

In the Matter of an Admission of Corruption Offenses listed in a Notice of Major Offense and Submission on Mitigation of Sanctions to be determined under the:

**TENNIS ANTI-CORRUPTION PROGRAM**

(hereinafter the “TACP”)

**Percy Flores**

(hereinafter “Flores” or “the Covered Person”)

**and**

**International Tennis Integrity Agency**

(hereinafter the “ITIA”)

Representing the Covered Person: Self-represented

Representing the ITIA: Kendrah Potts  
Barrister

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

## **DISPOSITION SUMMARY**

The orders found at the conclusion of this Decision are repeated here for the convenience of the reader.

- (i) Percy Flores as an ITF White Badge Umpire held a position as a Tournament Support Personnel defined in Section B.39 and consequently is a Covered Person as defined in Section B.10 under the 2023 TACP.
- (ii) The Covered Person admitted and is found to have committed Corruption Offenses and breached Sections D.1.b, D.1.m., D.2.b.i., D.2.b.ii. and D.1.o. of the 2021 TACP. He further admitted and is found to have committed Corruption Offenses and breached on nine separate occasions Sections D.1.b, D.2.b.i., eight counts of breaching D.1.m., one count of breaching D.1.o., and one count of breaching D.2.b.ii. of the 2022 TACP.
- (iii) For all the foregoing breaches of the 2021 and 2022 TACP the Covered Person is declared ineligible from Participation in any Sanctioned Event for a period of 12 years in accordance with Section H.1.b.(iii).
- (iv) The above ordered ineligibility shall commence on and is effective from the day after this Decision as prescribed in Section F.6.h.(ii) of the 2023 TACP. The period begins on the 13<sup>th</sup> of July 2023 and ends on the 12<sup>th</sup> day of July 2035.
- (v) This Decision shall be publicly reported in full as prescribed in Section G.4.e. of the 2023 TACP.
- (vi) Under Section H.1.b.(i) of the 2023 TACP a fine of \$15,000 USD and a repayment of \$825.00 USD amounts received in connection with Corruption Offenses under a payment plan to be agreed.
- (vii) The Decision herein is a final determination of the matter subject to a right of appeal to the Court of Arbitration for Sport (CAS) under Section I.1. with a deadline under Section I.4. of twenty (20) Business Days from the date of receipt of the Decision by the appealing party.
- (viii) Under Section I.2. of the 2023 TACP the suspension ordered herein shall remain in effect while under appeal unless CAS orders otherwise.

## **DECISION of the AHO**

### **THE PARTIES**

1. Percy Flores (“Flores”) is an ITF White Badge Umpire in tennis from Bolivia. He worked as an official at ITF tournaments. Under Section B.39 of the 2023 Tennis Anti-Corruption Program (the “TACP”) Flores’ position is defined as Tournament Support Personnel (“TSP”)<sup>1</sup>. Therefore, Flores is a Covered Person under the definition in Section B.10 of the TACP. Pursuant to Section C.1. he was and is subject to the provisions of the 2021, 2022 and 2023 TACPs. In any event, Flores has not disputed that he was and remains subject to the cited TACPs.
2. The ITIA administers the TACP for the Governing Bodies of tennis through the Tennis Integrity Supervisory Board. Under the definition of TSP an official must receive accreditation at an Event and will continue to be classified as TSP until two years after the last Event at which the TSP provided services or received accreditation. As such Flores continues to be a Covered Person and is bound by all of the provisions of the TACP.
3. Richard H. McLaren holds an appointment as an Anti-Corruption Hearing Officer (the “AHO”) under Section F.1.a. of the TACP. No Party made any objection to his being an independent, impartial, neutral adjudicator to render a determination in this case.

### **BACKGROUND & PROCEDURE**

4. ITIA investigators interviewed the Covered Person on 13 and 17 November 2022. In both interviews the Covered Person admitted to fixing matches by entering false scores in 2021 and 2022 and to receiving both cash and money through Western Union as payment for the agreed upon fixed matches. Transcripts for both interviews were filed with the AHO.
5. On 8 December 2022 the Covered Person was provisionally suspended in accordance with the requirements of Section F.3. of the 2022 TACP.

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<sup>1</sup> All capitalised words or acronyms take their defined meaning from the text of this decision or from the definition and text of the 2023 TACP.

