

In the Matter of a Determination of Sanctions in Admitted Major Offenses under the
TENNIS ANTI-CORRUPTION PROGRAM

Corruption Notice to Nicolás Arreche

Nicolás Arreche (hereinafter “Arreche” or “the Covered Person”)

- and -

International Tennis Integrity Agency (“ITIA”)

Representing the Covered Person: Giulio Palermo

Representing the ITIA: Ross Brown
Hannah Kent

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 International Tennis Integrity Agency (“ITIA”)¹ administers the Tennis Anti-Corruption Program (the “TACP”) for the Governing Bodies of tennis through the Tennis Integrity Supervisory Board. A tennis player who is a Covered Person under the TACP must register with the relevant Governing Body to be eligible to compete in their tennis tournaments.
2. Nicolás Arreche (“Arreche” or the “Covered Person”) is an Argentinian tennis player who is currently coaching juniors in the United States. To compete in professional International Tennis Federation (“ITF”) tournaments, players must register for an ITF International Player Identification Number (“IPIN”). Arreche had registered with an ITF IPIN, paid the fees and last executed the Player Welfare Statement in 2020, having previously done so on an annual basis. Arreche completed the TIPP training course on three (3) occasions (April 2017, April 2019 and April 2021). By using his IPIN, signing the Declaration and the Consent Forms, he agreed to comply with and be bound by the rules of tennis, including the TACP. Arreche’s career high singles ranking was 567 in March 2020 and his career high doubles ranking was 253 in March 2020.
3. Richard H. McLaren holds an appointment as an Anti-Corruption Hearing Officer (“AHO”) under Section F.1. of the TACP. The Covered Person’s counsel

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

challenged his appointment in this matter. Following written submissions from counsel the AHO issued written reasons on 2 August 2021 dismissing the challenge.

PROCEDURAL HISTORY

4. The alleged Corruption Offenses took place during the calendar years of 2017 through 2019 inclusive. Therefore, under Section K.5. the alleged Corruption Offenses occurring in various years are governed by the version of the TACP in the year in which they were alleged to have occurred. The Notice of Major Offense was issued in 2021, therefore, the TACP for that year governs the procedure by which this matter was heard.
5. On 15 April 2021 the ITIA made an application to the AHO in accordance with Section F.3. of the 2021 TACP for an immediate Provisional Suspension (“PS”) of the Covered Person. Subsequent to a review of all materials provided the AHO issued a PS on 24 April 2021.
6. The Notice of Major Offense (the “Notice”) issued on 25 May 2021 charged the Covered Person with the following alleged Corruption Offenses, in violation of the TACP:

1. *“Three alleged breaches of Section D.1.d of the Program (2018 and 2019), by contriving or attempting to contrive the outcome of professional tennis matches.*
2. *Four alleged breaches of Section D.2.a.i of the Program (2017 and 2018) regarding the failure to report corrupt approaches.*
3. *In the alternative, you are also charged with an additional breach of Section D.2.a.i of the 2018 Program”.*

7. On 5 June 2021 counsel for the Covered Person confirmed Arreche elected under Section G.1.d.ii to “... deny the Corruption Offense[s] and to have the AHO determine at a Hearing ... whether any Corruption Offense has been committed and (ii) any applicable sanctions”.
8. A Directions Hearing was held on 5 July 2021 via teleconference. During the Directions Hearing counsel for the Covered Person raised a number of matters in respect of arbitrability and the matter of jurisdiction.
9. Following extensive deliberation after the teleconference counsel jointly agreed the TACP is governed by the laws of the State of Florida and that the *Florida Arbitration Act* is the procedural law applicable to these proceedings. There remained a disagreement as to the seat of the arbitration proceedings.
10. Counsel also raised a possible issue with the AHO’s appointment and reserved the right to object pending the provision of certain information from the ITIA as to the

number of cases upon which the AHO had been appointed in the last three years, the total number of cases and the number of AHOs available to be appointed. That information was provided by the ITIA on 13 July 2021.

11. Upon review of the foregoing information counsel for the Covered Person on 19 July 2021 submitted a Challenge to AHO McLaren *Ex Article 180A of the Public International Law Act* (“PILA”) of Switzerland. Counsel claimed AHO McLaren “lacks independency”, that he should resign and that the ITIA should “appoint a truly independent AHO”.
12. Following written submissions from counsel the AHO issued written reasons on 2 August 2021 dismissing the Challenge as there were no grounds to establish his lack of independence or impartiality.
13. While the above matters were unfolding, the counsels proceeded to follow parts of the discussions and agreements made during the Directions Conference Call. This included following parts of the contents and deadlines of the draft Procedural Order No. 1 dealing with disclosure. The Procedural Order was an unapproved draft at the time. Consequently, on 2 August 2021 the Case Secretariat forwarded a copy of AHO McLaren’s communication that he did not look at the “disclosure” documentation that had been exchanged between parties other than the table of

contents. Moreover, AHO McLaren advised these documents were only to be disclosed as between counsel and not filed with the AHO.

14. On 12 August 2021 a draft Procedural Order was issued. On 13 August 2021 an Amended Draft Procedural Order was issued amending paragraph 7 wherein the ITIA agreed to produce all AHO McLaren decisions (including acquittals) relevant to the Charges faced by the Covered Person issued since December 2020 in the case of match-fixing and in the last three (3) years in the case of non-reporting which were not already in the possession of the Covered Person's counsel.
15. On 13 August 2021 pursuant to the Amended Draft Procedural Order issued by the AHO, counsel for the Covered Person made an additional request for disclosure, part of which was for interviews of various persons. Those requests were initially rejected by the ITIA. At later dates other interviews of several persons were disclosed. However, being dissatisfied with the responses the counsel for the Covered Person made an application for additional disclosure on 10 September 2021.
16. Counsel for the ITIA replied on 20 September 2021 to the request made on behalf of the Covered Person with additional disclosure and rejected the balance of the request. Following further written reply by counsel for the Covered Person the AHO

issued a written Ruling on 6 October 2021 ordering further disclosure. The ITIA advised that it had complied with this Ruling on 12 October 2021.

