

In the Matter of Determination of Sanctions in Corruption Offenses under the

TENNIS ANTI-CORRUPTION PROGRAM

Corruption Notice to Albina Khabibulina (hereinafter “Khabibulina” or the
“Covered Person”)

- and -

International Tennis Integrity Agency (the “ITIA”)

Representing the Covered Person: Angelina Kotenko

Representing the ITIA: Kendrah Potts

Anti-Corruption Hearing Officer,
Tennis Anti-Corruption Program

Professor Richard H. McLaren, O.C.
(hereinafter “AHO”)

AWARD of the AHO

PARTIES

1. The International Tennis Integrity Agency (“ITIA”) is an independent body established in 2021 by the International Governing Bodies of Tennis to promote, encourage, enhance, and safeguard the integrity of tennis worldwide. They have the responsibility to administer the Tennis Anti-Corruption Program (“TACP¹”).
2. Albina Khabibulina is a 29 year old professional tennis player from Uzbekistan, born on 11 May 1992. She registered for an IPIN in 2015 - 2018 and completed the Tennis Integrity Protection Programme in 2017 and 2019. She is within the scope of the definition of a Covered Person in the TACP. Therefore, she is subject to the TACP and has agreed to comply with it due to the registration of her IPIN. Her career-high singles ranking was 492 in 2011 and doubles ranking of 208 in 2014.
3. Richard H. McLaren holds an appointment as an Anti-Corruption Hearing Officer (“AHO”) under Section F.1. of the Program. The Covered Person did not respond to communications from either the ITIA or AHO McLaren. Therefore, it is considered that no Party made any objection to the jurisdiction of the AHO; nor, to his being an independent, impartial, neutral adjudicator to render a determination in this case.

¹ All capitalized words or acronyms take their defined meaning from this text or the TACP Definitions.

PROCEDURAL BACKGROUND

4. On 23 September 2019, the Covered Person was arrested in France in connection with manipulating an Event for sporting purposes on 11 March 2019. See Charge 8 in the Notice set out below.
5. The Tennis Integrity Unit (“TIU”), now the ITIA, investigated the Covered Person by way of interviews on learning of the arrest by the French Police. In an interview on 29 October 2019 the Covered Person admitted to the TIU investigators that she fixed the match on 11 March 2019.
6. On 19 November 2019 the PTIOs filed an Application for a Provisional Suspension against the Covered Person. On 22 November 2019 the AHO issued a Provisional Suspension (“PS”) against the Covered Person, which continues in effect to date.
7. The Covered Person was served with a Notice of Major Offense (“Notice”) on 20 September 2021. The Notice referred to the following allegations:

Charge 1 – breach of section D.1.d. and D.1.e. of the 2017 TACP

“In your interview with the ITIA (on 4 April 2020) you admitted that you had approached ██████████ ██████████ in 2017 in relation to corrupting matches but that ██████████ declined the approach. You sent ██████████ a message, via WhatsApp, asking whether ██████████ would want to talk and whether she needed financial help. ██████████ asked you to stop contacting ██████████ as ██████████ was not interested in being involved in match-fixing.”

Charge 2 – breach of section D.1.f. of the 2017 TACP

“On 24 October 2017 a money transfer payment for €456.42 was sent by [REDACTED] [REDACTED]. It is alleged that the €8456.42 was paid for your benefit in return for fixing matches. Indeed, [REDACTED] has confirmed that this money transfer was a payment to you in connection with recruiting or arranging the corruption of [REDACTED] [REDACTED] matches at tournaments in 2017.”

Charge 3 – breach of section D1.f. of the 2017 TACP

“On 24 October 2017 a money transfer payment for €906.35 was sent by [REDACTED] [REDACTED]. It is alleged that the €906.35 was paid for your benefit in return for fixing matches. Indeed, [REDACTED] has confirmed that this money transfer was a payment to you in connection with recruiting or arranging the corruption of [REDACTED] [REDACTED] matches at tournaments in 2017.”

