
- ⁴⁴ Cozen O'Connor Interview of Dr. Brian Shaw on January 20, 2022.
- ⁴⁵ Jenner Report at 68.
- ⁴⁶ Cozen O'Connor Interview of Dr. Brian Shaw on January 20, 2022.
- ⁴⁷ *Id.*
- ⁴⁸ *Id.*
- ⁴⁹ *Id.*
- ⁵⁰ *Id.*
- ⁵¹ Kyle Beach, Televised Interview on TSN, Oct. 27, 2021.

⁵² “Fehr, NHLPA doctor failed to warn USA Hockey about Aldrich despite promises, Beach says,” *TSN.ca*, Oct. 29, 2021, *available at* <https://www.tsn.ca/-1.1713434>.

⁵³ Cozen O’Connor Interview of Joseph Resnick on January 18, 2022.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Cozen O’Connor Interview of Donald Fehr on March 3, 2022.

⁵⁸ Donald Fehr Verizon Cell Phone Records, April 2011.

⁵⁹ Cozen O’Connor Interview of Donald Fehr on March 3, 2022.

⁶⁰ *Id.*

⁶¹ Cozen O’Connor Interview of Joseph Resnick on March 9, 2022.

⁶² NHLPA Telus Phone Records, April 2011; Calendar Entry for Donald Fehr, April 20-21, 2011.

⁶³ Cozen O’Connor Interview of Donald Fehr on March 3, 2022.

⁶⁴ *Id.*

⁶⁵ Cozen O’Connor Interview of Ross Gurney on March 7, 2022.

⁶⁶ *Id.*