17. Also included in the 10 September 2021 email of counsel for the Covered Person was an Application to Lift the Provisional Suspension (“the Application”) submitting that:

*“(i) The Player’s current activities do not pose any threat to the integrity of tennis;
(ii) The economic hardship on the Player of the maintenance of the PS outweighs any potential harm to tennis; and
(iii) The economic hardship on the Player of the maintenance of the PS violates the principles of access to justice.”*

18. The AHO invited comments on the motion with the following deadlines: ITIA by 24 September and Covered Person by 1 October 2021.
19. On 17 September 2021 the ITIA filed its written brief and witness statements in accordance with Procedural Order No. 1.
20. On 6 October 2021 the AHO issued a Ruling granting in part the request of the counsel for the Covered Person for disclosure of some additional interviews. The ITIA complied with that Ruling on 12 October 2021.

21. On 12 October 2021 a Conference Call was held between AHO McLaren and counsel for both parties to confirm the Hearing Date which was revised to one (1) day from the previous two (2) days.
22. On 14 October 2021 the AHO issued a Ruling denying the request to lift the PS. The PS accordingly continued in full force and effect until the issuing of this Decision.
23. On 22 October 2021 counsel for the Covered Person filed their Answering Brief to the Opening Brief of the ITIA. That document contained a number of admissions to some of the Charges and is discussed below under the Background Facts.
24. On 28 October 2021 counsel for the ITIA made an application for extension of the date to file their Reply Brief stating its primary reason for doing so was because of the surprise admissions in the Answering Brief of the Covered Person. An urgent Conference Call was arranged that evening. Following discussions with counsel, the AHO granted a one (1) day extension in the filing of the ITIA Reply to the Answering Brief. It was also agreed that the Hearing would be moved to 8 November 2021 to be held by video conference technology commencing at 12:30 p.m. UK time.
25. On 30 October 2021 the ITIA filed its Reply Brief.

26. On 4 November 2021 counsel for the Covered Person filed a Rejoinder Brief to the ITIA's Reply Brief. In doing so they determined that they did not require cross-examination of any of the ITIA witnesses. The ITIA advised that it desired to cross-examine the Covered Person.
27. A Hearing Bundle was filed with the AHO on 5 November 2021, together with a Hearing Schedule allocating hearing time and a list of witnesses to be examined. Over objections filed by counsel for the Covered Person the AHO on 6 November 2021 confirmed the Hearing Schedule and the fact that the only witness to be examined would be Arreche.
28. The Hearing as to sanctions only was conducted on 8 November 2021 via video conferencing platform with simultaneous translation in Spanish and English.

BACKGROUND FACTS

29. On 25 May 2021, the ITIA notified the Covered Person that he was being charged with numerous alleged breaches of the TACP: three (3) alleged breaches of Section D.1.d. of the TACP, four (4) alleged breaches of Section D.2.a.i. of the TACP and alternatively one (1) additional alleged breach of Section D.2.a.i. of the TACP. The Notice of Major Offense is attached to this Decision as an Appendix in order to provide the detail of the Charges which were alleged at the time of the Notice.

30. In its materials filed on 17 September 2021, the ITIA submitted that the case against the Covered Person was based upon the following sources of evidence: betting alerts from the International Betting Integrity Agency and the underlying betting operator [REDACTED] audio messages and images retrieved from the Covered Person's phone purportedly disclosing interactions between the Covered Person and both [REDACTED] [REDACTED] ("[REDACTED]" and [REDACTED] [REDACTED] ("[REDACTED]"); social media messages between [REDACTED] and [REDACTED] [REDACTED] and admissions made by the Covered Person and [REDACTED] in the course of their interviews with the ITIA in 2020.
31. The ITIA submitted that when taken together the evidence provided demonstrates the Covered Person's "*repeated, proactive involvement in these activities across a sustained period of time and paints a clear picture of an individual who was content to regularly corrupt the sport of tennis for his own financial gain*".
32. The ITIA submissions provided evidence for each of the 7 Charges brought against the Covered Person (see the attached Notice). It is the ITIA's position that, based on the evidence and reasons set out in submissions, the Covered Person should be found liable for all 7 offenses that are the subject of the Charges. On that basis it

was submitted that the appropriate and proportionate sanction should be a 22-year ban from the sport of tennis, together with a fine in the range of \$25,000 USD.

33. On 22 October 2021, counsel for the Covered Person filed its Answer Brief to the ITIA submissions in which the Covered Person admitted to breaching sections of the TACP in relation to all but two (2) Charges. Beginning with the match-fixing Charges, the Covered Person admitted the breach of:

- Section D.1.d. of the 2018 TACP in relation to Charge 1 which is contriving the outcome of his match against [REDACTED] [REDACTED] at the [REDACTED] [REDACTED] tournament in France on [REDACTED] June 2018;
- Section D.1.d. of the 2019 TACP in relation to Charge 3 which is contriving the outcome of his match against [REDACTED] [REDACTED] [REDACTED] at the [REDACTED] [REDACTED] tournament played in [REDACTED] Morocco on [REDACTED] July 2019.