Charge 4 – breach of section D.1.f. of the 2017 TACP

“On 24 October 2017 a money transfer payment for €906.35 was sent by [REDACTED] [REDACTED]. It is alleged that the €906.35 was paid for your benefit in return for fixing matches. Indeed, [REDACTED] has confirmed that this money transfer was a payment to you in connection with recruiting or arranging the corruption of [REDACTED] [REDACTED] matches at tournaments in 2017.”

Charge 5 – breach of section D.1.d. and D.2.a.i. of the 2017 TACP

*“On 24 November 2017 [REDACTED] [REDACTED] received a money transfer payment for €907.84 sent by [REDACTED] [REDACTED]. It is alleged that the €907.84 was paid for your benefit in return for fixing matches (whether directly, by fixing matches yourself, or indirectly by acting as intermediary in arranging for another player to fix a match). **See Exhibit 5.** Further, at no time did you report this to the TIU.”*

Charge 6 – breach of section D.1.d. and D.2.a.i. of the 2017 TACP

“On 24 November 2017 [REDACTED] [REDACTED] received a money transfer payment for €888.98 sent by [REDACTED] [REDACTED]. It is alleged that the €888.98 was paid for your benefit in return

for fixing matches (whether directly, by fixing matches yourself, or indirectly by acting as intermediary in arranging for another player to fix a match). See Exhibit 6. It is alleged that [REDACTED] [REDACTED] was collecting the money on your behalf. Further, at no time did you report this to the TIU.”

Charge 7 – breach of section D.1.b. and D.1.d. of the 2018 TACP

“On [REDACTED] September 2018, at the [REDACTED] Tournament in [REDACTED] Kazakhstan, you played against [REDACTED] [REDACTED] in the [REDACTED] round of the women’s [REDACTED] draw. You [REDACTED] that match [REDACTED].

On [REDACTED] September 2018, Sportradar reported suspicious betting activity in relation to this match, to the Tennis Integrity Unit (“TIU”, now the ITIA), including an irregular degree of live betting interest. The suspicious bets were reported in relation to you losing game [REDACTED] set [REDACTED]. This was your [REDACTED] service game and you served [REDACTED] double faults, ultimately losing the game. In particular, three bettors constituted a significant portion of the total attempted turnover – their accounts were marked as they had previously been linked to suspicious betting activity and they only placed bets on this specific outcome, i.e. you losing game [REDACTED] set [REDACTED].

Charge 8 – breach of section D.1.b., D.1.d., D.2.a.i., and D.2.a.ii. of the 2019 TACP

“The ITIA alleges that you failed to report a corrupt approach made to you by [REDACTED] [REDACTED] in relation to your first-round qualification match against [REDACTED] [REDACTED] at the [REDACTED] [REDACTED] Tournament in [REDACTED] France on [REDACTED] March 2019.

Further, the ITIA alleges that you contrived an aspect of that match by deliberately losing game [REDACTED] set [REDACTED] which was your [REDACTED] service game in that set. You admitted to this offence in your interview with the TIU on 29 October 2019.

██████████ admitted to the French police, following ██████ arrest on ██████████ that ██████ had contacted you and asked you to fix the ██████ set in your match against ██████████. Specifically, ██████ asked you to lose your ██████ service game of set ██████ (game ██████ of that set) – you served ██████ double faults, ultimately losing the game. You also admitted before the Pontoise Tribunal de Grande Instance, France on 26 September 2019 that ██████████ had made the approach, and you had contrived the outcome of this match.

On ██████ March 2019, approximately one hour before your match against ██████████ ██████████ contacted you via Instagram stating: “I really need you to lose the ██████ game in the ██████ set” and “I will try to explain everything later because now I’m really scared.” You admitted that you telephoned ██████████ and agreed to lose your ██████ service game in the ██████ set of that match.

Several suspicious bets were reported in relation to this match by several betting operators, specifically in relation to the outcome of set ██████ and game ██████ of that set.”

