

In the matter of charges brought by the Professional Tennis Integrity Officers (PTIO's) against Franco Feitt (the Player) under the Tennis Anti Corruption Programme

before

Anti Corruption Hearing Officer (AHO)

Raj Parker

Decision on Sanction

Introduction

1. Raj Parker has been appointed as an Anti Corruption Hearing Officer (the AHO) under section F.1 of the Tennis Anti Corruption Programme 2020 (TACP). No party has made any objection to his independence, impartiality and neutrality to render an award in this case.
2. On 1 December 2020 the PTIO's¹ sent a Notice of Charge (the Notice) pursuant to section G.1 a of the TACP informing Mr Franco Feitt (the Player) that he was charged with 17 corruption offences relating to a significant number of tennis matches that took place between 2014 and 2018 with a particular focus in May 2018. They were detailed in a schedule as follows:
 - a) five alleged breaches of section D.1.d of the TACP, by contriving or attempting to contrive the outcome of professional tennis matches;
 - b) ten alleged breaches of section D.1 e of the TACP by soliciting another Player not to use his best efforts in an event (with two of the alleged breaches accompanied by an alleged breach of section D.1.b of the TACP regarding facilitating a third party to bet on a professional tennis event);
 - c) one breach of section D.2. a. i, by failing to report a corrupt approach; and
 - d) one breach of section D.2 a. ii by failing to report knowledge or suspicion of the commission of corruption offences by third parties.
3. The Player responded to the Notice on 29 January 2021 confirming his liability for nine of the charges and denying eight of the charges.
4. The Player admitted :

¹ Constituted by representatives from each of the Governing Bodies: ATP Tour ,Inc (ATP), Grand Slam Board (GSB) ,International Tennis Federation (ITF) ,WTA Tour,Inc (WTA)

- a) five breaches of section D.1.d (*No Covered Person² shall, directly or indirectly, contrive or attempt to contrive the outcome or any other aspect of any event*) (charges 2,3,5,6 and 7, all corruption offences)
 - b) three breaches of section D.1.e (*No Covered Person shall, directly or indirectly, solicit or facilitate any Player to not use his or her best efforts in any event*)(charges 9, 13 and 14 ,all corruption offences);and
 - c) one breach of section D.2 a .i (*Reporting obligation of any Player of any approach to influence the outcome or any other aspect of the event*)(charge 4 ,a reporting obligation).
5. On 11 February 2021 the AHO acknowledged that the PTIO's were content to proceed solely in respect of the charges the Player had admitted for the purposes of these proceedings. Neither party requested a hearing and the matter has proceeded on the documents filed and communications made by the parties.

The potential sanctions

6. The corruption offences that are the subject of the charges took place between 2014 and 2018 .Therefore the applicable TACP's are for those years. The relevant provisions of the 2014 to 2017 versions of the TACP are identical in respect of the charges the Player has admitted .
7. Section H.1.a of those versions of the TACP provides as follows :

H.1 "The penalty for any Corruption Offence 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 Offence (ii) ineligibility for participation in any event organised or sanctioned by any Governing Body for a period of up to three years,and (iii) with respect to any violation of section D.1 clauses, (d) –(j) and section D2., ineligibility for participation in any event organised or sanctioned by any Governing Body for a maximum period of permanent ineligibility. '

8. Sub-section (a) as regards the 2018 TACP is slightly different and reads as follows:

(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 (d)-(j), Section D.2

² The Player is a 'Covered Person ' as defined in section B.6 and B.18 of the TACP

and Section F ineligibility from Participation in any Sanctioned Events for a maximum period of permanent ineligibility unless permitted under Section H.1.c.”

9. The PTIO's seek a sanction of a lifetime ban (permanent ineligibility) from the sport of tennis in respect of sanctioned events by any Governing Body and a fine of \$100,000 in respect of the charges the Player has admitted.