With respect to the non-reporting Charges the Covered Person admitted to:

- the ITIA's alternative position to Charge 2, which is that the Covered Person failed to report the corrupt approach made to him by [REDACTED] in breach of Section D.2.a.i. of the 2018 TACP;
- breach of Section D.2.a.i. of the 2017 TACP in relation to Charge 4 which is failing to report a corrupt approach by [REDACTED] to fix his match against [REDACTED] [REDACTED] at the [REDACTED] [REDACTED] tournament in [REDACTED] Argentina on [REDACTED] August 2017;
- breach of Section D.2.a.i. of the 2018 TACP in relation to Charge 5 which is failing to report a corrupt approach by [REDACTED] to fix the match

he played on [REDACTED] May 2018 with [REDACTED] [REDACTED] against [REDACTED] [REDACTED] and [REDACTED] [REDACTED] [REDACTED] at the [REDACTED] [REDACTED] tournament in Turkey; and

- breach of Section D.2.a.i. of the 2018 TACP in relation to Charge 6 which is failing to report a corrupt approach by [REDACTED] to fix the match played on [REDACTED] May 2018 with [REDACTED] [REDACTED] against [REDACTED] [REDACTED] and [REDACTED] [REDACTED] at the [REDACTED] [REDACTED] tournament in Tunisia.

34. In the Answer Brief the Covered Person disputed Charge 2 and Charge 7 contained in the Notice. Those Charges were as follows:

- Charge 2 related to a doubles match in which the Covered Person played with [REDACTED] [REDACTED] against [REDACTED] [REDACTED] and [REDACTED] [REDACTED] in the [REDACTED] [REDACTED] tournament in [REDACTED] Belgium on [REDACTED] July 2018 where the Covered Person allegedly committed a further breach of Section D.1.d. of the 2018 TACP. In the alternative the ITIA submitted that the Covered Person failed to report a corrupt approach under Section D.2.a.i. or D.2.a.ii. of the 2018 TACP; and
- Charge 7 related to the Covered Person's failure to report a corrupt approach under Section D.2.a.i. of the 2018 TACP after messages were allegedly exchanged (between [REDACTED] [REDACTED] and [REDACTED] [REDACTED] purportedly showing that the Covered Person was approached to fix a [REDACTED] match he played in on [REDACTED] June 2018, at the [REDACTED] [REDACTED] tournament in Tunisia with partner [REDACTED] [REDACTED])

35. The ITIA in its Reply submission of 30 October 2021 withdrew the match-fixing portion of Charges 2 and the non-reporting Charge 7. In so doing they advised that the ITIA still

“... believes that Mr Arreche is liable for the match-fixing element of Charge 2 but in light of Mr Arreche’s admissions and in the interests of procedural efficiency has decided not to pursue that further in these proceedings”.

36. The ITIA accepted the admissions made by Arreche in the Covered Person’s Answer Brief. The matter became one of exclusively determining the appropriate sanction for the six (6) admitted Charges. That is two (2) breaches of Section D.1.d. (Charges 1 and 3); and four (4) breaches of Section D.2.a.i. (Charge 2 in the alternative to a match-fixing charge and Charges 4, 5 and 6). The Hearing procedure while remaining as outlined in Procedural Order No. 1 was directed solely at hearing evidence and receiving submissions in relation to the appropriate sanction.

SUBMISSIONS of the PARTIES

(i) The ITIA

37. On 30 October 2021 the ITIA issued Reply submissions (the “Reply”) in response to the Covered Person’s Answer Brief issued on 22 October 2021.
38. Counsel for the ITIA noted that the Covered Person admitted to two (2) Section D.1.d. offenses and four (4) Section D.2.a.i. offenses without seeking any conditions on the admissions of liability. The ITIA submitted that the Covered Person’s acceptance of the six (6) Charges made it clear that he was a willing partner in two

(2) separate match-fixing schemes. The ITIA further noted that it is unlikely that the admitted Charges capture the full extent of the Covered Person's involvement in corrupt activities taking place between 2017 and 2019.

39. The original sanction when liability remained an issue was a period of ineligibility of 22 years and a fine in the range of \$25,000 USD. Following the admissions on liability by the Covered Person the ITIA reconsidered its position on sanctions and proposed an ineligibility sanction from all Sanctioned Events for 15 years and a fine of \$20,000 USD.
40. The ITIA acknowledged that the AHO retains full discretion in relation to the sanction imposed under the TACP and may apply or depart from the 2021 ITIA Sanctioning Guidelines ("Sanctioning Guidelines") in accordance with the circumstances of the case. The ITIA submitted that the AHO should determine the sanction after considering all relevant factors including, but not limited to, the number of offenses committed by the Covered Person.
41. Regarding culpability the ITIA submitted that the admitted Charges sit between Categories A and B of the Sanctioning Guidelines. The ITIA further submitted that applying the impact and culpability indicia for Category B would place the starting point for the suspension at 10 years.

42. The ITIA submitted that any alleged “economic coercion” or “financial desperation” claimed by the Covered Person is not a mitigating factor since many other Covered Persons under the TACP are not financially stable and do not resort to match-fixing. Further the ITIA submitted that the Covered Person’s purported symptoms of depression and general mental state at the time of the offenses are of no relevance to the matter at hand unless the AHO deems them to be sufficiently evidenced.
43. The ITIA submitted that the Covered Person’s breaches of the TACP on the impact on the integrity and or reputation of tennis is far from minimal. Instead, the Covered Person’s six (6) admitted offenses “had a very significant impact, especially when considering the outcome of two matches was wholly undermined”. The ITIA submitted that the Covered Person was working alongside other individuals across two (2) major match-fixing operations that facilitated corruption funded by international criminals. Thus, the ITIA submitted that the Covered Person’s admitted charges should be classified as Category 1. It is the ITIA’s position that the Covered Person’s admitted offenses still sit between Category A1 and Category B1.
44. The ITIA submitted that based on their analysis of the categorisation of the Covered Person’s admitted offenses the starting point for sanction should be between 10 years

and a lifetime ban. Having reconsidered the starting point in light of the admitted charges the ITIA submitted the appropriate starting point should be 15 years.

