

In the Matter of a Notice of Alleged Major Corruption Offenses under:

TENNIS ANTI-CORRUPTION PROGRAM

(hereinafter the "TACP")

Mohamed Ali Abibsi

(hereinafter the "Covered Person" or "Player")

and

International Tennis Integrity Agency

(hereinafter the "ITIA")

Representing the Covered Person: Maitre Belhadj Mohamed Fahmi

Representing the ITIA: Ms Julia Lewis

Anti-Corruption Hearing Officer: Mr Ian Mill KC
(hereinafter, the "AHO")

**DECISION ON LIABILITY
AND SANCTION**

DISPOSITION SUMMARY

The Orders found at the end of this Decision are repeated here for the convenience of the reader.

1. Mohamed Ali Abibsi is a Player as defined in Section B.27 and, as such, a Covered Person as defined in Section B.10 of the TACP.
2. The Covered Person is found to have committed Corruption Offenses under Sections F.2.d and F.2.b of the 2022 TACP. In consequence, the Covered Person is declared ineligible from Participation in any Sanctioned Event for a period of two and a half years in accordance with Section H.1.a.(iii) of the 2023 TACP.
3. The above ordered suspension is to be treated as having commenced on 19 May 2023, when the ITIA imposed a Provisional Suspension upon the Player pursuant to Section F.3 of the 2023 TACP, and will continue until 18 November 2025, when it will end.
4. This Decision shall be publicly reported in full as prescribed in Section G.4.e of the 2023 TACP.
5. Under Section H.1.a.(i) of the 2023 TACP, a fine of US\$10,000 is imposed.
6. This Decision is final, subject to a right of appeal to the Court of Arbitration for Sport (CAS) under Section I.1 of the 2023 TACP, with a deadline under Section I.4 of the 2023 TACP of 20 Business Days from the date of receipt of this Decision by the appealing party.
7. Under Section I.2 of the 2023 TACP, the above ordered suspension shall remain in effect while under appeal, unless CAS orders otherwise.

PROCEDURAL HISTORY

(A) The Provisional Suspension

8. On 19 May 2023, the ITIA issued a Notice of Provisional Suspension against the Player under Sections F.3.b.i.1 and F.3.b.i.4 of the 2023 TACP, which provided, respectively that:

“The Covered Person has failed to comply with a Demand”,

and

“There is a likelihood that the Covered Person has committed a Major Offense and in the absence of a Provisional Suspension, the integrity of tennis would be undermined and the harm resulting from the absence of a Provisional Suspension outweighs the Hardship of the Provisional Suspension on the Covered Person”.

9. The factual background giving rise to this action by the ITIA is addressed below. At this stage, it suffices that:
- a. The Demand referred to above was said to have been made by an ITIA investigator to examine a mobile telephone in the Player’s physical possession at the time of the Demand;
 - b. The justification for the Demand was said to be that it was in the context of an ITIA investigation of potential match-fixing involving (among others) the Player.
10. The Player appealed against the Provisional Suspension. I was appointed as AHO to decide the merits of that appeal. This required me to determine whether the case advanced by the ITIA was supported by “*substantial evidence*” (Section G.3.c of the 2023 TACP). The Player contended in relation to the Demand that there was no such evidence because he had in the circumstances been entitled to refuse to hand over the mobile telephone. I concluded otherwise and dismissed the Player’s appeal in a written decision dated 10 July 2023.

11. The circumstances relied upon by the Player on his appeal had been that the mobile telephone had contained *“too intimate video sequences, very embarrassing things (video with my [REDACTED] and my [REDACTED]) likely to raise legal proceedings if necessary, [REDACTED] [REDACTED]”* My conclusions as to that assertion were as follows:

- a. Both the Notice of Provisional Suspension and the supporting witness statement of the ITIA investigator, Alan Boyd (“Mr Boyd”), referred to the Player’s denial that the mobile telephone in his possession when the Demand was made belonged to him. It was that denial which was the Player’s asserted basis for his refusal at the time to hand over the mobile in his possession. Mr Boyd’s statement proceeded to describe a set of circumstances and events at the time of the Demand which led him to conclude that the Player’s denial of ownership was false.
- b. The Player in his appeal made no reference whatsoever to this original basis of refusal. In particular, he did not assert on appeal that what he had told Mr Boyd was true. Additionally, he did not suggest that, at the time of the Demand, he had given Mr Boyd his present justification as a reason for refusing to hand over his mobile.
- c. As was readily apparent, the Player’s two justifications were mutually inconsistent with each other. Moreover, the Player had not sought to explain that inconsistency.
- d. Accordingly, the case advanced by the ITIA was supported in my view by substantial evidence, for the purposes of Section G.3.c of the 2023 TACP.