General consideration of sanction

10. The AHO has considered the sanctioning guidelines TACP 2021³ issued by the International Tennis Integrity Agency (ITIA) as a reference tool on the basis they are not binding on him ,but set out principles and various indicators and factors which it may be appropriate to take into account in determining sanction. Having determined the offence category by reference to the factors identified ,the AHO has assessed culpability and the impact on the sport .That then leads to a starting point and category range irrespective of plea which may be considered at a subsequent stage when aggravating and mitigating factors are also taken into account.
11. The conclusion the AHO has reached is that the starting point for the match fixing offences is a life ban. The charges which the Player has admitted include eight match fixing offences .
12. The AHO has taken into account the aggravating and mitigating factors presented by the parties and has in mind that the sanction must be proportionate to the conduct of the Player, as well as being of a sufficient deterrent to others.In doing so the AHO has determined that it is not appropriate to reduce the life ban in this case.
13. Match fixing is a threat to the integrity of tennis and is utterly incompatible with the sport,or indeed any competitive sport.The attraction of competitive sport for participants and for its audience (which includes sponsors, broadcasters and other stakeholders) depends in large part upon the uncertainty of outcome of any match.
14. Match fixing compromises the integrity of and confidence in the fairness of the sport and undermines its authenticity as a spectacle .It can be likened to a cancer that eats at the health and existence of the sport and must be eradicated .⁴The professional tennis authorities have resolved to do so.

The match fixing charges

³ Approved 11 March 2021

⁴ See eg.CAS 2010/A/2172 Orikhov v UEFA

15. The Player has admitted to eight match fixing offences. The three charges which the Player has admitted where a form of corrupt approach to another Covered Person has been made in breach of section D.1 .e are the most serious .

16. The next in order of seriousness are the five section D.1. d offences which the Player has admitted where he was the recipient of a corrupt approach.

17. .In respect of the three admitted section D.1.e offences a penalty of a lifetime ban has been consistently held by AHO's to be appropriate .There is a long line of precedent (involving 15 covered persons who have received lifetime bans for making one or more corrupt approaches)⁵ .The principle has also been upheld by the Court of Arbitration for Sport (CAS)⁶ .It is important as a matter of fairness and justice to where possible, develop a consistency of approach to penalty in similar cases.

18. .In *Koellerer* the CAS Panel at § 123 said:

“the sport of tennis is extremely vulnerable to corruption as a match fixer only needs to corrupt one player (rather than a full team).It is therefore imperative that, once a player gets caught, the governing bodies send out a clear signal to the entire tennis community that such actions are not tolerated.The Panel agrees that any sanction shorter than a lifetime ban would not have the deterrent effect that is required to make players aware that it is simply not worth the risk’.

19. The Player has admitted to three such offences in May 2018. An aggravating feature is that there were three different individuals in each of the matches to which the charges relate , namely : █████ █████ (charge 9) , █████ █████ (charge 13) and █████ █████ (charge 14).

20. The Player has also admitted five D.1.d offences between 2015 and 2018 which have consistently merited bans measured in terms of years by AHO's and in some cases in lifetime bans⁷. In *Kanar* the sanction for one offence under section D.1.d was four and a half years .When one multiplies that as a result of corrupt conduct over a period of time to arrive at the five offences admitted by the Player in this case a lengthy ban approximating to a lifetime ban is inevitable for these offences alone.

21. The Player was involved in a deliberate and sophisticated operation to make financial gain from fixing professional tennis matches with a 'known corrupter' ,Mr █████ █████ known to the Player as █████ or █████ According to the Notice , █████ █████ is a key player in an █████ criminal organisation which has targeted tennis. The evidence obtained by the Tennis Integrity Unit (TIU) consists of social media communications obtained from a forensic download of mobile phones

⁵ eg. four such cases are : *Alvarez Guzman* (2019) , *De Souza* (2020) , *Hossam* (2020) , *Ikhlef* (2020).

⁶ *Koellerer* (2011), *Savic* (2011)

⁷ See *Alekseenko* (2018), *Kanar* (2020), *De Souza* (2020) , *Hossam* (2020) , *Kilani* (2020), *Ikhlef* (2020) and *Baskova* (2020).

belonging to ██████████ which were obtained by the law enforcement authorities in Belgium and shared with the TIU. There are also copies of money transfer documentation implicating the Player in the receipt of funds and forensic downloads of the Player's mobile phone and in the form of betting alerts from betting operators.

22. In *De Souza, Hossam*, and *Ikhlef* the players were sanctioned to lifetime bans for two to three D.1.e offences and four to eight D.1.d offences. The latter two players also had links through a middleman to ██████████

The non reporting charge

23. It is vital for corruption and attempted corruption offences to be reported in order for the ITIA to operate effectively in combating corruption in tennis. This includes reporting approaches by other Covered Persons with offers or proposals to contrive the outcome of events (D.2.a.i) as well as reporting suspicion or knowledge of another party committing corruption offences (D.2.a .ii).