45. Without prejudice to its prior position the ITIA submitted that if the AHO assesses that the impact of the admitted offenses falls within Category 2 the appropriate starting point for any sanction between Category A2 and Category B2 should be 7.5 years, as it is a little over halfway between the two (2) starting points and reflects that the Covered Person's behavior is closer to Category A than Category B.
46. Regarding aggravating factors, the ITIA submitted that an uplift of two (2) years is appropriate. The Covered Person wasted the time and money of the ITIA by making quasi admissions to some non-reporting Charges before proceeding to deny all Charges, even some to which he had seemingly already admitted. The ITIA devoted significant time and resources to this case that could have been better spent attending to other matters. The timing of the admission to Charges just over two (2) weeks away from the Hearing resulted in the ITIA wasting further time and money preparing for a full hearing.

47. Notwithstanding the Covered Person's offer to provide Substantial Assistance no information has been provided. Therefore, it is the ITIA's position that the offer should not be considered in the AHO's determination of a sanction.
48. The ITIA submitted that the Covered Person failed to provide documentary evidence for anything that could be considered a substantive mitigating factor.
49. With regards to a reduction based upon the Covered Person's early admissions the ITIA submitted that, although a 25% reduction is available for "an admission and full cooperation early during an investigation", per the Sanctioning Guidelines, at maximum a 10% reduction is appropriate here given the circumstances. The Covered Person's admissions were made just in advance of the Hearing saving minimal amounts of time and money. Therefore, the ITIA submitted that a reduction of 2 years is appropriate with the result being a sanction of 15 years.
50. The ITIA submitted that since there is no way to quantify the amount of money the Covered Person made as a result of his match-fixing, the Covered Person repaying the amount of €1,819.43 is insufficient. Further, the ITIA noted that the Covered Person has not submitted documentary evidence to support the assertion that he

received no more than that amount and suspects that the Covered Person's true amount of illicit gain is substantially greater than the sum of €1,819.43.

51. Based upon all the reasons set forth in their submissions the ITIA proposed that a final sanction of 15 years and a fine of \$20,000 USD be imposed by the AHO on the Covered Person.

(ii) The Covered Person

52. In reply to the ITIA's submissions, on 22 October 2021 the Covered Person made three (3) submissions: (1) the AHO has no jurisdiction over the present case; (2) the Covered Person is not liable for all the Charges brought by the ITIA; and (3) the sanction proposed by the ITIA is manifestly discriminatory, disproportionate and in violation of public policy.
53. Regarding the jurisdictional challenge, the Covered Person reasserted his position presented on 19 July 2021 that the AHO lacks independence pursuant to Article 180A of the PILA. Further, the Covered Person disputed the AHO's prior finding that the present proceedings do not constitute an international arbitration. The Covered Person submitted that these proceedings are arbitral and that a contractual dispute of this kind falls within the scope of Article 176(1) of PILA. It was said that the arbitral nature of the proceedings had been confirmed by opposing counsel and

by the latest AHO's award.² Finally, to the AHO's suggestion that the Covered Person did not raise the jurisdictional challenge in a timely manner, the Covered Person referred to commentary by the Swiss Federal Tribunal to the effect that a plea for a lack of jurisdiction raised before a hearing on the merits under Article 186(2) of PILA is not mandatory and that answering a request for interim measures does not amount to an implicit acceptance of the tribunal's jurisdiction.

54. On the question of liability, the Covered Person admitted to some but not all of the Charges. The Charges being admitted to have already been described above (*infra* para 33). The Charges which have not been admitted to have been withdrawn by the ITIA (*infra* para 35).
55. With respect to sanctions, the Covered Person made three (3) points.
- First, that the ITIA's sanction proposal contradicts the Sanctioning Guidelines. The Sanctioning Guidelines instruct that the AHO should construct a sanction based on the most serious charges (in this case Charge 1 and Charge 3) and that the sanctions for the rest of the offenses should run concurrently.
 - The Covered Person submitted that his culpability in this case accords with Category B and that the impact of his offenses should be classified as Category 2.
 - With regards to culpability, the Covered Person submitted that Category B is appropriate because none of the factors listed in Category A apply here.

² ITIA v. Dario Drebenstedt (PL-1), § 4.

Rather the Covered Person's conduct demonstrates a lack of premeditation, critical financial hardship, depression, and stress. The Covered Person denied the "unfunded allegation that he was *"part of any match-fixing group"*".

56. With regards to impact, the Covered Person submitted that Category 2 is appropriate because his offenses never involved the corruption of another player, the impact on the reputation of the sport was minimal and his financial gain was small.
57. The Covered Person denied the existence of aggravating factors listed in the Sanctioning Guidelines. He submitted that he has not hindered any investigation nor wasted the time of the ITIA and that "three completions of the TIPP training by the Player do not automatically establish that the Player was properly educated". Rather, the Covered Person noted the presence of mitigating factors including genuine remorse, a relatively prompt admission, depression, financial hardship and the fact that this was his first misbehaviour under the TACP.
58. The Covered Person is willing to provide Substantial Assistance to the ITIA concerning [REDACTED] and to co-operate for the development of educational programs to stamp out corruption in tennis. Further, the Covered Person submitted that his early admission makes a 15% reduction in sanction appropriate.