(B) The Charges

12. On 25 July 2023, the ITIA issued the Notice of Major Offenses with which this Decision is concerned (the “Notice”). The Notice contained two charges (the “Charges”) against the Player as follows:

a. An alleged breach of Section F.2.d of the 2022 TACP for failing to comply with the Demand referred to in paragraph 9a above.

b. An alleged breach of Section F.2.b of the 2022 TACP for failing to cooperate with the ITIA's investigation referred to in paragraph 9b above.

13. Although two separate Charges are brought against the Player, only one set of factual circumstances is relied upon. In other words, the Player's alleged failure to cooperate consisted of failing to comply with the Demand.

14. Directions for a hearing of the Charges were given by me on 19 September 2023 at a Teams call attended by the Player and by Ms Katy Stirling on behalf of the ITIA. In particular, I directed that the substantive hearing of the Charges should take place remotely on 11 December 2023. In the event, that hearing in fact took place on 25 January 2024 (the "January hearing").

(C) The January hearing

15. At the January hearing, the ITIA was represented by Ms Julia Lowis, and the Player by Maitre Belhadj Mohamed Fahmi. Witness evidence was called by both parties. The ITIA adduced the evidence of its investigator, Mr Boyd, and of Mark Swarbrick, Betting Liaison Officer at the ITIA ("Mr Swarbrick"). The Player called a [REDACTED], [REDACTED] [REDACTED] (" [REDACTED]) and a [REDACTED], [REDACTED] (" [REDACTED]).

16. The Player did not himself give evidence.

17. Following the receipt of that evidence and the parties' written and oral submissions, I adjourned the proceedings in order to consider and reach my decision on liability. I made it clear that, if and to the extent that I found the Charges proven, I would convene a further hearing at which I would receive the parties' submissions on sanction. I would issue one set of written reasons, including (if relevant) my decision on sanction.

(D) The March hearing

18. On 5 February 2024, I communicated with the parties my summary decision on liability as follows:

I have read with care the transcript of the hearing on 25 January 2024, and I have re-read the documents in the Hearing Bundle to which reference was made during that hearing. I have also given careful consideration to the evidence given on that day and to the submissions made on behalf of the parties.

Having done so, I have concluded that, for reasons to be given in writing in due course, the ITIA has succeeded in proving both the Charges brought against Mr Abibsi.

19. I received the parties' submissions on sanction at a remote hearing on 14 March 2024 (the "March hearing"). The parties were represented as they had been at the January hearing.

20. I am grateful to those representatives for their assistance generally and for the quality of their submissions at both hearings.

21. What follows are: (a) a summary of the relevant factual background; (b) observations on the witness evidence before me; (c) my written reasons for my summary decision on liability (see paragraph 18 above), and (d) my decision on sanction.

FACTUAL BACKGROUND

22. In early October 2022, the ITIA received a pair of suspicious betting alerts from Sportradar, a company which monitors sports betting activity on behalf of the betting industry, relating to tennis matches in which the Player, a professional tennis player born in June 2002, participated at the [REDACTED] tournament in [REDACTED] Tunisia. The first of these alerts related to a [REDACTED] [REDACTED] match on [REDACTED] October 2022. The second related to a [REDACTED] [REDACTED] match on the following day.

23. Each alert identified as a cause for concern the fact that, [REDACTED] in the match concerned, the Player had double faulted on the [REDACTED] point. Mr

Swarbrick's evidence was that such an outcome was very unusual and, in conjunction with the bets that were placed, deemed extremely suspicious.

