

In the Matter of an alleged Corruption Offense under the

TENNIS ANTI-CORRUPTION PROGRAM

Corruption Notice to Irina Khromacheva (hereinafter “the Player”)

- and -

Professional Tennis Integrity Officers (“PTIOs”)

Being constituted by appointments from each of the following

Governing Bodies:

|                                 |         |
|---------------------------------|---------|
| ATP Tour, Inc.                  | (“ATP”) |
| Grand Slam Board                | (“GSB”) |
| International Tennis Federation | (“ITF”) |
| WTA Tour, Inc.                  | (“WTA”) |

Representing the Covered Persons: Maria Tokmakova  
Sergey Lysenko

Representing the PTIOs: Stephen D. Busey  
John F. MacLennan

Anti-Corruption Hearing Officer,  
Tennis Anti-Corruption Program Professor Richard H. McLaren, O.C.  
(hereinafter “AHO”)

## *A W A R D of the AHO*

### PARTIES

1. The PTIOs<sup>1</sup> are appointed by each Governing Body (ATP, GSB, ITF & WTA) who participates in the Tennis Anti-Corruption Program (“the Program”). They have the responsibility to administer the Program and direct the Tennis Integrity Unit (“TIU”).
2. Irina Khromacheva is a 24-year-old Russian tennis player (“the Player”) [REDACTED] When discussed individually in this Award, the parties will be referred to as the Player or [REDACTED] depending upon their role. When they are dealt with together in this Award, they will be referred to as the Covered Persons. At the time of the alleged Corruption Offense the Player was registered with the ITF by means of her ITF International Player Identification Number (“IPIN”). When registering for an IPIN players confirm their agreement to the terms of the Player Welfare Statement. The Player has been registered with an ITF IPIN, paid the fees and signed all ITF Player Welfare Statements every year from 2016 to 2019. She also completed the Tennis Integrity Protection Program (“TIPP”) in 2017. By using her IPIN and signing the Declaration the Player has agreed to comply with and be bound by the rules of tennis including the Program.
3. The Player is by virtue of the foregoing a Covered Person under the 2019 Program over which the AHO has jurisdiction. The jurisdiction of the AHO

---

<sup>1</sup> All capitalized words or acronyms take their defined meaning from this text or the Program Definitions.

is not contested by the Player or the PTIOs. The Player's career high singles ranking was 89 in February 2017, and her career high doubles ranking was 41 in April 2019.

4. Richard H. McLaren holds an appointment as an Anti-Corruption Hearing Officer ("AHO") under Section F.1. of the Program. No Party made any objection to the jurisdiction of the AHO or to his being an independent, impartial, neutral adjudicator to render a determination in this case.

### **PROCEDURAL BACKGROUND**

5. The matters at issue in this proceeding took place during the calendar year of 2019. The Notice of Alleged Corruption Offense ("the Notice") was served on the Player and [REDACTED] on 15 May 2019. Therefore the 2019 Program applies to the merits and the procedural aspects of this matter.

6. The Notice alleged that:

"...on 4th of March 2019, at the BNP Paribas Open at Indian Wells, California, Ms. Khromacheva [REDACTED] conspired to contrive or attempted to contrive the outcome or other aspect of an Event by offering to [REDACTED] to have Ms. Khromacheva withdraw from playing her first round qualification draw match against [REDACTED] if [REDACTED] the prize money that Ms. Khromacheva would have earned for playing that first round match, a violation of Section D.1.d. of the 2019 Program. [REDACTED] was the first alternate for the WTA qualification draw and would have taken Ms. Khromacheva's place in the qualification draw if Ms. Khromacheva withdrew from her match against [REDACTED] Ms. Khromacheva and [REDACTED] made this proposal to [REDACTED] [REDACTED] who rejected the proposal and then reported the corrupt approach to the WTA Supervisor at the tournament."