59. The Covered Person's second submission is that the proposed sanction is not in line with applicable AHO and CAS case law. The Covered Person submitted that he deserves a lighter or equivalent sanction to *ITIA v. Dario Drebenstedt*³ wherein the offenses and circumstances were more severe than the present case, yet the sanction was "1 year and a half and a USD 5,000 fine". Further, the Covered Person pointed to *Anderson*⁴ and *Díaz-Figueroa*⁵ as being instructive on the question of sanctions given the resemblance they share to the present case. The Covered Person submitted that the 6-year period of ineligibility sanction in *Kicker*⁶ can be distinguished given the absence of document tampering or failure to deliver documents in this case. Finally, the Covered Persons submitted that each of the three (3) cases referred to by the ITIA on the topic of sanctions can be distinguished.
60. The Covered Person agreed to retribute all quantities earned as a result of the fixing of the matches related to Charge 1 and Charge 3, which amounts to €1,819.43.
61. The Covered Person requested that the AHO refrain from imposing a punitive fine. The Covered Person submitted that such a fine would severely affect his financial means and would endanger his possibilities of recovering his livelihood. In addition,

³ PL-1.

⁴ *PTIOs v. Anderson*, dated 19 September 2018 (PL-7).

⁵ *PTIOs v. Díaz Figueroa*, dated 13 November 2018 (PL-8).

⁶ *PTIOs v. Nicolás Kicker*, dated 23 May 2018 (PL-9).

the Covered Person submitted that further curtailing his economic freedom would lead to a violation of public policy under the *Lex Arbitri* and would contravene applicable case law.⁷

62. The Covered Person's third submission on the topic of sanctions was that the ITIA's proposal is unreasonable because it does not consider the Covered Person's financial means. The Covered Person submitted that preventing him from coaching or playing in club tournaments is not the least "incisive measure to achieve the desired result (*i.e.*, to prevent further violations of the TACP)".
63. In light of the above, the Covered Person requested the AHO to decide that the Covered Person must "(i) serve a ban of three (3) years; (ii) Pay a fine of EUR 1,819.43; and (iii) be permitted to attend club tournaments and coach from the day of the AHO's Award. Alternatively, if the AHO does not allow the Player to attend club tournaments and coach from the day of the Award, the Player requests that a 50% suspension be applied to his 3-year ban".

THE APPLICABLE PROVISIONS OF THE 2021 TACP

64. Section H.1.a. and H.1.c. of the 2021 TACP read as follows:

⁷ Citing CAS 2019/A/6439, *Samson Siasia v. FIFA; Kanar*, PL-3,

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.*

...

- c. *A Covered Person who has been declared ineligible from Participation in a Sanctioned Event shall be permitted to receive accreditation or otherwise access a Sanctioned Event if invited to do so by any Governing Body for the purpose of any authorized anti-gambling or anti-corruption education or rehabilitation program organized or sanctioned by that Governing Body.*

...

DECISION

65. The AHO has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings. Reference is made in this Decision only to the evidence and submissions considered necessary to explain the reasoning.

66. While the jurisdictional objection challenging the AHO remained part of the Covered Person's Answering Brief and further Reply to the ITIA submissions it is unnecessary to deal with those submissions. They were dealt with in the Ruling of 2 August 2021, see paragraph 12. It is unnecessary to deal with them again.
67. From the date of the Notice on 25 May 2021 until the filing of the Answer Brief on 22 October 2021 this matter was vigorously defended in all possible aspects of the case and the issues. Upon the filing of the Answering Brief most of the Charges in the Notice were admitted save the match-fixing portion of Charge 2 and the non-reporting offense in Charge 7. Both those outstanding Charges were subsequently withdrawn by the ITIA. The matter now is solely about the sanctions that ought to arise from the admitted Charges.
68. The Covered Person's Rejoinder Brief submitted that the ITIA's sanction proposal of a 15-year suspension and a fine of \$20,000 USD is manifestly discriminatory and disproportionate because it:
- (i) Contradicts the Sanctioning Guidelines;
 - (ii) Contradicts AHO and CAS case-law; and
 - (iii) Does not consider the Player's financial means.
69. Neither the ■ June 2018 match-fixing Charge 1; nor the second admitted match-fixing Charge 3 (arising more than one year later in July 2019) have a related failure to report issue arising out of them. There are four (4) breaches of Section D.2.a.i.,

failures to report corrupt approaches (Charge 2 in the alternative to a match-fixing charge and Charges 4, 5 and 6). The first failure to report (Charge 4) which commences the chain of Charges in the Notice occurred approximately 10 months prior to the match-fix in Charge 1. There are two (2) further failures to report arising from tournaments in May 2018 (Charges 5 and 6) and before the match-fix of Charge 1. The final failure to report (Charge 2) arises after the first match-fix; then there is more than a year gap before the final match-fixing on ■ July 2019 (Charge 3). There is no admitted failure to report in 2019 when the second admitted Charge 3 occurs.

70. Based upon the factual background of the occurrence of the Charges it is the case that the two (2) admitted match-fixes do not have other charges arising out of them. The counsel for the Covered Person makes two (2) submissions on the basis of the factual pattern of the breaches.

71. The first submission (citing *ITIA v. Dario Drebenstedt* (PL-1)), is that the Sanctioning Guidelines reduce the relevance of the remainder of the offenses after the first match-fix because the Sanctioning Guidelines state:

“...the AHO may only need to follow the sanction process [apply the Guidelines] for the offense which carries the highest sanction as any other sanction would ordinarily run concurrently”

thereby reducing the relevance of the rest of the offenses. That submission is not acceptable in the circumstance of separate and unconnected match-fixes and failures

to report as the time analysis of paragraph 69 above indicates the offenses are stand-alone and two (2) Charges of failure to report arise out of tournaments held one week apart. The Charges ought to be dealt with *seriatim* and on a stand-alone basis. It is this AHO's view that the sanctions need only run concurrently when they arise out of a single set of facts. All of the offenses should be considered in determining the appropriate sanction.