Charge 9 – breach of section F.2.b. of the 2020 TACP

“On 23 June 2020, you were contacted by the TIU informing you that the TIU had discovered more social media material and documents which suggested involvement in match-fixing and requested an interview with you at a convenient time. **See Exhibit 9.**

On 30 June 2020, the TIU received an email from your account, copying in your legal representative, Angelina Kotenko. Despite coming from your email account, the email was purportedly from Ms Kotenko. You refused to be interviewed further. **See Exhibit 10.**

On 1 July 2020, you were emailed by the TIU reminding you of your obligations under the TACP and reiterating the request for a further interview. **See Exhibit 11.**

*Again, on 8 July 2020, the TIU received an email from your account, apparently from Ms Kotenko, refusing a further interview. Despite a request from the TIU on 28 July 2020, Ms Kotenko did not provide a power of attorney, confirming that she had been instructed to act for you. See **Exhibit 12**.*

The ITIA alleges that you breached your obligation under section F.2.b of the 2020 Program by refusing to be interviewed further and not cooperating fully with investigations.”

8. On 20 September 2021 the AHO, having reviewed his copy of the above referenced Notice sent a letter by email correspondence to the Covered Person’s counsel, Ms. Kotenko. In accordance with Section G.1.b. the fourteen day deadline for a response to receipt of the Notice was set at 4 October 2021. The AHO letter set out the various legal options and choices of dispute resolution that the Covered Person had in pursuing the matter before the AHO.
9. Following the serving of the foregoing Notice, the ITIA and the AHO corresponded with the Covered Person and her lawyer in an effort to determine how the Covered Person wished to proceed under Section G of the TACP being the section dealing with “Commencement of Proceedings”.
10. The deadline to respond to the AHO concerning the Covered Person’s choice to be made under TACP in relation to the Notice was extended on one occasion. The Covered Person was warned by the AHO that he would proceed in the absence of any response by her as to how she would elect to proceed under the TACP.

11. The Covered Person and her counsel were given several opportunities to confirm their position in relation to the charges and allegations in the Notice. It is apparent that the Covered Person has consciously chosen not to respond to the charges against her in the Notice and elect the procedure by which to deal with the matter.
12. The Covered Person has never made an election or filed a written request for a hearing and continuously failed to communicate with the AHO. Therefore, the Covered Person in failing to make a timely request under Section G is now deemed to have suffered the consequences set out in Section G.
13. Under Section G.1.e. of the TACP the Covered Person is deemed to have:
 - Waived entitlement to a Hearing;
 - Admitted to having committed the Corruption Offenses set out in the Notice; and
 - Acceded to the potential sanctions specified in the Notice.

In these circumstances the AHO is required to issue a Decision confirming the commission of the Corruption Offenses alleged in the Notice and ordering the imposition of sanctions after having requested a written submission from the ITIA on their view of the recommended sanctions.

14. The matters at issue in this proceeding took place during the calendar years of 2017-2020. Therefore, the 2017, 2018, 2019 and 2020 rules of the TACP apply to the merits of this proceeding. The procedural aspects of this matter are governed by the 2021 TACP rules.

15. On 11 November 2021 counsel for the ITIA filed with the AHO its submissions on the recommended sanction that included: a period of ineligibility of 21 years and a fine of \$100,000.
16. A follow up enquiry by the AHO to the ITIA counsel was made on the 16 November 2021 and responded to on the 18 November 2021. The AHO sought an explanation of why the sanction was a specific number of years when it would appear from the Guidelines that once the sanction exceeds 10 years it is effectively a life ban and not a specific number of years. The response to this enquiry is included in the reasons for the sanction set out below.

BACKGROUND FACTS

17. Section F.7. of the 2021 TACP sets out the “Contract Requirements.” In accordance with that Section the Covered Person is deemed to have received the Notice when sent directly to the Covered Person’s email address. The Covered Person is also deemed to have received the communications from the AHO through her counsel as the Covered Person had provided the ITIA with her counsel’s email address. On this basis the AHO may assume that delivery of all the correspondence has been deemed to be received by the Covered Person at the time it was sent. Therefore, the AHO is entitled to rely upon this provision in the TACP to satisfy himself that the Notice and all of the AHO’s correspondence has been received.