7. On 16 May 2019 the AHO advised the Covered Persons by email of the various options that they had in pursuing the matter under the Program in order to deal with the allegations contained in the Notice. A deadline for an answer was set for 5 June 2019 pursuant to Section G.1.b. of the Program.
8. On 30 May 2019 the Player responded to the AHO denying the charges contained in the Notice. Following several email exchanges the Player sought clarification of the options available to her. On 3 June 2019 the Player indicated in an email note to the AHO that she wished to proceed with a Hearing. It was at this time the AHO learned that [REDACTED] was no longer the coach of the Player and that in future he should deal with them separately.
9. On 7 June 2019, once the AHO advised the Player a conference call was necessary to plan for a hearing the Player requested two (2) weeks to find legal representation. The AHO granted that request and set a deadline of 24 June 2019. The AHO informed the Covered Persons that he would hear the factual part of the two sets of allegations together, and a date for the conference call would be determined following the 24 June 2019 deadline given to the Player to secure counsel.
10. On 24 June 2019 the AHO received an email communication from Maria Tokmakova (hereinafter “Counsel for the Covered Persons”) advising that she had been retained to represent both the Player and [REDACTED] in the proceeding.

11. When two or more Covered Persons are charged in the same Notice, Section G.1.c. requires that the case proceed on a consolidated basis. This was done in this case because no request for separate proceedings was made as provided for in Section G.1.c.
12. A directions hearing was held on 2 July 2019, following which Procedural Order No. 1 (“PO No. 1”) was issued confirming the procedural details and timetable through to the Hearing.
13. Counsel for the Covered Persons agreed, and it was confirmed in PO No. 1, that there were no objections to the appointment of the AHO. It was agreed that he was an independent, impartial adjudicator with jurisdiction to hear the matter. There were no objections to the arbitrability of the allegations set out in the Notice.
14. In accordance with PO No. 1 it was agreed that the evidence in the two cases, one involving the Player and the other involving ██████████ would be heard together on a consolidated basis. The same lawyers represented both parties. It was agreed that the AHO would issue separate decisions.
15. Also in accordance with PO No. 1, the PTIOs filed their written submission with argument on all issues to be raised at the Hearing, together with witness statements and related exhibits on 2 August 2019.
16. On 23 August 2019 the Counsel for the Player filed an Answering Brief with related exhibits in accordance with PO No. 1.

17. On 27 August 2019 the AHO granted the Counsel for the Player an extension to file witness statements for the Player and [REDACTED] because of a misunderstanding of the procedure under PO No. 1. Together with that extension, the AHO also granted the PTIOs an extension to file a Reply Brief until 4 September 2019.
18. On 28 August 2019 the Counsel for the Player filed witness statements of both the Player and [REDACTED]
19. The PTIOs Reply Brief was filed on the 4<sup>th</sup> of September 2019. The Player's Counsel filed their Reply to the Reply Brief of the PTIOs on 6 September 2019.
20. The Hearing took place on 9 September 2019 at Bank Lane, Roehampton in London, England, SW15 5XZ with video conferencing connection to Moscow where the Player and her Counsel were located. The Hearing was held on a consolidated basis pursuant to Section G.1.c.

## **SUBMISSIONS of the PARTIES**

### **(i) The PTIOs**

21. The PTIOs submitted that the [REDACTED] violated Section D.1.d. of the Program by conspiring to contrive or attempting to contrive an aspect of the BNP Paribas Open at Indian Wells, California on 4 March 2019. It was submitted that the [REDACTED] conspired with the Player to make an offer to the professional tennis player [REDACTED] to have the Player withdraw from her first round qualification draw match if [REDACTED] would pay the Player the prize

money that the Player would have earned for playing that match. In support of their submission the PTIOs have relied upon the following:

a. Witness evidence of:

- i. [REDACTED] the professional player who was allegedly approached by the Player directly;
- ii. [REDACTED] coach who was part of the discussion wherein the alleged offer was made; and
- iii. Michael Mahon-Daly, the Tennis Integrity Unit Investigator who interviewed the Player on 18 March 2019.

b. The Player's own admission that there was a discussion with [REDACTED] and [REDACTED] regarding prize money in an email sent on 3 June 2019 to the AHO.

22. The PTIOs submitted the preponderance of the evidence demonstrating the Player committed a Corruption Offense under Section D.1.d. is met by:

- (1) the evidence of [REDACTED] who is by the Player's own admission a friend of hers with no reason to be untruthful, and who asked the Player several times whether she meant for [REDACTED] to provide the Player with the prize money if she allowed [REDACTED] to play;
- (2) the corroborating evidence of [REDACTED] who was present when some of the improper statements were made by the Player; and
- (3) the inconsistent and untruthful claims of the Player to the TIU Investigators regarding whether prize money, or money at all, was ever discussed, followed by a 3 June 2019 email from the Player to the AHO stating:

*"Then she called her coach and my ex coach [REDACTED] also came and we begin to talk about what will happen if I pull out of the match (will I have penalties or not, will I get 50% of*

*prize money or not) cause I were not sure about that rule, I heard about Main Draw that it can happen (when player pulls out of the match) he/she has 50% of prize money.”*

23. In his witness statement [REDACTED] acknowledged that he had previously discussed the Player with another player, [REDACTED] however, he stated that this was solely in relation to her on-court attitude and demeanor rather than any personal dislike for the Player.
24. Based on their submissions, the PTIOs asked the AHO to find the Player guilty of a Corruption Offense under Section D.1.d. and to sanction her appropriately.

**(ii) The Player**

25. It was submitted by Counsel for the Player that she had health problems that first emerged at the ITF Singles Tournament in Launceston, Australia which commenced on 28 January 2019. Her health deteriorated there and subsequently at Acapulco. When she arrived at Indian Wells in California she felt sufficiently ill that she would either be unable to play or could only commence a match and then withdraw. It is against this backdrop that the events of Indian Wells occurred.
26. The Player’s Counsel submitted that the PTIOs have not met the standard of proving a violation of Section D.1.d. on the preponderance of evidence.
27. In support of the Player the Counsel submitted the following:
  - (1) Witness evidence of:



a. the Player;

██████████

- (2) A WhatsApp audio message provided by ██████████ a professional tennis player and occasional doubles partner with the Player, that allegedly establishes ██████████
- (3) Rule 601.2 of the Florida Standard Jury Instructions In Civil Cases, which states that “*when evaluating the believability of any witness...any interest the witness may have in the outcome of the case*” may properly be considered;
- (4) Counsel does not accuse ██████████ of false testimony but what they describe as being what they heard is not what was said. This type of evidence is admissible but is known to be not the most reliable as the Jury instructions indicate; and further
- (5) Both ██████████ testimony and the corroborating testimony of ██████████ should not be considered in light of his alleged prejudice against the Player and his influence on ██████████

28. Counsel for the Player further submitted that the Player did not violate any Section of the Program in her discussion with ██████████ Rather, any misunderstanding was due to the Player’s health at the time of the conversation; misinterpreting the Player’s clarifying questions regarding the prize money; and, ██████████ against the Player. Specifically, the Counsel for the Player submitted that the PTIOs have not established the Corruption Offense under Section D.1.d. of the Program based on the following:

- a. witness evidence of the Player, who stated that as a result of the virus and the accompanying medical opinions regarding her health,

was under significant stress and uncertain whether she should withdraw or play, potentially risking her health further;

- b. corroborating witness evidence of the [REDACTED] who was present for some of the discussion between the Player and [REDACTED] and who stated that the conversation between the two was first to notify [REDACTED] of the possibility of her playing if the Player withdrew due to health reasons, and second to clarify the rules relating to withdrawal and prize money allocation;
- c. WhatsApp messages sent between the Player and her doctor, Timofy Yashin, who continued to monitor the Player after determining the Player was suffering from an intestinal virus, and recommended she request a start as late as possible at the Indian Wells Tournament to avoid playing in the heat;
- d. a report filed by [REDACTED] in response to the PTIOs' request, in which [REDACTED] initially "*deemed [the Player] safe to play but recommended rest to avoid prolonging [the Player's] condition*" and had serious concerns the next day regarding the Player's fitness to play;
- e. a WhatsApp audio message recorded on 15 April 2018 and provided by [REDACTED] tennis player [REDACTED] displayed prejudice against the Player when he stated that he [REDACTED];
- f. the alleged prejudice [REDACTED] had against the Player, and the influence he held over [REDACTED] impacted their interpretation of the conversation and unintentionally imputed corrupt intentions on the Player and [REDACTED] and

g. the above, taken in conjunction with Rule 601.2 of the Florida Standard Jury Instructions In Civil Cases, casts doubt on the trustworthy nature of the witness evidence of both [REDACTED]

29. Regarding the alleged inconsistency between the Player's testimony and [REDACTED] the Player submitted it was her understanding that the TIU Investigators' questions about prize money related specifically to corruption, not to a general discussion of prize money or the rules regulating the distribution of prize money after withdrawing for medical reasons.

30. Based on her Counsel's submissions the Player asked the AHO to dismiss the PTIOs' claim against her, including any finding of wrongdoing, fine, or period of ineligibility.