24. The ITIA having decided to investigate these events further in order to ascertain whether the Player might have been engaging in Corruption Offences connected to match-fixing on the identified occasions, Mr Boyd travelled to [REDACTED] on [REDACTED] November 2022 to speak to the Player, who was participating in [REDACTED] [REDACTED] [REDACTED].
25. Mr Boyd went to the Player's room in the tournament hotel, taking with him a Dictaphone to record his conversation with the Player and a written Demand Notice pursuant to Section F.2.d of the 2022 TACP requiring the immediate provision of the Player's personal devices, including his mobile telephones.
26. Upon arrival at the room, Mr Boyd found not only the Player but (a) [REDACTED] [REDACTED] tennis professional, [REDACTED] [REDACTED] ('[REDACTED]') and (b) Mr [REDACTED] [REDACTED] who the Player introduced as [REDACTED] [REDACTED] ('[REDACTED]') When Mr Boyd entered the room, the Player was holding a mobile telephone in one of his hands.
27. Mr Boyd explained to the Player who he was and why he was there, he informed the Player that he was turning on his Dictaphone to record their conversation, he handed over the Demand and asked the Player to hand over the mobile telephone in his hand.
28. In response, the Player claimed that the mobile telephone which had been in his hand on Mr Boyd's arrival (which by this stage was in the Player's pocket) belonged to his [REDACTED] On being asked to hand it over anyway, the Player responded on several occasions that he could not hand it over because it did not belong to him. It belonged to his '[REDACTED]'.
29. The Player insisted that his own mobile telephone was in the next room, which was occupied by [REDACTED] He took Mr Boyd to that room, where [REDACTED] handed over a mobile telephone to Mr Boyd which the Player insisted was his.

30. The conversation between the Player and Mr Boyd subsequently continued in the ITIA's temporary office in the hotel. The Player maintained his position about the ownership of the two mobile telephones, including after having been given by Mr Boyd an Arabic translation of the Demand (which the Player confirmed he understood and which he signed).
31. The Player's stated position about the ownership of the two mobile telephones turned out to be untrue:
- a. The one given to Mr Boyd was clearly shown by analysis (of messages and images) to belong to [REDACTED] not to the Player.
 - b. The Player's subsequent explanation for his conduct (in the context of his failed appeal) amounted to an admission that the mobile telephone in his hand was indeed his, as Mr Boyd had suspected.
32. Following the analysis of [REDACTED] mobile telephone, the Player was interviewed by Mr Boyd on [REDACTED] November 2022. The Player continued to maintain that the analysed mobile was his, despite the clear evidence to the contrary.

THE WITNESS EVIDENCE

33. As indicated in paragraph 15 above, four witnesses gave oral evidence at the January hearing:
- a. Mr Boyd, whose evidence accorded with the contents of the contemporaneous materials to which he referred (including the recorded transcripts and the contents of the analysed mobile telephone).
 - b. Mr Swarbrick, who helpfully clarified his evidence that the conduct of the Player during the matches was suspicious – it was a combination of the improbability of double faults by the Player on the same point of each of his

██████████ and the improbability of bets being placed (legitimately) on those individual points.

- c. ██████████ whose evidence was that he had watched the Player's ██████████ match on █ October 2022 and had seen nothing untoward in the Player's performance. In particular, he had served well.
- d. ██████████ whose evidence was that he had watched the Player's ██████████ ██████████ match on █ November 2022. His oral evidence was badly curtailed due to connectivity issues, unfortunately. Nonetheless, based on his written evidence, it was clear that he was essentially making the same point as ██████████ ██████████ about the Player's performance.

34. I found the evidence of all those witnesses credible and helpful, and I accept it as truthful.

35. The other observation to make at this stage about witnesses is to identify those who did not give evidence before me:

- a. First and foremost, the Player himself did not give evidence. As described above, I had dismissed his appeal against his Provisional Suspension because of the unexplained inconsistency between his accounts of why he had not handed over the mobile telephone which was in his hand when Mr Boyd first met him (see paragraph 11 above). It is notable that he did not take the opportunity afforded to him by these proceedings to provide an explanation for this. It is correct to note that, following the conclusion of the oral evidence at the January hearing, the Player informed me through Maitre Fahmi that he was "*available for any clarification of any point raised today*". I do not regard that last minute offer as either satisfactory or materially relevant. The Player had participated in the directions hearing to which I have referred in paragraph 14 above. He therefore understood that, if he was to give evidence in the proceedings before me, he had to provide a signed written statement of that

evidence by 3 November 2023. Doubtless, the need for such a statement would have been reinforced by his legal representative, Maitre Fahmi, prior to the January hearing.