6. On 28 April 2023 the Covered Person was issued a proposal for Agreed Sanction for his consideration as provided for in Section F.5.
7. On 17 May 2023 the ITIA issued a Notice of Major Offense (the “Notice”) and referred the matter to the AHO.
8. Following correspondence from the AHO the Covered Person advised the AHO in a timely fashion on 29 May 2023 that in accordance with Section G.1.d.iii. he wished to admit to the Corruption Offenses specified in the Notice. The Covered Person also submitted simultaneously with this response a written submission on mitigation of the sanctions in accordance with the Section and subsequently provided four separate audio recordings dated “2021-10-23” from his telephone. On 4 June 2023 Flores confirmed following correspondence from the AHO that he was not requesting a hearing.
9. On 8 June 2023 the Covered Person sent the AHO and the ITIA documents and WhatsApp audio files. Those materials prompted the AHO on 19 June 2023 with the assistance of an interpreter to hold a telephone conversation with the Covered Person because Flores was self-represented. The AHO wanted to ensure that Flores fully understood the process he had chosen under the 2023 TACP. At that time the Covered Person advised that he would undertake to carry out a further examination of another phone for information. He filed information in Spanish from that enquiry on 21 June 2023. The ITIA provided translation of these documents on 29 June 2023.
10. The Notice was issued in May of 2023 and in accordance with Section K.6. *“the procedural aspects of the proceedings”* will be governed by the 2023 TACP. The alleged Corruption Offenses occurred in 2021 and 2022 and the TACP in effect in those calendar years is applicable to the substantive matters in accordance with Section K.5.
11. Summarily the Covered Person is charged with the following alleged Corruption Offenses:

- In 2021 one count of breaching Section D.1.b.; one count of breaching Section D.1.m.; and one count of breaching Section D.2.b.i.
- In 2022 nine counts of breaching Section D1.b.; eight counts of breaching Section D.1.m.; and nine counts of breaching Section D.2.b.i.
- In 2021 and 2022 one count of breaching Section D.2.b.ii. and one count of breaching Section D.1.o.

The complete Notice, with all of the charges and summary facts, is appended to this Decision as Appendix 1.

12. The now admitted facts are related to tournaments taking place between November 2021 and October 2022. A corruptor approached the Covered Person and offered to pay money to the Covered Person to manipulate the scores in professional tennis matches at the tournaments listed in the Notice (See Appendix 1). The Covered Person accepted the invitation and would systematically enter the score into the handheld electronic scoring device (“HESD”) in accordance with an arrangement with the corruptor. That arrangement required the Covered Person to score the first point of the relevant game into the HESD as the receiver of the service winning the point regardless of whether the receiver in fact won the point. That meant that on some occasions the score would initially be incorrectly scored. In those instances the Covered Person would have to make a subsequent correction to reflect the actual score.
13. The Covered Person also approached another umpire and solicited and facilitated him to commit Corruption Offenses by a similar scheme to his own of manipulation of the scores in professional tennis matches. That person participated and did manipulate scores in six matches. He has now admitted his violations of the 2021 and 2022 TACP after receiving a proposal for Agreed Sanction (Section F.5.) which he accepted. That person is sanctioned with a 6 year period of ineligibility from Participation in any Sanctioned Events; and, a fine of \$75,000 USD with \$56,000 suspended (Section H.1.b.) and then further reduced by \$9,000 through means testing leaving a payable fine of \$10,000 USD.

14. At the request of the AHO the ITIA timely filed its response submission on 27 June 2023 in accordance with Section G.1.d.iii. In arriving at its recommendations the ITIA compared the sanction proposed in this case to that described in the paragraph above which was accepted by the fellow umpire approached by the Covered Person. The ITIA submits that the individual's conduct was not as serious as that of Flores who invited the fellow umpire to engage in corrupt conduct and assisted him in doing so. In applying the March 2021 Sanctioning Guidelines it was submitted that a ban of at least 28 years, reduced from the starting point of a lifetime ban to reflect Flores' remorse, good character and conduct, is the appropriate sanction before consideration of steps 3 to 5 of the Guidelines. On application of the steps the period of ineligibility would be in the range of 23 to 25 years and a fine of at least double that of his fellow umpire being a minimum of \$20,000 USD.