31. **THE RELEVANT PROVISIONS OF THE 2019 PROGRAM**

**D. Offenses**

*Commission of any offense set forth in Section D, E or F of this Program or any other violation of the provisions of this Program shall constitute a Corruption Offense for all purposes of this Program.*

**1. Corruption Offenses.**

...

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

...

## **G. Due Process**

### **1. Commencement of Proceedings.**

...

- c. *Two or more Covered Persons may be charged in the same Notice and the case shall proceed on a consolidated basis when:*
  - (i) each Covered Person is charged with accountability for each Corruption Offense charged,*
  - (ii) each Covered Person is charged with conspiracy and some of the Covered Persons are also charged with one or more Corruption Offenses alleged to have been committed in furtherance of the conspiracy, or*
  - (iii) even if conspiracy is not charged and all Covered Persons are not charged with each Corruption Offense, the Notice alleged that the several Corruption Offenses charged were part of a common scheme or plan.*

*Consolidated proceedings may be severed by the AHO for the fair and efficient management of the proceedings upon the request of a Covered Person seeking separate proceedings under Section G.1.i.*

...

## **H. Sanctions**

- 1. *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)-(l) 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*

32. In order to meet their burden and establish that a Corruption Offense has occurred, the PTIOs must establish that the conversations between the Player and ██████ took place in substantially the manner described in the Notice. That is, that the Player made an offer to withdraw from her scheduled qualifier match in the Indian Wells Tournament (“the Tournament”). That withdrawal would be contingent upon ██████ agreeing she would pay the Player the prize money that she would have earned had she made an appearance and at least played long enough to earn First Round Prize Money, contrary to Section D.1.d. of the Program.
33. The Player was scheduled to play a first round qualifier match against ██████ ██████ the evening of 4 March 2019 (“the Match”). The evening time slot was agreed upon by the Tournament Supervisor and the Player for accommodation reasons. If the Player withdrew from the Match, then ██████ would have replaced the Player because she was the first alternate for the WTA qualification draw at the Tournament.
34. The issue before me begins with the Player approaching ██████ on 4 March 2019 at the outdoor cafe at the Indian Wells Tournament. ██████ was having lunch with her team; including her ██████ her strength and conditioning coach, and a USTA coach.
35. By way of background to this approach by the Player, she had been ill at a tournament in Launceston, Australia in February 2019. Her health had been

deteriorating from the quarter-finals onwards. She withdrew from that tournament in the second set of the final match due to her medical condition. She was diagnosed with an intestinal virus. Her recovery from then through to the Tournament in March was slow and sporadic. At the Tournament she was diagnosed with a kidney infection and was prescribed antibiotics.

36. The Player was not confident whether she could play in the Tournament because of her illness and was preoccupied with her health at the commencement of the Tournament. At the conclusion of her warmup at around noon on 4 March 2019 she returned to see the Primary Health Provider (“the Health Provider”) at the Tournament who had previously diagnosed the Player’s condition.
37. Before consulting the Health Provider the Player discussed with her [REDACTED] whether she should be playing the Match that evening. At this point the Coach suggested to the Player that she should warn [REDACTED] regarding her health and possible withdrawal because the two players are friends and the Player had been in [REDACTED] position of first alternate in the past. The Player might wish to forewarn [REDACTED] of the possibility of replacing the Player if the Player withdrew. The two agreed to meet up at the Tournament café in an hour, after a further visit to the Health Provider by the Player.
38. After the discussion with the [REDACTED] the Player consulted the Health Provider, who recommended the Player withdraw as early as possible if she was not feeling well because it could potentially worsen her condition and it would perhaps be better for her to withdraw. The Player was unable to decide whether she should participate in the upcoming Match or withdraw in

order to avoid risking her health. It was with these burgeoning health concerns that the Player approached ██████████

39. The AHO finds the Player's indecisiveness regarding withdrawal in light of the medical information was likely due to the fact that the Tournament is one of the most important tournaments after the Grand Slam tournaments.