- b. Additionally, evidence was not given at the January hearing by either [REDACTED] or [REDACTED]. They were, however, both interviewed by the ITIA (in December 2022 and June 2023, respectively) and I have read carefully a transcript of each interview. [REDACTED] insisted that it was his mobile telephone in the Player's hand when Mr Boyd arrived in the hotel room. The Player was said to have had his mobile because he was trying to fix it, there being something wrong with it. (This contrasted with the Player's equally improbable explanation in interview that he had [REDACTED]'s mobile because they were playing a chess game together). [REDACTED] in interview, gave confused answers to questions put to him by Mr Boyd but did not accept having seen [REDACTED] handing over his mobile to Mr Boyd or that he knew whose mobile it was that Mr Boyd was given.

36. There is therefore no credible evidence challenging Mr Boyd's account of what occurred in the Player's hotel room on 20 November 2022.

DECISION ON LIABILITY

(A) Relevant provisions of the 2022 TACP

37. The provisions of the 2022 TACP relevant to the Charges are set out below:

Section F.2.d: *"If the ITIA has reasonable grounds to believe that a Covered Person may have committed a Corruption Offense and that access to the following sources is necessary to assist the investigation, the ITIA may make a Demand to any Covered Person to furnish to the ITIA any object or information regarding the alleged Corruption Offense, including, without limitation, (i) personal devices (including mobile telephone(s), tablets and/or laptop computers) so that the ITIA may copy and/or download data and/or other information from those devices relating to the alleged Corruption Offense, (ii) access to any social media accounts and data accessed via cloud services by the Covered Person (including provision of user names and passwords), (iii) hard copy or electronic records relating to the*

alleged Corruption Offense(s) (including, without limitation, itemized telephone billing statements, text of SMS and WhatsApp messages received and sent, banking statements, cryptocurrency wallets, transaction histories for any money transfer service or e-wallet, Internet service records), computers, tablets, hard drives and other electronic information storage devices, and (iv) a written statement setting forth the facts and circumstances with respect to the alleged Corruption Offense(s). The Covered Person shall furnish such object or information immediately, where practical to do so, or within such other time as may be set by the ITIA. The Covered Person acknowledges and agrees that, considering the large volume of data on some personal devices, the ITIA's examination and extraction of information may take several hours, and that the duration of the extraction process (no matter how long) shall not provide a basis to object to the immediate compliance with a Demand. Any information furnished to the ITIA shall be (i) kept confidential except when it becomes necessary to disclose such information in furtherance of the prosecution of a Corruption Offense, or when such information is reported to administrative, professional, or judicial authorities pursuant to an investigation or prosecution of non-sporting laws or regulations and (ii) used by the ITIA solely for the purposes of the investigation and prosecution of a Corruption Offense, subject to Section F.2.f."

Section F.2.b: *"All Covered Persons must cooperate fully with investigations conducted by the ITIA including giving evidence at hearings, if requested. Even in the case where a Covered Person is represented by a legal counsel, the Covered Person is still personally responsible for ensuring that they cooperate fully with the investigation. The Covered Person shall be deemed not to have cooperated if the Covered Person's legal counsel interferes with an ITIA investigation. A Covered Person's failure to comply with any Demand, preserve evidence related to any Corruption Offense or otherwise cooperate fully with investigations conducted by the ITIA, may result in an adverse factual inference against the Covered Person in any matter referred to an AHO."*

(B) The ITIA's submissions

(1) Burden and standard of proof

38. The burden of proving the Charges lay with the ITIA and the standard of proof was by a preponderance of the evidence: Section G.3.a of the 2022 TACP.

39. The ITIA referred to the frequently cited CAS decision in the case of *Köellerer v ATP and others*, in which it was noted that the standard of a preponderance of evidence was met if “*the proposition that the Player engaged in attempted match-fixing is more likely than not to be true*”. This standard was therefore the equivalent of the English law “balance of probabilities” standard of proof.
40. I did not understand any of this to be disputed by the Player.

(2) The first Charge: Section F.2.d

41. The ITIA referred to and relied upon my dismissal of the Player’s appeal against the Provisional Suspension. The point was made that the positive case which had been advanced by the Player at that stage as a justification for non-compliance with the Demand to examine his mobile phone - that it contained [REDACTED]
[REDACTED]
[REDACTED] - was a wholly different justification from the one given by him at the time of the Demand (that the mobile telephone in his hand did not belong to him), and that the Player had not provided any explanation whatsoever for this wholesale change of case.
42. The ITIA noted that the Player had not put forward one piece of his own evidence to counter the evidence submitted by the ITIA, or to set out in a witness statement an explanation for his change of case, as he had effectively been invited to do in my Appeal Decision.
43. The ITIA addressed in closing oral submissions at the January hearing a series of questions posed by me, as follows:
- a. Assuming that I was persuaded that the Player’s sole reason at the time for not handing over his mobile telephone to Mr Boyd was the reason given by him in his unsuccessful appeal (albeit not expressed by him at the time of the Demand), would that justify the non-compliance with the Demand so as

to amount to a defence to the Charge? The ITIA submission was that, in that event, the Player still had to hand over the mobile telephone, albeit that he could have worked with the investigator to address his concerns. That would have required the Player to have given a transparent account of those concerns at the time, which of course did not occur.