72. Counsel's second submission on the factual time pattern and sequencing of the occurrences of the breaches relates to the match-fixing Charges. It is submitted that the fixes are only "partial" being that in Charge 1 only a game is fixed; and, in Charge 3 only the second set is fixed. Thus, the entire match in either case was not fixed. That submission is rejected because there is no distinction in the infraction language of the TACP between fixing the entire outcome of a match or set and only fixing an aspect of the match such as one game. Both are included in the language of Section D.1.d. The submission of the notion of a partial fix is rejected.

73. In determining the sanctions the AHO may use the Sanctioning Guidelines developed by the ITIA. Alternatively, reference may be made to the non-binding case law and general principles to determine the appropriate sanction. The Covered Person's counsel referred to the case law as if it were a binding precedent rather than a different methodology for guidance in determining the sanction. Both counsels put

most of their submissions in the form of the Sanctioning Guidelines. The AHO has decided that for this case it would use the Sanctioning Guidelines as the basis for determining the sanctions.

Application of the TACP 2021: Sanctioning Guidelines to the Facts of this Case

(i) Step 1: Determining the Offense Category

74. The first step is to determine the offense category. This is accomplished by assessing culpability and then impact on the sport. For culpability the Covered Person places the culpability of the offenses at Category B and the impact on the sport at Category 2 to establish an overall offense Category of B2. The ITIA places the offense category at between A and B on culpability and the impact on the sport at Category 1.

75. There are three factors listed under “A-High Culpability”.

- In this case there is a high degree of planning or premeditation under the first of the three factors listed. However, the persons so engaged are [REDACTED] and the bettor, [REDACTED]. There is little evidence of the planning or premeditation by the Covered Person. The essence of the approach was maintained by counsel for the ITIA despite the fact that Charges 2 and 7 were dropped. Those Charges may have better supported the submission. However, the fact

is that they and the related evidence provided earlier in the proceedings is not before me in the face of the admissions by the Covered Person. Therefore, it is found that it is not established that the Covered Person is part of the team doing match-fixing on a regular basis, as [REDACTED] clearly was doing. There are only two (2) such offenses on the facts and they are over a year apart. There is, therefore, not a high degree of planning or premeditation on the part of the Covered Person.

- When it comes to the Covered Person with respect to the next factor there is no evidence of his initiations or leading others to commit offenses of either match-fixing or failing to report which are the Charges herein. There is no evidence of leading others to commit offenses, unlike his go-between [REDACTED] who is clearly engaged in that activity.
- The final factor is whether multiple offenses occurred over a protracted period of time. The time period here is not that protracted, being slightly under two (2) years from Charge 4 in August 2017 (non-reporting) and the Charge 3 (match-fixing) in July 2019. The best fit in the circumstances is not the highest culpability offense Category A.

Both counsels find the factors listed for culpability of “B-Medium Culpability” as being applicable. While the ITIA counsel would place the offense category between

A and B, the AHO finds that there is no basis whatsoever for A. Therefore, on culpability using the Sanctioning Guidelines the AHO would place the matter squarely in B as Medium culpability.

76. To complete Step 1 of the Sanctioning Guidelines it is necessary to determine the impact of the Covered Person's conduct on the sport. This is accomplished by examining the different factors listed in the three categories of the impact on the sport. The difference between the parties' submissions lies in whether the impact is in Category 1 or 2.
77. The elements to be determined listed in Category 1 are: existence of Major TACP offenses; very significant impact on the reputation and/or integrity of tennis; and the relatively high value of the illicit gains.
 - Under the definition in Section B.18. of the TACP a Major Offense refers to any Corruption Offense that the ITIA determines to be an offense that, based on the facts underlying the offense, should be subject to a sanction of more than a six-month suspension and/or a fine of more than \$10,000. The admitted match-fixing Charges in Charges 1 and 3 are Major Offenses under the TACP. Therefore, that element of both Category 1 and 2 is satisfied.

- The Covered Person's participation with █████ in his two (2) admitted match-fixing Charges is definitely a significant reputational risk for tennis given that █████ has been banned for life. The difference between Categories 1 and 2 is a question of degree of being "very significant" versus merely "significant" in impact. This degree of difference is difficult to apply on the facts here. The facts could be considered to be in either Category 1 or 2.
- The final element to determine the category is the gain from the activity. The information amassed through the electronic evidence indicates that the Covered Person's illicit gains, while material, were not relatively high in value which is required to be within Category 1. Therefore, I determine that the best fit is Category 2 and is the appropriate impact category.

78. For all of the above foregoing reasons the Categorisation of the Offense Category applying Step 1 is determined to be B2.

(ii) Step 2: Starting Point and Category Range

79. With the Offense Category set at B2, the starting point for the determination of the sanction can be determined from Step 2 in the chart in the Sanctioning Guidelines. The B2 starting point for sanction quantum is a 3-year suspension. The range for the suspension for Category B2 is 6 months to 5 years. From this starting point of the

process the AHO can begin determining if the resultant suspension ought to be increased upwards towards 5 years or downwards towards 6 months. Those numbers being the category range limits.

(iii) Aggravating and Mitigating Factors at Step 2

80. From the starting point the analysis to determine where within the category range the suspension ought to be placed begins. The AHO may extend or attenuate the sanction for aggravating or mitigating circumstances.