40. The events that transpired in this matter may be divided into the initial Two-Way Conversation between the Player and ██████████ and the Four-Way Dialogue between the ██████████

(i) *The Two-Way Conversation*

41. The Player approached ██████████ in the presence of her entourage at their luncheon table. The Player suggested they speak in private. Contrary to the submissions of the Counsel for the PTIOs, the AHO does not find this request to be unusual given the number of people sitting at the luncheon table. It would be very intimidating to discuss one's personal health in front of a group of people unknown to the Player. While it could be inferred that the request of a private conversation was to further an illicit purpose I do not find that to be the case. The Player approached the table with the intention to speak with ██████████ as a courtesy as previously suggested by her ██████████

42. When walking away from the table ██████████ asked the Player if she was alright. The Player recalls that she responded that she was not well and stated that she did not know if she would be able to play in that evening's

upcoming Match. She told [REDACTED] about her medical condition and her discussions with the Health Provider at the Tournament earlier that day.

43. It is this initial conversation between the Player and [REDACTED] in which the allegations of the PTIOs is founded.
44. During this Two-Way Conversation the Player suggested that she would probably pull out of her Match scheduled for that evening. The conversation then turned to [REDACTED] wanting to play if the Player could not play. It is asserted by the PTIOs that the discussion concerning prize money arose at this point in the dialogue and overall encounter between the two. In other words, the PTIOs allege that the Player's withdrawal from the Tournament was contingent; if [REDACTED] would give her the First Round Prize Money, and was part of this initial conversation.
45. The only two persons who know what was said and transpired during this initial contact are the first alternate player, [REDACTED] and the Player. They have different versions of the dialogue. The AHO finds that their recollection of the conversation is likely vulnerable to some distortion or subjective assertion of their positions in this proceeding. This could cause the evidence to not be entirely reliable and will ultimately be a question of weight.
46. The Player provided a witness statement and testified at the Hearing. She states that she reiterated her conversation with the Health Provider to [REDACTED] and mentioned that she would probably pull out from the evening Match. She also explained that the Match was being played in the evening as an



accommodation by the Tournament Supervisor to the Player because of her health so that the heat of the day could be avoided.

47. On questioning at the Hearing by the AHO and subsequently the PTIOs' Counsel, the Player explained that following the TIU interview where she unequivocally and repeatedly denied any discussion of prize money she recalled that after the receipt of the Notice and prior to email correspondence with the AHO that there had been some discussion of prize money. However, in her email to the AHO she describes this discussion as occurring in the Four-Way Dialogue discussed below and not during the Two-Way Conversation.
48. In correspondence with the AHO she indicated: "*...we begin to talk about what will happen if I pull out of the match (will I have penalties or not, will I get 50% of prize money or not) cause I were not sure about the rule, I heard about main draw that it can happen (when player pulls out of the match) he/she has 50% of prize money*". This was also restated in her witness statement.
49. ██████ testified at the Hearing and provided a witness statement. In her statement she states that the Player told her she needed money. ██████ stated that the Player asked that if ██████ played instead of the Player, would ██████ give her First Round Prize Money. Otherwise, the Player would go on court to play a few games and retire. ██████ then told the Player she would like to speak to her ██████ and come back with an answer.

50. In the initial Two-Way Conversation ██████ explained in her testimony at the Hearing that once she learned of the Player's illness she really wanted the opportunity to play. She testified in answer to the question of the AHO that "... she [the Player] needed the money and that she wouldn't...she would pull out as long as I gave her the money and that if I won I could keep the difference. And that's what we spoke about." At that point ██████ asked the Player if it would be all right if she spoke to her coach.
51. The AHO concludes that there is no discrepancy between the witness statement and the testimony giving rise to any doubt on the AHO's part as to the veracity of ██████ statement and testimony.
52. The AHO concludes that the two individuals were exploring the idea of a withdrawal by the Player and what to do with the First Round Prize Money. It is more likely than not on the preponderance of the evidence that there was a discussion of withdrawal and what to do about First Round Prize Money. However, the evidence is less convincing that there was an actual offer to do exactly what is alleged by the PTIOs in the Notice. ██████ does not describe it as an offer but rather knowing exactly what the Player wanted. This is more in the way of an implicit understanding as between two professional tennis players yet to prove their potential prowess, than it was an attempt to contrive a match.
53. Following this initial discussion between the two players ██████ asked if she could speak to her ██████ The Player's impression was that the request was because ██████ was not sure about the rules regarding the distribution of prize money in case of withdrawal, and that ██████ was seeking clarification

from her coach. [REDACTED] impression was that she did not know what to do and wanted the benefit of his experience and she did not know the rules. She was looking for a way to play that would be within the rules.