- b. What were the “*reasonable grounds*” (required by Section F.2.b to justify the Demand) for believing that the Player might have committed a Corruption Offense? The ITIA submission was that I could sufficiently rely upon the evidence and expertise of Mr Swarbrick, together with the suspicious betting alert from the industry expert, Sportradar.
- c. What should I make of the evidence of the Player’s witnesses, to the effect that neither of them saw anything untoward in the Player’s performance in either of the matches in question? The ITIA submitted that one would not necessarily perceive anything as untoward in such cases. Double faults occur. It was the suspicious betting activity combined with the pattern of double faults that was significant.

(3) The second Charge: Section F.2.b

- 44. The ITIA submitted that the Player’s failure to comply with the Demand as well as his attempt to deceive the ITIA by providing a mobile telephone that did not, in fact, belong to him also amounted to a breach of Section F.2.b of the 2022 TACP. It clearly involved a failure fully to cooperate with the ITIA’s investigation. The provision of a fanciful justification for that non-cooperation should be treated as an aggravating factor in that respect.

(C) The Player’s submissions

- 45. The Player’s first submission was that the ITIA was unable to prove the existence of the “*reasonable grounds*” needed to justify the making of the Demand. The Player submitted that, given the effect on him of investigating and interviewing him, the ITIA

should have established all the details of the relevant betting activity – including those individuals involved, their country of origin and the amounts wagered – before deciding whether it was appropriate to make the Demand. Mr Swarbrick’s evidence, moreover, was open to criticism because he had given evidence that he was not qualified to give, about technical aspects of the Player’s playing performances. His evidence should have been limited to betting matters. Instead, it was based on assumptions.

46. The Player’s second submission concerned the use made by Mr Boyd of his Dictaphone when in the Player’s hotel room. There were two aspects to this:

- a. Mr Boyd’s failure to inform the Player in advance of its use to record what he said.
- b. Mr Boyd’s failure to stop the recording when a third party (██████████) entered the room whose identity and relationship to the Player was unknown.

47. The Player accepted in his oral closing submissions that:

- a. He did not hand over to Mr Boyd his mobile telephone when it was requested of him that he do so.
- b. The Player’s embarrassment as to its contents would not afford him a defence to the Charge of failure to comply with the Demand.
- c. If the first Charge was proven by the ITIA, then so was the second.

48. It was asserted on the Player’s behalf in those closing submissions that:

- a. The Player’s failure to hand over his mobile telephone to Mr Boyd was because of its embarrassing content. It had nothing to do with the issue of suspicious betting activity.

- b. It was because of that content that he had asked for time (7 days) before handing it over.

(D) The ITIA's reply submissions

49. As to the Player's first submission, the ITIA's oral response was as follows:

- a. It was likely that the ITIA did not have underlying sharing agreements with the betting operators who had provided the information to Sportradar. That was why the information that came from Sportradar acted as an initial flag, but being able to carry on that investigation by other means was very important. In an ideal investigation, the ITIA would be able to get evidence from the betting operators and from a mobile telephone or from an individual, but that would probably occur at the same time. There might well not be anything significant that came to mind even if the betting accounts information was known, unless further information, for example, on an individual's mobile, showed names that might have placed bets or discussion about bets being placed.

- b. Mr Swarbrick's evidence about the double faults was not technical; it was about probabilities, which was within the scope of his expertise.

50. As to the Player's second submission, Mr Boyd was quite clear in his evidence that he had informed the Player in advance that he was turning on his Dictaphone and why. Consistently with that, on the last page of the transcript of the recorded conversation in the hotel room, Mr Boyd tells the Player that he was *"going to turn this tape off"*.

(E) The reasons for my Decision on Liability

51. I refer back to paragraph 18 above and my Decision that the ITIA has succeeded in proving both Charges against the Player.