#### **DETERMINATION OF SANCTION**

15. The Covered Person has admitted to the Corruption Offenses set out in the Notice and sought to mitigate the applicable sanction. In accordance with the procedure in Section G.1.d.iii. of the 2023 TACP and based upon the Covered Person's admissions the AHO confirms that the Covered Person is found to have committed all of the Corruption Offenses set out in the attached Notice. The AHO finds that the Covered Person committed 33 breaches of the 2021 and 2022 TACP. The specific TACP Sections may be found in the Notice attached as Appendix 1. The Covered Person manipulated scores in 10 different matches the first of which was on the [REDACTED] of November 2021; the other 9 manipulated matches occurred in the months of January and October 2022.
16. The First Interview of the Covered Person took place in [REDACTED] Peru and occurred on [REDACTED] November 2022. The Second Interview at the same location occurred on [REDACTED] November 2022. These are collectively referred to as the "Interviews". In the First Interview Flores described how he was approached and initially paid \$20 then subsequently \$30 for each point fixed in certain

matches. He admitted to receiving payments via MoneyGram transfers and received at least \$270 USD from a transferor after which he did not receive any further payments. Flores claimed to have been deceived by the corruptors and asserted that they failed to pay him for some of his manipulation in 2022. In the Second Interview Flores admitted to introducing his fellow umpire to corruptor third parties, in particular a coach with whom he was arranging to manipulate scores. In this interview, on confrontation from the ITIA investigators, Flores admitted that [REDACTED] received payments on his behalf of 900 Euro and 450 Euro on 21 October 2022 and 300 Euro and 178 Euro on 23 October 2022. It is unclear if some of these funds were passed on to his fellow umpire. Flores also admitted that he was introduced to the corruptor who approached him through a former umpire who had been suspended by the ITIA. As outlined in Flores' 4 June 2023 letter to the AHO, he was aware the former umpire was involved in the betting business and Flores contacted him about the possibility of earning money through match manipulation.

17. The applicable version of the Sanctioning Guidelines are those in force at the time a sanction falls to be considered by the AHO or ITIA, which in this case would be the Sanctioning Guidelines that came into force on 1 July 2022 (the "Guidelines"). The Guidelines are not binding on an AHO. The Guidelines is an attempt by the Tennis Integrity Supervisory Board to provide a framework within which an AHO can take into account:
  - (i) the nature of a person's conduct;
  - (ii) relevant precedents; and,
  - (iii) aggravating and mitigating factors.

The Guidelines have been prepared with consideration to previous decisions under the TACP by AHOs and the CAS. The purpose of the Guidelines is to establish a sanction proportionate to the offense while recognising the vulnerability of the sport of tennis to corruption by match manipulation. Sanctions for a breach of the TACP must also be sufficient to serve as a deterrent to others in the future.

18. An AHO has full discretion in relation to the sanction to be imposed. The Guidelines may be taken into account in the decision making process but are not required to be utilised by an AHO. In this case, the original referral to the

AHO included both the person corrupted by the Covered Person and Flores himself. The actions of the ITIA and of the umpire who accepted the Agreed Sanctions must also be taken into account in framing the analysis in this case. The two were involved in the same activity and breaches of the TACP. However, there is a significant distinction to be made in Flores' case because he encouraged another umpire to engage in the same misconduct that he perpetrated by match manipulation. In the jurisprudence to date such conduct generally results in a lifetime period of ineligibility. See *Kollerer v ATP*<sup>2</sup> and *Savic v PTIOs*<sup>3</sup>.

19. The first step of the Guidelines is to determine the “offense category”. To do so the “Culpability and Impact” on the sport must be assessed by examining the characteristics present under the different levels of Culpability and of Impact.
20. In that regard the ITIA submitted the appropriate level is “A-High Culpability” because the breaches involve a “high degree of planning or premeditation”. The AHO finds the scheme in this matter was not complicated. The Covered Person always scored the first service of certain games in favour of the receiver regardless of whether the point was actually won by the receiver. When the receiver did win the point the score would be entered correctly, but sometimes the conduct would result in manipulation when the receiver did not win the point thereby furthering the manipulation conspiracy. The only planning was to align on which games within sets were to be scored in this fashion. The gambler in cahoots with the corruptors had in all such games a winning proposition bet (“prop bet”), only some of which would truly be a win because the score was manipulated to show the winner as the receiver when such was not the case. The AHO concludes that manipulation planning was required but not to a sufficiently required high degree referenced in the Guidelines. The next element in the A-High Culpability element is multiple offenses over a protracted Period of time

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<sup>2</sup> CAS 2011/A/2490; the CAS Panel held that a lifetime ban was appropriate given the nature of the offense on the integrity of tennis