THE RELEVANT PROVISIONS OF THE 2017, 2018, 2019 AND 2020 TACP (applicable to the merits)

18. Section D.1.b. of the 2019 Program reads as follows, with the modifications to the 2018 Program noted after the original section:

D. Offenses

1. Corruption Offenses.

...

b. No Covered Person shall, directly or indirectly, solicit, facilitate, or conspire to solicit or facilitate¹ any other person to wager on the outcome or any other aspect of any Event or any other tennis competition. For the avoidance of doubt, to solicit or facilitate to wager shall include, but not be limited to: display of live tennis betting odds on a Covered Person’s website; writing articles for a tennis betting publication or website; conducting personal appearances for, or otherwise participating in any event run by,² a tennis betting company or any other company or entity directly affiliated with a tennis betting company; promoting a tennis betting company to the general public through posts on social media,³ and appearing in commercial advertisements that encourage others to bet on tennis.⁴

¹ Bolded and underlined text excluded in 2018 Program.

² Bolded and underlined text excluded in 2018 Program.

³ Bolded and underlined text excluded in 2018 Program.

⁴ Bolded and underlined text phrased as “*appearing in commercials encouraging others to bet on tennis.*” in 2018 Program.

19. Sections D.1.d. of the 2019 Program reads as follows, with the modifications to the 2017 and 2018 Program noted after the original section:

D. Offenses

1. Corruption Offenses.

...

d. *No Covered Person shall, directly or indirectly, contrive, attempt to contrive, agree to contrive, or conspire to contrive¹ the outcome, or any other aspect, of any Event.*

¹**Bolded and underlined text excluded in 2017 and 2018 Programs.**

20. Section D.1.e. and D.1.f. of the 2017 Program reads as follows:

e. *No Covered Person shall, directly or indirectly, solicit or facilitate any Player to not use his or her best efforts in any Event.*

f. *No Covered Person shall, directly or indirectly, solicit or accept any money, benefit or Consideration with the intention of negatively influencing a Player's best efforts in any Event.*

21. Section D.2.a.i. of the 2017 and 2019 Program are identical and reads as follows:

D. Offenses

2. Reporting Obligation.

a. Players.

i. *In the event any Player is approached by any person who offers or provides any type of money, benefit or Consideration to a Player to (i) influence the outcome or any other aspect of any Event, or (ii) provide Inside Information, it shall be the Player's obligation to report such incident to the TIU as soon as possible.*

22. Section D.2.a.ii. of the 2019 Program reads as follows:

D. Offenses

2. Reporting Obligation.

a. Players.

...

ii. *In the event any Player knows or suspects that any other Covered Person or other individual has committed a Corruption Offense, it shall be the Player's obligation to report such knowledge or suspicion to the TIU as soon as possible.*

23. Section F.2.b. of the 2020 Program reads as follows:

F. Investigation and Procedure

2. Investigations.

...

b. *All Covered Persons must cooperate fully with investigations conducted by the TIU including giving evidence at hearings, if requested. Even in the case where a Covered Person is represented by a legal counsel, the Covered Person is still personally responsible for ensuring that they cooperate fully with the investigation. The Covered Person shall be deemed not to have cooperated if the Covered Person's legal counsel interferes with a TIU investigation.*

THE RELEVANT PROVISIONS OF THE 2021 TACP (applicable to the procedure)

24. Section G.3.a. of the 2021 Program reads as follows:

G. Due Process

3. Burdens and Standards of Proof.

a. *The ITIA (which may be represented by legal counsel at the Hearing) shall have the burden of establishing that a Corruption Offense has been committed. The standard of proof shall be whether the ITIA has established the commission of the alleged Corruption Offense by a preponderance of the evidence.*

25. Section G.4.e. of the 2021 Program reads as follows:

G. Due Process

4. Decisions.

...

e. *Except in cases involving a Covered Person (i) who is under the age of eighteen, (ii) where there is a significant threat to the life and/or safety of the Covered Person or any member of their family or (iii) who provided or is providing Substantial Assistance as described in Section H.6., if the AHO determines that a Corruption Offense has been committed, the ITIA will publicly report the Decision in full, subject to any necessary redaction of information that the ITIA considers to be sensitive or confidential.*