54. The AHO concludes that in the initial Two-Way Conversation between the Player and [REDACTED] there was a discussion of a possible withdrawal by the Player, although in the Player's own mind she was equivocal because of her medical condition about whether she should or would withdraw. There was also an uninformed dialogue about the prize money for the first round, if withdrawal occurred. That discussion either implicitly or directly referred to the prize money being paid to the Player. How this would be done was not discussed. No decision had been made by the Player that she would withdraw, and no commitment had been made by [REDACTED] regarding the exploratory conversation. The AHO finds that there was an exploratory proposition from the Player and a cautious interest in finding a way to do it on the part of [REDACTED]. It would take more than this discussion to conclude that there was at this point an attempt to contrive the Match in violation of Section D.1.d. and find that a Corruption Offense had occurred after the initial discussion between the two.
55. At this point in the *ex post facto* unraveling of the discussions by way of this Decision, the AHO concludes that there is insufficient evidence to conclude that the Player attempted to contrive the Match in the fashion as is described in Section D.1.d. There was an exploratory discussion and the possible arrangement to participate in an improper scheme but the Player was primarily focused on her health that triggered the conversation. [REDACTED] was primarily focused on playing in the Tournament if she possibly could, but

not if it was by way of an improper agreement. No attempt to contrive the Match had reached a concluded stage.

56. The foregoing discussion and finding of the AHO is at the very heart and foundation of the PTIOs' case against the Player. The PTIOs allege that this conversation is the root of the infraction. To this point in the progress of events the allegations of the PTIOs are not considered by the AHO to have met the evidentiary standard to conclude that there was a violation of the Program.

(ii) *The Four-Way Dialogue*

57. The [REDACTED] joined the two professional tennis players in a Four-Way Dialogue after the initial Two-Way Conversation between them, discussed above.
58. That Four-Way Dialogue is framed by the Player stating that if it was possible she would rather give [REDACTED] the opportunity to play instead of risking her health. At that point she had not decided to withdraw because of her condition. See above for the conclusions of the AHO on the evidence prior to the Four-Way Dialogue.
59. Before the Four-Way Dialogue commenced [REDACTED] had approached her coach. She asked [REDACTED] to join her in the discussion with the Player without elaboration on the contents of the Two-Way Conversation. He accompanied her.

60. The [REDACTED] on joining the Four-Way Dialogue, thought he was completing his commitment to the Player in their pre-lunch hour conversation. That was to meet up with her and make a final decision on playing that evening after she had seen the Tournament's Health Provider. The AHO finds that neither [REDACTED] joined the Four-Way Dialogue meeting with the intention to discuss any illicit purpose. The [REDACTED] was merely fulfilling his commitment to the Player before the lunch break to discuss her ability to play after she had more updated information from the Health Provider.
61. [REDACTED] testified that he joined the meeting at the request of his player. The conversation was in English. He stated in his witness statement that the Player, after stating she was unwell and not going to be able to compete in the Match, then asked [REDACTED] a question.
62. [REDACTED] stated that the Player asked [REDACTED] *"If I pull out will you give me the first round prize money?"*. He stated that he then requested a few minutes to discuss the situation with [REDACTED]. He then moved with his player to a separate area to talk with her. There is also some suggestion in the Player's email to the AHO of 3 June 2019 that [REDACTED] may have spoken with the Tournament Supervisor about the withdrawal rules. The point is not mentioned by anyone else in this proceeding and was not commented upon by Counsel for either party.
63. [REDACTED] in her statement adds that she asked the Player to clarify *"So you want to pull out so I can play but I'll have to give you the money and if I win I'll keep the difference?"*. The Player responded "Yes". The [REDACTED]

is stated to have responded: *“we have been in your situation [1<sup>st</sup> alternate] many times and girls have been sick and played some games and withdrawn and it's not fair so we wanted to give you the opportunity to play”*.