24. Professional tennis players are therefore vitally important in the fight against corruption. The Player has admitted to failing to report the corruption offence of Agustin Moyano. There are precedents of a ban of up to a year in relation to the non reporting of corruption or attempted corruption offences⁸. A similar period would be merited in this case and would run concurrently with the ban imposed for the match fixing offences. There is no additional financial penalty to be imposed in respect of this breach.

Mitigation/Aggravation.

Aggravating factors

25. The main aggravating factor is that the offences were conducted over a lengthy period of time and in respect of the three D.1e offences in May 2018 with a criminal organisation that has targeted professional tennis and with three different players. This would have required involvement and planning by the Player with others to be corrupted and fix matches as a corrupter himself. He took a calculated risk for financial gain and has been caught.

26. A further aggravating factor is that the Player underwent training on a Tennis Integrity Protection Programme (TIPP) online in 2014 and 2017 (and again in March 2019 after the offences) which seems to have had no effect.

27. This training and education should have given him an awareness that he was competing at a time when match fixing was a high profile issue for which there was 'zero tolerance' from the professional tennis authorities. He signed a Player Welfare Statement on an annual basis between 2010 and 2019 accepting that he was bound by the TACP. He would have gained a broad understanding of the TACP and its

⁸ See *Belardi (2020)* and *Kalaitzakis (2020)*

importance to the fight against corruption in tennis and that there needed to be sanctions sufficient to serve as an effective deterrent against the temptation, through greed or fear, to become involved in match fixing.

Mitigating factors

28. The Player has expressed remorse and regret and has cooperated and accepted the charges set out above. The Player therefore deserves to receive some credit for having avoided the necessity of proceeding to a contested hearing. He has also expressed his willingness to assist the ITIA with future investigations. The PTIO's acknowledge and are grateful for his cooperation to date and candour during the most recent investigation against him, where he provided information regarding numerous other Covered Persons.
29. The Player says he is '*not proud of the things he did*'. Some things he says he did for money to continue to play the sport he says he loves, and some because he felt threatened by those he became involved with. He says he did not know how dangerous and large the group was when he was in contact with one of them.
30. He argues that the sanction proposed by the PTIO's is too great for the conduct he has admitted.
31. Given the gravity of the admitted match fixing charges and required penalty in keeping with principle and precedent, this mitigation can only meaningfully be applied to the fine which would otherwise be payable. It cannot affect the appropriate outcome with regard to the two categories of match fixing offence admitted, which must each attract a lifetime ban to run concurrently.
32. The PTIO's submitted that a fine of \$100,000 should be imposed in addition to the lifetime ban. There was no submission or information available to the AHO which detailed the financial reward obtained by the Player for his admitted conduct, save for two payments received of \$500 each in 2016, which appear in the schedule to the Notice, nor any information about the means of the Player.
33. This notwithstanding, I accept that a fine represents a further deterrent and is a way of disgorging any ill gotten gains which are difficult to trace and recover. Once a person has become involved in match fixing over a period of time in multiple matches it will be known that if caught a lifetime ban would follow. A fine therefore has an additional deterrent effect and is appropriate in this case.
34. Any fine must be proportionate and reflect the fact that the Player will be ineligible for life from earning money from a professional tennis playing career, the mitigation available to him and the lack of any evidence as to means and overall financial gain.

Order

35. Having carefully considered all these matters ,and in particular the gravity of the nine admitted offences the aggravating and mitigating factors and the relevant precedents a reasonable and proportionate sanction is that the Player should :

- i) serve a lifetime ban from the sport of professional tennis in relation to any event organised or sanctioned by any Governing Body.
- ii) pay a fine of \$25,000 (payable as to \$12,500 within 6 months of the date of this decision and then \$12,500 on the anniversary date of this decision.)

36. This decision may be publicly reported as set out in section G.4 .e of TACP.

37. Pursuant to 1.3 of the TACP this decision is appealable to the Court of Arbitration for Sport (CAS) .Any such appeal must be made within a period of twenty business days of its receipt .

Raj Parker

Anti Corruption Hearing Officer

London, England

12 April 2021