26. Section H.1.a. of the 2021 Program reads as follows:

H. Sanctions

1. *Except as provided in Sections F.5. and F.6., the penalty for any Corruption Offense shall be determined by the AHO in accordance with the procedures set forth in Section G, and may include:*

a. *With respect to any Player, (i) a fine of up to \$250,000 plus an amount equal to the value of any winnings or other amounts received by such Covered Person in connection with any Corruption Offense, (ii) ineligibility from Participation in any Sanctioned Events for a period of up to three years unless permitted under Section H.1.c., and (iii) with respect to any violation of Section D.1., clauses (c) - (p), Section D.2. and Section F. ineligibility from Participation in any Sanctioned Events for a maximum period of permanent ineligibility unless permitted under Section H.1.c.*

AHO DECISION

27. Following the Covered Person's arrest in France in September 2019 and subsequent interview with investigators of the TIU, the Covered Person admitted on 26 September 2019 to a French Court and a similar admission was made on the 29 October 2019 to the TIU to the contriving of the outcome of

a tennis match on 11 March 2019. This matter is the subject of Charge 8 in the Notice.

28. The Covered Person admitted during an interview on 4 April 2020 to have attempted to contrive a match in the Ukraine in 2017, and to have solicited ██████████ ██████████ to not use ██████████ best efforts in an Event in 2017. This matter is the subject of Charge 1 in the Notice.

29. Under the procedure in Section G.1.e. of the 2021 TACP and based upon (i) the Covered Person's failure to respond to the Notice and (ii) the Covered Person's admissions during her 29 October 2019 and 4 April 2020 interviews, the AHO confirms that the Covered Person is found to have breached Sections D.1.d. and D.1.e. of the 2017 TACP. It is further found that the Covered Person is found to have breached Sections D.1.f. and D.2.a.i. of the 2017 program for accepting money in return for involvement in the corruption of tennis matches and for failing to report this money, respectively.

30. The Covered Person admitted during an interview on 29 October 2019 to have contrived a match at the ██████████ ██████████ Tournament in ██████████ France on ██████████ March 2019. It is found that the Covered Person breached Section D.1.d. and D.1.b. of the 2019 TACP. By failing to report the corrupt approach made by ██████████ ██████████ or reporting knowledge that ██████████ committed a corruption offense, it is found that the Covered Person also breached Section D.2.a.i. and D.2.a.ii. of the 2019 TACP.

31. It is found that the Covered Person's failure to respond to the TIU's multiple requests for information amounts to a breach of Section F.2.b. of the 2020 TACP.
32. The Sanctioning Guidelines ("Guidelines") issued in March 2021 are not binding on the AHO. They are intended to set out a framework to support consistency in sanctioning. The Guidelines provide that where there are multiple corruption offenses, the AHO may only need to follow the sanction process for the offense which carries the highest sanction. The Guidelines provide a starting point and a permissible sanction range for each Category of offense.
33. The first step in using the Guidelines is to determine the offense category. I accept the submissions of the ITIA that the present case falls into culpability Category A – High Culpability, because there were multiple Major Offenses committed over a protracted period of time; the Covered Person sought to lead another Player into committing offenses; and the Corruption Offenses the Player committed took planning and premeditation. Therefore, all aspects of Category A - High Culpability are met.
34. The other aspect to examine in using the Guidelines in determining the offense category is to assess the "Impact". The ITIA submits that the Covered Person's conduct falls between Category 1 and 2. I find that major TACP offenses have occurred not just in contriving aspects of tennis matches but also in other aspects of the TACP. The offenses having in one case resulted in

a French Criminal Code conviction with the accompanying publicity in 2019 impacting the reputation and integrity of the sport. Another criterion in assessing impact are the high value of the illicit gains being received by the Covered Person that are evident in the review of the charges in the Notice. Therefore, all aspects of Category 1 are established.