<sup>3</sup> CAS 2011/A/2621; the CAS Panel imposed a lifetime ban and held that such a sanction was not disproportionate in the circumstances



which the ITIA submits is the course of conduct here. The AHO finds that the breaches agreed upon by the Covered Person did not arise over a protracted period of time being only 11 months. Comparing the quantum of breaches<sup>4</sup> is not enough to satisfy this requirement and the time frame is too short. The other factor of this level “A-High Culpability” is met in that another Covered Person was persuaded to commit offenses and Flores had his brother receive illicit payments on his behalf. Therefore, the AHO concludes that the level of Culpability herein is in category A-High Culpability but it is very close to the lower category B of medium risk. Therefore, the category is a hybrid of High and Medium Culpability because not all the elements of A are present.

21. The other aspect of determining the offense category is impact on the sport. The ITIA submits that Flores’ conduct falls within Category 1. There is no doubt that the breaches are Major TACP Offenses as defined in Section B.21. There is no doubt that an umpire is in a position of trust and responsibility within the sport. From what is known of the facts in this case there is not a high value of illicit gain by the Covered Person. That leaves the impact on the reputation and/or integrity of the sport. Umpires do have a direct impact on the reputation of the sport in being the score keepers and rule enforcers. As for the integrity of the sport the matter is opaque. Here proportionality also comes into play. The sport expects Covered Persons to protect the integrity of the game. Likewise Covered Persons can expect tennis authorities to provide sufficient wages or income to be able to support themselves and cover costs associated with tennis. The Covered Person earned about \$5,000 to \$7,000 USD in 2022 from working as an official in tennis<sup>5</sup>. In support of integrity the ITF needs to take more account of this discrepancy of low incomes or risk the likelihood of further and increasing corruption by manipulation. The protection of integrity in the sport is a two-way commitment: the sport to the Covered Person and vice versa. The balance is

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<sup>4</sup> The Covered Person committed 33 breaches in 10 matches. The other now sanctioned umpire committed 19 breaches in relation to 6 matches. A difference but not a particularly material one because many of the breaches are included breaches within a broader category of breach. For example failure to report referred to in Sections D.2.b.i. and ii. of the 2021 and 2022 TACP.

<sup>5</sup> Data from the First Interview also indicated that the Covered Person earns about \$450- \$500 USD per tournament or \$800 USD if acting as the tournament supervisor.

not proportionate at the moment. For all of the foregoing reasons I find that the appropriate position in the Category is at the bottom of Category 1 and very close to being in Category 2. It is a hybrid between Categories 1 and 2 of the Impact element.

22. Based on all of the foregoing the offense category is with respect to Culpability between A and B; and the AHO makes a similar finding of between Category 1 and 2 on Impact. In doing so the AHO is also mindful of the restraints placed upon me in using the Guidelines given the Agreed Sanction of the other Covered Person.
23. Having determined the Offense Category as discussed above, the next step in the Guidelines is to determine the starting point and the category range. As Impact is between Category 1 and 2 the starting point for Category 1 is a life ban (30 years) and Category 2 is a 10-year suspension. The AHO places the starting point at 20 years. The Category range would be 5 years to life ban.
24. The Covered Person provided information which he believed justified his claim of mitigating circumstances. The AHO notes that Flores was initially approached towards the end of 2019 but refused to be involved. However no report of a corrupt approach was made as required by the TACP. Between then and 2021 the Covered Person was unable to earn his usual income because of political upheavals in Bolivia and Chile which caused cancellation of tournaments, and then Covid caused further cancellations in 2020. This meant his usual income was unavailable and he was unable to support his family, pay [REDACTED] and in addition to that [REDACTED] made his family costs even higher. He then contacted the person who approached him in 2019 to see if he could earn some additional money by manipulating scores. Flores expressed remorse for his actions and disappointing his family. He stated that he threw away 15 years of his profession and is now trying to make amends for his mistakes.
25. Flores has demonstrated good character and conduct in how he has responded to and cooperated with the ITIA. The AHO finds that he has committed the Corruption Offenses at a particularly difficult time in his life which could

account for a very modest mitigation. The ITIA does not seek to advance any aggravating factors in this case. The AHO finds that the appropriate sanction in this case is a ban of 15 years subject to steps 3 and 5 of the Guidelines.