64. In the ensuing discussion between [REDACTED] after breaking away from the Four-Way Dialogue, he recommended to his player that he believed that what had transpired was what he termed an “Offer”, which he believed might be a Corruption Offense. He stated that he told [REDACTED] *“...not to accept [REDACTED] offer, and to go back and tell Irina that [REDACTED] was not comfortable with Irina's offer and that [REDACTED] cannot give Irina the first round prize money”*.
65. [REDACTED] stated that she also spoke to her father about the situation before going back to speak further with the Player. She stated her father also advised her not to accept the Player's offer. Following those discussions, [REDACTED] walked back to where the Player was and indicated that she was declining her offer and telling her she did not think it was a smart thing to do for either of them. She also made reference to an occurrence at Wimbledon<sup>2</sup> last year. [REDACTED] stated that the Player responded saying *“okay no worries I was just being honest”*. Then [REDACTED] asked whether the Player would definitely play, to which the Player responded *“Yes, I will play some games and then retire”*. [REDACTED] stated she understood and hoped the Player felt better.
66. It was [REDACTED] who referenced the matter to the WTA Tournament Supervisor, who in turn advised the TIU on 5 March 2019.

---

<sup>22</sup> The AHO concludes that was a reference to the Shuai case; see *Shuai v PTIOs* (McLaren 2018)

There is some material in the email by the Player on 3 June 2019 to the AHO that ██████ went to seek clarification of the prize money rule on a withdrawal for medical reasons. That would mean it was the decision of the Tournament Supervisor to bring the TIU into the picture.

67. The TIU then contacted ██████ and he confirmed the above evidence in an email on 6 March 2019 to the TIU, which is an attachment to his witness statement. He never stated in his witness statement that he was the one who reported the Four-Way Dialogue to the Tournament Supervisor the following day, who in turn reported the conversations to the TIU on the 5<sup>th</sup> of March which resulted in the investigation now herein discussed. ██████ did not report anything to the TIU until 14 March 2019 after a request by the TIU for an interview. In explanation on cross-examination at the Hearing she explained the delay was caused by the fact she was a friend of the Player and that is why she took much longer to respond to the situation. The AHO finds that the alternate player and her coach did not agree on the consequences of the approach on 4 March 2019.
68. In the Four-Way Dialogue the ██████ commented to the effect that his Player had been in a similar position of first alternate waiting to be in a qualifier and wanted to advise ██████ to prepare for the game in case the Player withdrew due to health reasons.
69. There was then a break off in the Four-Way Dialogue. ██████ asked for he and his player to have 10 minutes to discuss the matter. They apparently left the Four-Way Dialogue thinking that the Player and her coach were implying that ██████ would transfer the prize money to the Player rather than

merely continuing to talk about the possible options of the Player as was more of the dominant thrust of the initial Two-Way Conversation.

70. Having talked it over with [REDACTED] and spoken to her father, [REDACTED] decided she would not get involved in any further discussions on the topic and so informed the Player. This concluded the discussions on the topic.
71. During the course of the Four-Way Dialogue the Player testified that she calmed down and decided to try to play that evening, thereby ending any further intention to discuss the options available from her perspective. In a follow up conversation between the two players the Player advised [REDACTED] that she would definitely play that evening.
72. The Player did go on to play the Match on the evening of 4 March 2019. She lost the Match but played the full two sets.
73. There is one other unexplained piece in the facts. The Player in her communication to the AHO of the 3<sup>rd</sup> of June 2019 makes reference to the Tournament Supervisor visiting her before the Match. She apparently discussed with the Player the consequences of pulling out of the Match for medical reasons after playing a few games of the Match. This appears to connect back to the earlier point when [REDACTED] approached the Tournament Supervisor. This evidence remains unexplained by anyone.
74. In the explanation of what transpired the Counsel for the Player alleges that [REDACTED] had a biased negative attitude towards the Player. This is asserted to be established by a comment made in 2018 to the doubles partner of the



Player that she does not give off a good vibe. It is also asserted that he said to the Player's doubles partner that the player under his tutelage whom he was coaching at the time would be a much better team mate for the Player's partner in doubles.

75. Counsel for the Player asserted that the Four-Way Dialogue regarding the Player's poor physical condition and the regulations governing withdrawals was distorted in the perception of [REDACTED] who in turn was able to influence his player, [REDACTED] as to the meaning and implications of the conversation.
76. The AHO does not accept the submission that [REDACTED] testimony is the result of bias or a predisposed disposition of dislike of the Player. The AHO rejects the submissions of the Player's Counsel in this regard.

### **CONCLUSION ON ALL OF THE EVIDENCE AS A WHOLE**

77. The Two-Way Conversation did not reach the level of certainty of what was discussed to conclude that there was an attempt to contrive a match in violation of the Program. There was an exploratory conversation but incomplete and lacking detail to reach the standard of a preponderance of the evidence establishing a violation of the Program. There was enough discussion to make [REDACTED] inquire to her coach.
78. When the Four-Way Dialogue is added to the analysis, the AHO concludes that the standard of evidence is met that it is more likely than not that there was more than the exploratory discussions of the Two-Way Conversation.