48. The submission of the ITIA was that the Covered Person's relationship with [REDACTED] and with [REDACTED] [REDACTED] involved connections with different criminal rings. It ought to be recalled that two (2) Charges were not proceeded with by the ITIA. Thus, the information and evidence before me does not include the evidence related to the two (2) withdrawn Charges. It is found that based on only the evidence related to the admitted Charges and from the Covered Person's cross-examination at the Hearing it was never established on the preponderance of evidence that he was a member of the illegal betting rings as asserted by counsel for the ITIA. The Covered Person was the last link in the chain, with his friend [REDACTED] acting as the middleman. The mere fact that the Covered Person's TACP violations can be traced to [REDACTED] or [REDACTED] link to an [REDACTED] criminal ring is not proof that the Covered

Person was a member of an illegal betting ring. If that were the case, then every tennis player found liable for match-fixing would be considered connected to all those in the link all the way up the chain to the criminal ring. The submission is not an aggravating factor because the evidence is not there to support the submission.

81. In August 2017, [REDACTED] first approached the Covered Person, being [REDACTED] regarding a possible match-fix in a tournament in [REDACTED] Argentina. The Covered Person did not accept [REDACTED]'s proposal and did not engage in a match-fixing offense until the next year when Charge 1 occurs. Even before that event, there was a further failure to report as set out in Charge 5 in May of 2018. Had these two (2) corrupt approaches by [REDACTED] been reported to the appropriate tennis authorities it might well have resulted in the remainder of the breaches of the TACP not occurring. The failure to report on this occasion is an aggravating factor which facilitated [REDACTED] and the Covered Person's match-fixing at a later date. This failure to report is also one of the Charges for which there was a TIU interview in which the approach was admitted. Nevertheless, the Covered Person denied the Charge in the early stages of the defense of the Notice. This contributes to the aggravating factor analysis.

82. Furthermore, in terms of aggravating factors the AHO notes the unusual level of trust and cooperation between the bettor, [REDACTED] and the Covered Person.

██████████ is a serial bettor and director of a private tennis academy in Spain. Together with ██████ they arranged, and the Covered Person agreed, to fix a singles tennis match in France on █████ June 2018. This is the substance of Charge 1 and is admitted by the Covered Person.

83. That said, there is no doubt that while there was some kind of trust relationship between the Covered Person and ██████████ it seems to have been primarily in connection with ensuring payment after the Covered Person fixed the match which is the subject of the admitted Charge 1. In particular, the Covered Person was found to have a picture ██████████'s credit card on his phone. Despite not rising to the level of complicity in an illegal betting ring, the AHO finds this fact to demonstrate an unusual level of trust between a bettor and Covered Person that easily enabled the future breaches of the TACP. Therefore, this situation does contribute to the aggravated circumstances.

84. Another aspect of the aggravating circumstances is the consideration of the amount of time and resources consumed as a result of the Covered Person's repeated challenges to the Charges brought against him. While a Covered Person has every legal right to dispute the Charges and put the ITIA to the proof of the Notice, in this case counsel went further than exercising that right. From 25 May 2021 until 22 October 2021 the Covered Person and his counsel repeatedly disputed all Charges

brought against him by the ITIA and challenged the AHO's jurisdiction over the matter and weeks before the Hearing sought a lifting of the Provisional Suspension. It was not until just over two-weeks before the scheduled litigation Hearing that the Covered Person admitted to most Charges brought against him. As mentioned previously the two (2) Charges in the Notice that were not admitted were withdrawn by the ITIA. The prolongation of his admissions by the Covered Person absorbed a significant amount of time for all parties involved. Then finally on virtually the eve of the Hearing the Charges were admitted. Such conduct is just within the bounds of a defense to the Notice. However, given the timing of the admissions they cannot be of assistance in mitigation. They are simply too late in all of the circumstances.

85. The parties disagree on the relevance of the three TIPP trainings completed by the Covered Person. The TIPP training program is an online e-learning program designed to familiarize participants with the TACP rules. In principle, the more times a Covered Person completes the program, the more aware of the TACP rules he or she would become. It is meant to follow that engaging in a course of conduct despite knowing it to violate the TACP rules should be treated more severely than ignorantly committing a TACP violation. However, the TIPP training program is not a perfect prophylactic against TACP violations. Accordingly, the AHO finds the Covered Person's three completions of the TIPP training program to represent only

a mildly aggravating factor but notes that this training went on during the period of his beaches of the TACP.

86. For all of the above reasons it is concluded that the aggravating circumstances would justify making the suspension higher than the starting point.

87. In terms of mitigating factors, the ITIA submitted that there are in essence no mitigating factors. The specific economic coercion and financial desperation cannot be established by merely asserting an argument. There must be evidence to find those facts. While the Covered Person was prepared to speak to these problems and how it drove him to take on his activities, evidence to support what he was saying was not made available even in the form of a witness or will-say statement that could have been filed with the AHO. While these matters were all pled by counsel, they were not supported by corroborating evidence. The Covered Person was cross-examined but these were matters not probed by ITIA's counsel. Accordingly, the alleged delicate nature of the Covered Person's financial situation cannot be considered as a mitigating factor on sanctioning.

88. Similarly, the AHO finds that any alleged mental health issues that the Covered Person claimed to be suffering from cannot be considered a mitigating factor without substantiation by proof of the condition. The Covered Person has not established on

a preponderance of evidence that he was dealing with depression and unsustainable levels of stress, let alone that these alleged problems were a contributing cause of his match-fixing. Thus, the Covered Person's alleged mental state cannot be considered a mitigating factor in accordance with the Sanctioning Guidelines. However, the AHO finds that the Covered Person did demonstrate a modicum of remorse during the Hearing and considers that to be a modest mitigating factor but nevertheless insufficient to outweigh any aggravating factors.

89. For all of the foregoing reasons the AHO finds that there are sufficient aggravating factors to increase the sanction by one (1) year from the starting point. In the counter balancing there are not sufficient mitigating circumstances to reduce the sanction from the starting point of a 3-year period of ineligibility.