26. Reduction for early admission is step 3 of the Guidelines. The maximum reduction would normally be for full admissions of conduct at the interview stage. It cannot be held against the Covered Person that he wanted to make submissions on the sanction. Therefore, the AHO is prepared to make a reduction of 20%. This would result in a reduction of the ineligibility period to 12 years.
27. Step 4 involves Substantial Assistance which is defined in Section B.34 and the procedure is proscribed in Section H.6. of the 2023 TACP. The Covered Person has expressed a desire to assist the ITIA in understanding what has been going on and provide the Substantial Assistance provided for in Section H.6. and the definition. The materials provided to the AHO on 8 and 21 June 2023 may be relevant to this topic. The process will require further interviewing which may result in further investigation of information he supplies. It is not possible for the AHO to determine if Substantial Assistance has been provided. Section H.6. provides for the Covered Person to make an application pursuant to this provision at any time other than during the pendency of an appeal of this Decision. Therefore, he may apply subsequently for reduction in his sanction on the basis of Substantial Assistance if appropriate. It is premature at this time for the AHO to make a determination on this element of the Guidelines.
28. Step 5 of the Guidelines involves setting the amount of the fine and return of monies received in connection with the Corruption Offenses. The Notice estimated the monies received in return for manipulating scores in matches was in the range of \$1,650 USD based on the photographs of money transfers to [REDACTED]. Given the small amount of money the ITIA proposes the AHO orders that one half of this sum, being \$825 USD, be repaid as earnings from corrupt conduct as referred to in Section H.1.b.(i).

29. The table in the Guidelines dealing with fines suggests that for breaches of more than 15 Major Offenses the fine be set at not less than \$75,000 USD. Once again the Agreed Sanction of the other Covered Person comes into play. He received a fine of \$10,000 USD. The ITIA suggests that a fine in this case be at least double that amount. Given the AHO's earlier comments of the Covered Person's ability to earn enough monies and the circumstances of financial impecuniosity that the Covered Person appears to be in, I accept the ITIA's proposal to make the fine greater than \$10,000 but find that \$15,000 is sufficient in all of the circumstances of this case.
30. For all of the foregoing reasons the AHO makes the following determinations and orders as to the sanctions to be applied in this case.
- (i) Percy Flores as an ITF White Badge Umpire held a position as a Tournament Support Personnel defined in Section B.39 and consequently is a Covered Person as defined in Section B.10 under the 2023 TACP.
  - (ii) The Covered Person admitted and is found to have committed Corruption Offenses and breached Sections D.1.b, D.1.m., D.2.b.i., D.2.b.ii. and D.1.o. of the 2021 TACP. He further admitted and is found to have committed Corruption Offenses and breached on nine separate occasions Sections D.1.b, D.2.b.i., eight counts of breaching D.1.m., one count of breaching D.1.o., and one count of breaching D.2.b.ii. of the 2022 TACP.
  - (iii) For all of the foregoing breaches of the 2021 and 2022 TACP the Covered Person is declared ineligible from Participation in any Sanctioned Event for a period of 12 years in accordance with Section H.1.b.(iii).
  - (iv) The above ordered ineligibility shall commence on and is effective from the day after this Decision as prescribed in Section F.6.h.(ii) of the 2023 TACP. The period begins on the 13<sup>th</sup> of July 2023 and ends on the 12<sup>th</sup> of July 2035.
  - (v) This Decision shall be publicly reported in full as prescribed in Section G.4.e. of the 2023 TACP.

- (vi) Under Section H.1.b.(i) of the 2023 TACP a fine of \$15,000 USD and a repayment of \$825.00 USD amounts received in connection with Corruption Offenses under a payment plan to be agreed.
- (vii) The Decision herein is a final determination of the matter subject to a right of appeal to the Court of Arbitration for Sport (CAS) under Section I.1. with a deadline under Section I.4. of twenty (20) Business Days from the date of receipt of the Decision by the appealing party.
- (viii) Under Section I.2. of the 2023 TACP the suspension ordered herein shall remain in effect while under appeal unless CAS orders otherwise.

Dated at London, Canada this 13<sup>th</sup> day of July 2023.

A handwritten signature in black ink, reading "Richard H. McLaren", written over a horizontal line.

Richard H. McLaren, O.C., C.Arb.  
Anti-Corruption Hearing Officer



International Tennis Integrity Agency  
Bank Lane, London SW155XZ, United Kingdom  
t +44 (0)20 8392 4798 e info@itia.tennis  
www.itia.tennis

17 May 2023

**Private and Confidential**

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