██████ asked for information on how it would work and was told by the Player without details of how any monetary payment would be made. There was enough said to cause ██████ coach to ask for a break in the Four-Way Dialogue. During that break it became obvious to ██████ and through his comments to ██████ that she should decline to participate. At the same time the Player was coming to the conclusion that she would play regardless of any response she would receive from ██████

79. The AHO concludes that on an examination of all of the evidence as a whole there was a violation of the Program in the breaching of Section D.1.d. It was, however, of a very limited effect and never really became a fully completed attempt. It is more of a technical violation of the Program than a significant or substantive breach. There was at the end of the discussions no attempt to complete the alleged offer by the Player or pressure from the Player to go ahead with the proposal which itself was lacking in details as to how it would operate if put in place.
80. The AHO finds the violation of the Program is at the lowest end of the scale in terms of the severity of the conduct and the breach of the Program.

### **SANCTIONS**

81. Counsel for the PTIOs suggested that based on the Garza v. PTIOs, CAS 2016/A/4860 and Shuai v. PTIOs (McLaren 2018) cases that a sanction should be in the neighborhood of six months, accompanied by a fine of five to ten thousand dollars.

82. In view of the findings of the AHO on the severity of the breach, there is some justification for a sanction under Section H.1.a.(iii) but at the most reduced possible level.
83. Based upon all of the evidence the AHO finds that the attempt was more of an exploratory approach subsequently elaborated upon and then a determination to play regardless, because the Player's illness would not be aggravated by playing. This conduct makes it justifiable to impose a sanction of a three month period of ineligibility from Participation in any Sanctioned Event with two of those months suspended. The suspension to be based upon continued good conduct and no further breaches of the Program.
84. In light of the determination of the period of ineligibility being mostly suspended there is no justification for a fine at anything but the most minimal level.

## **CONCLUSION**

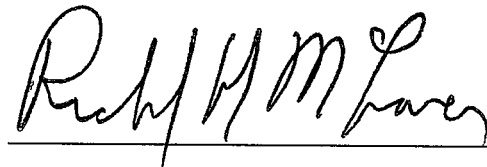
85. Based upon all the foregoing analysis and reasons, the AHO determines that the Player ought to be sanctioned with a period of ineligibility from Participation in any Sanctioned Events for a period of three months, two of which ought to be suspended.
86. There is no justification for a fine under Section H.1.a.(i) for the breach of the Program when there has been found to be a minimal period of ineligibility served.

87. Based upon all of the foregoing the AHO makes the following **ORDERS:**

- (i) The Player is a Covered Person as defined in Section B.18. and 6. of the Program. It is found she committed a Corruption Offense under Section D.1.d. by attempting to contrive an aspect of an Event.
- (ii) Under Section H.1.a.(iii) a three (3) month period of ineligibility, with two (2) months suspended, in effect from the date herein, on the conditions set out below is to be imposed. This Decision shall be publicly reported in full as prescribed in Section G.4.e.
- (iii) Under Section H.1.a.(i) a fine of US \$3,000, all of which is to be suspended on the conditions set out below.
- (iv) The conditions of the suspension of both the period of ineligibility and the fine are:
  - a) during the period of ineligibility there are no further violations of the Program by the Player; and
  - b) should there be any subsequent breach of the Program for any reason then the full period of ineligibility will begin to run as if no time had already been served; and the fine payable will become the full amount imposed of US \$3,000.
- (v) Under Section G.4.d. this Decision is a *“full, final and complete disposition of the matter and will be binding on all parties”*.

- (vi) The Decision herein is appealable under Section I.1. of the 2019 Program to the Court of Arbitration for Sport (“CAS”) in Lausanne, Switzerland. Under Section I.3 of the Program the deadline for filing an appeal with CAS must be made within a period of *“twenty business days from the date of receipt of the decision by the appealing party”*.

DATED at LONDON, ONTARIO, CANADA THIS 19<sup>th</sup> DAY SEPTEMBER 2019.

A handwritten signature in black ink, appearing to read 'Rich H McLaren', written over a horizontal line.

Richard H. McLaren, O.C.

AHO