(iv) Step 3 & 4: Other Considerations on Sanctioning

90. The Covered Person submitted that a reduction in sanction is appropriate because he has provided or is willing to provide Substantial Assistance. Substantial Assistance refers to assistance given by a Covered Person to the ITIA that results in the discovery or establishing of a Corruption Offense by another Covered Person (Section B.31). The AHO has the discretion to amend a sanction in connection with an application for Substantial Assistance made under Section H.6 of the TACP. No such assistance has been provided, just statements to the effect that the Covered

Person would be willing to provide it. Furthermore, there has been no other Covered Person about which this Covered Person has provided information. Of course, that means that there has been no discovery leading to a Corruption Offense being found by some other Covered Person. I conclude that no Substantial Assistance by the Covered Person has occurred at this time. An amendment to the sanction herein could be considered at a later date should such Substantial Assistance occur. Accordingly, the sanction will not be impacted by the factor of Substantial Assistance but an application in the future is possible to reduce the sanction found in this Decision.

91. A reduction in sanction for early admission cannot be applicable in this case because the admissions came too late in the process. The ITIA had prepared its full submission of the case in mid-September and was preparing for a two-day litigated Hearing when the Covered Person's Answer Brief was filed on 22 October 2021. The admissions contained in that Answer Brief arrived just over two (2) weeks before the Hearing was set to occur and changed the procedure into a sanction only hearing.
92. Finally, the Covered Person submitted that any sanction that prevents him from participating in club tournaments in the United States is disproportionate since it would deprive him of his main source of income. This issue was canvassed in the AHO's Ruling on the Covered Person's Application to Lift the Provisional

Suspension less than a month before the Hearing. The reasons set out at that time do not need reiteration again here. The submission was not acceptable then and it is not now. See the Ruling issued on 14 October 2021. In summary, if the club tournaments are not Sanctioned Events, they will not be caught by the suspension because no AHO has the jurisdiction to suspend a Covered Person's Participation in any event that is not a Sanctioned Event defined in Section B.29 of the 2021 TACP.

93. For all of the foregoing reasons I find particular or specific reasons or grounds for moving the period of ineligibility up without any counter veiling reasons for moving the period down from the starting point. Therefore, I conclude that a 4-year period of ineligibility is reasonable, fair in the circumstances and proportionate.

(v) Conclusion on Sanction

94. Aside from suspensions there is the issues of disgorgement and fines which are to be dealt with independently. In the Sanctioning Guidelines there is little in the manner of assistance on the topic.
95. The evidence establishes that there are clearly gains of €1,819.43 admitted by the Covered Person. This money is to be disgorged under Section H.1.a.(i). With respect to the issue of a fine, the Covered Person's counsel limits the fine to the same amount

as that established as “amounts received by the Covered Person”, being the €1,819.43. The ITIA submitted that without financial information as to the problems of the Covered Person there is little reason to limit the fine in this manner.


96. The disgorged funds are to be repaid on the receipt of this Decision.
97. The AHO finds that a fine of \$8,000 USD is appropriate being \$2,000 for each year of the sanction. The AHO finds that this amount is proportionate in relation to the admitted Charges under the TACP and strikes the correct balance between punishment for the admitted breaches of the TACP and deterring future match-fixing behaviour.
98. Based upon all the foregoing analysis and in applying the Sanctioning Guidelines the AHO finds that a 4-year ban is appropriate. The fine is set at \$8,000 USD, being \$2,000 USD for each year of the sanction. Pursuant to Section J.2. of the TACP the ITIA is amenable to a Payment Plan should the Covered Person make an application for such a plan to the ITIA. The AHO would suggest that the fine be paid in four (4) annual instalments at the end of each year of the 4-year period of ineligibility.
99. Based upon all of the above findings the AHO makes the following orders.

ORDERS

- (i) Arreche is a Covered Person and Player as defined in Section B.7. and B.23. of the TACP, respectively.
- (ii) Based on the Covered Person's admissions, it is found he committed Corruption Offenses on two (2) different occasions more than one year apart under Sections D.1.d. and four (4) different Corruption Offenses under D.2.a.i. For these violations of the TACP the Covered Person is subject to a 4-year period of ineligibility.
- (iii) Under Section H.1.a.(i) a fine of \$ 8,000 USD is payable in yearly instalments of \$2,000 at the end of each year of the 4-year suspension.
- (iv) Under Section H.1.a.(i) the repayment of €1,819.43 received in connection with the Corruption Offenses is payable upon receipt of this Decision.
- (v) This Decision shall be publicly reported in full as prescribed in Section G.4.e.
- (vi) Under Section G.4.d. this Decision is a *“full, final and complete disposition of the matter and will be binding on all parties”*.
- (vii) The Decision herein is appealable under Section I.1. of the 2021 TACP to the Court of Arbitration for Sport (“CAS”) in Lausanne, Switzerland. Under Section I.4 of the TACP 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*”.

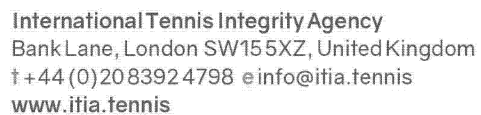
DATED at LONDON, ONTARIO, CANADA THIS 31st DAY of DECEMBER 2021.



Professor Richard H. McLaren, O.C.

AHO

Appendix (Notice of Major Offense)



25 May 2021

Private and Confidential

7

Tennis you can **trust.**



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sincerely,



Ben Rutherford
Senior Director, Legal

Tennis you can **trust.**



[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

¹ All attachments to this letter can be found in the relevant Sharepoint folder.

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[illegible]

REFERENCES

Tennis you can **trust.**



[REDACTED]
 [REDACTED]
 [REDACTED]

11

[REDACTED]

[illegible]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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Schedule 2

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

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