52. I set out below my reasons for that Decision:

- a. First, I repeat my observations about the witness evidence that I did – and did not – receive (see paragraphs 33-36 above).
- b. Second, I regard it as significant that the Player has not made a statement seeking to explain his inconsistent justifications for not handing over his mobile to Mr Boyd. If he had a wholly innocent explanation for that conduct, he would surely have shared that with the ITIA and me in these proceedings. Instead, I am left with the inevitable impression that the Player's repeated falsehoods to Mr Boyd on [REDACTED] and [REDACTED] November 2022 about the ownership of the mobiles concerned – even after having been shown that the mobile handed over to Mr Boyd was clearly [REDACTED] not his – were for reasons which did not have an innocent, or at any rate a wholly innocent, foundation. That impression is fortified by the Player's failure over a period of many months to refer to the contents of his mobile as his reason for withholding it, and by the answers given in interview by [REDACTED] and [REDACTED] which were supportive of the truth of the Player's evidently untrue assertions about ownership of those mobiles (see paragraph 35b above).
- c. Accordingly, third, I have reached the firm conclusion that the Player had no justifiable reason for non-compliance with the Demand. I also find myself quite unable to accept the Player's assertions (unsupported by evidence) set out in paragraph 48 above.
- d. Fourth, I am satisfied that the ITIA had reasonable grounds for suspecting that the Player might have committed one or more Corruption Offenses, as explained by Mr Swarbrick in evidence, and therefore was entitled to make the Demand. As explained by Ms Lewis in her reply submissions (see paragraph 49a above), the Player's submission (see paragraph 45 above) about the steps to be taken before a Demand could legitimately be made lacked reality. Moreover,

the criticism of Mr Swarbrick's evidence was baseless, for the reason given by Ms Lewis (see paragraph 49b above).

- e. Fifth, I am satisfied on the evidence that Mr Boyd did inform the Player in advance that he was turning on his Dictaphone, and why.
- f. Sixth, while there is some force in the Player's submission in paragraph 46b above, it ultimately does not assist the Player. I have decided this case without reference to, or reliance upon, the contents of any conversation in Arabic between the Player and [REDACTED] insofar as such contents may have been picked up by Mr Boyd's Dictaphone.
- g. Seventh, I have taken into account the Player's sensible admissions set out in paragraph 47 above.
- h. In the light of those admissions, and for the reasons set out above, it follows that the ITIA has discharged the burden on it in respect of both Charges.

DECISION ON SANCTION

53. The starting point when determining a sanction for a Corruption Offense is the following (taken from the 2023 TACP):

H.1. Except as provided in Sections F.5., F.6. and F.7., 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:

H.1.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.

54. In addition, reference is to be made to the Sanctioning Guidelines issued by the Tennis Integrity Supervisory Board, which are not binding upon AHOs, but which provide a framework for the issuing of sanctions to support fairness and consistency (the “Guidelines”).
55. There is a note on page 4 of the Guidelines which has particular relevance in the context of these proceedings. It reads:

The culpability and impact of a Covered Person’s failure to cooperate should ordinarily be linked to the underlying Corruption Offense(s) that the ITIA is investigating. For example, if the ITIA is investigating a relatively minor Corruption Offense which would qualify for disposition under TACP Section F.6. (no more than a six month suspension and/or \$10,000 fine), the failure to cooperate with an ITIA investigation related to that matter should ordinarily be categorized in Category 3 and receive no more than a six month suspension and/or \$10,000 fine. Alternatively, if the ITIA is investigating one or more Major Offenses, then the Covered Person’s failure to cooperate with the ITIA’s investigation of those offenses should ordinarily be categorized akin to the Major Offense(s) being investigated and therefore carry a correspondingly high sanction to avoid incentivizing a Covered Person to fail to cooperate to avoid a more serious charge and sanction. (Emphasis added)

56. In the absence of any suggestion from either party as to why I should not treat the present case as one to which the “ordinary” approach (referred to in the underlined passage above) should be adopted, I propose to do so. That said, I have not found this a straightforward task, as I explain below.
57. I have concluded (see paragraph 52 above) that the ITIA had reasonable grounds for suspecting, at the time of making the Demand, that the Player might have been involved in contriving an aspect or aspects of two matches. If so, very serious Corruption Offenses under Section D of the 2022 TACP might have been committed

by him. In considering, as the Guidelines invite me to do, the level of culpability of the Player in that regard, however, I find myself in some difficulties. I am to assess (among other things) the extent to which the Player's match-fixing misconduct was planned/premeditated and the extent to which he was acting in concert with others. And yet:

- a. The Player may in fact have not committed any Section D Corruption Offense.
 - b. Even if he had, its detail (including who and what was involved) remains unknown, but that lack of information may be materially attributable to the Player's failure of cooperation.
 - c. The ITIA, in its submissions at the March hearing, described involvement in match-fixing as giving rise to Corruption Offenses which inevitably required some element of planning and premeditation. However, the impression created by the evidence I have heard and read would tend to suggest that the Player and ██████████ (at least) were chaotic and naïve in their behaviour rather than organised and/or capable of advanced planning.
 - d. The ITIA also submitted that the Player was acting in concert with ██████████ potentially ██████████ and unknown third-party bettors. I find this submission to be one largely based on conjecture and surmise, and I am unable to accept it.
58. Nevertheless, I have ended up with the same overall level of culpability as submitted by the ITIA – "Medium culpability". The specified characteristics in the Guidelines for "High culpability" and "Lesser culpability" seem to me to be likely to be further removed from the probable realities of any Section D Corruption Offense committed by the Player, in part given that two matches on consecutive days were involved. (Although there are, additionally, two Charges, they both rely upon the same factual circumstances and are in my view to be regarded together – i.e. as though there were one charge only).

59. The next step is to consider the impact on the reputation and/or integrity of the sport of tennis of the potential Section D Corruption Offenses committed by the Player. I repeat my concerns set out above in assessing satisfactorily whether Category 1, 2 or 3 is the most apposite. Again, however, it appears to me overall (as was submitted by the ITIA) that the middle ground – Category 2 – is the answer. The criteria which would suggest either of the other two Categories are, taken as a whole, less likely to be applicable.
60. This all leads to a “starting point” of a three- year suspension, subject to any aggravating and mitigating factors. I regard the Player’s maintenance of untrue assertions as to the ownership of the mobiles involved – even in the face of overwhelming evidence of the true position – to be an aggravating aspect of this case. On the other hand, it is to my mind significant that the Player was only 20 years old in November 2022. There is no suggestion of any other misconduct on his part.
61. The conclusion that I have reached is that the aggravating feature to which I have referred above is likely to be attributable in large part at least to the Player’s immaturity and lack of experience.
62. I have therefore decided that the Guidelines would lead to a period of Ineligibility of two and a half years, and that is what I will impose.
63. As to the level of a fine, I received unconvincing submissions on behalf of the Player to the effect that anything more than a nominal amount would cause issues over ability to make payment. It seems to me (as I put to Maitre Fahmi during the March hearing, based upon comments made by the Player in interview) that, if necessary, the Player can look to his father to discharge his payment obligations. Should that prove not to be the case, the Player can seek to agree a payment plan with the ITIA.
64. Based upon the Guidelines, I have decided to impose a fine of US\$10,000.
65. Accordingly, I make Orders as follows:

- (1) Mohamed Ali Abibsi is a Player as defined in Section B.27 and, as such, a Covered Person as defined in Section B.10 of the TACP.
- (2) The Covered Person is found to have committed Corruption Offenses under Sections F.2.d and F.2.b of the 2022 TACP. In consequence, the Covered Person is declared ineligible from Participation in any Sanctioned Event for a period of two and a half years in accordance with Section H.1.a.(iii) of the 2023 TACP.
- (3) The above ordered suspension is to be treated as having commenced on 19 May 2023, when the ITIA imposed a Provisional Suspension upon the Player pursuant to Section F.3 of the 2023 TACP, and will continue until 18 November 2025, when it will end.
- (4) This Decision shall be publicly reported in full as prescribed in Section G.4.e of the 2023 TACP.
- (5) Under Section H.1.a.(i) of the 2023 TACP, a fine of US\$10,000 is imposed.
- (6) This Decision is final, subject to a right of appeal to the Court of Arbitration for Sport (CAS) under Section I.1 of the 2023 TACP, with a deadline under Section I.4 of the 2023 TACP of 20 Business Days from the date of receipt of this Decision by the appealing party.
- (7) Under Section I.2 of the 2023 TACP, the above ordered suspension shall remain in effect while under appeal, unless CAS orders otherwise.



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Ian Mill KC

9 May 2024