35. I agree with the ITIA's submission that the Player's conduct falls within Culpability Category A of the Guidelines. Given the discussion at paragraph 34 on Impact I find that the Player's conduct is at Category 1 and not between 1 and 2 as submitted by the ITIA in its brief on sanctions. The consequence is that the starting point in determining the sanction should be a Life Ban and not, as submitted by the ITIA, somewhere between 10 years and a Life Ban.
36. I am advised following an enquiry of the AHO and correspondence from the ITIA that it is considered by the ITIA that a Life Ban as referenced in the Guidelines is 30 years being "... the touchstone by reference to criminal courts' approach to life sentences in different jurisdictions".
37. Given the Covered Person's failure to respond and lack of cooperation, I agree with the ITIA submissions that there are no mitigating factors which can be used to reduce the sanction.
38. For all of the foregoing reasons, I fix the period of ineligibility under Section H.1.a. to be "... ineligibility from Participation in any Sanctioned Events for a maximum period of permanent ineligibility ...". This finding matches the 'Life Ban' as that term is used in the Guidelines.

39. Turning to the matter of the fine which might be imposed reference was made to the Bulgarian case of Aleksandrina Naydenova where the fine was \$150,000; and the Argentinian case of Franco Feitt where the fine was \$25,000. Both cases involved a sanction of a lifetime period of ineligibility. Aleksandrina Naydenova was charged with 13 offenses, made up of twelve contriving offenses of S.D.1.d. and one offense of S.D.2.c. for breaching the duty to cooperate under S.F.2.b. Franco Feitt was charged with nine offenses, made up of five contriving offenses of S.D.1.d., three facilitating offenses of S.D.1.e. and one S.D.2.a.i. offense for breaching the obligation to report.
40. In this case the Notice sets the amounts received by the Covered Person in connection with the Corruption Offenses is found to be €11,616.01. In the AHO's experience it is rare to ever know an approximation of what might have been the illicit gains. Given the charges found herein and knowing of a specific sum of illicit gain I find the matter at hand is much closer to the circumstances in the Bulgarian case. Therefore, I would fix the fine at the same level as in that case being \$150,000 USD.

CONCLUSION

41. Based upon all of the foregoing reasons and analysis the AHO determines the Covered Person is deemed to have committed all of the 9 Charges found in the Notice. In applying the Guidelines for Sentencing and with a view to prior cases I find that a lifetime ban is applicable and prefer that to the expression of the ITIA submission of a 21 year ban, given that I find all elements of Impact

Category 1 to be established. I set the fine at \$150,000 USD. Pursuant to Section J.2. of the TACP it is noted that the ITIA is amenable to a payment plan should the Covered Person make an application for such to the ITIA.

42. For all of the foregoing reasons the following Orders are made in this matter of a Notice of Major Offenses.

ORDERS

It is hereby ordered with immediate effect on the date below that:

1. Albina Kabibulina, a Covered Person under the TACP, pursuant to Section G.1.e.ii is deemed to have admitted the Corruption Offenses specified in the Notice of Major Offenses.
2. The Covered Person pursuant to Section H.1.a.(iii) of the TACP, is to serve a period of permanent ineligibility to Participate in any Sanctioned Events.
3. It is further ordered that the Covered Person pay a fine of \$150,000 USD in accordance with Section H.1.a.(i) with the inclusion therein of *€11,616.01 being monies* received by the Covered Person in connection with the Corruption Offenses.
4. The sanctions Decision herein is to be publicly reported in full as required by Section G.4.e.

5. Under Section G.4.d. this Decision is a *“full, final and complete disposition of the matter and will be binding on all parties”*.

6. The Decision herein may be appealed under Section I.4. for a period of “twenty business days from the date of receipt of the decision by the appealing party.”
The appeal is to the Court of Arbitration for Sport in Lausanne, Switzerland.

DATED at LONDON, ONTARIO, CANADA THIS 21st DAY NOVEMBER 2021.

A handwritten signature in black ink, reading "Richard H. McLaren", is enclosed in a thin black rectangular border.

Professor Richard H. McLaren, O.C.

AHO