

In the matter of the Tennis Anti-Corruption Program (“TACP”)

Before Anti-Corruption Hearing Officer (“AHO”), Mr Ian Mill QC

Between:

INTERNATIONAL TENNIS INTEGRITY AGENCY (“ITIA”)

And

DANIEL ZEFERINO

DECISION ON SANCTION

Introduction

1. I am the appointed AHO in these proceedings, which were commenced by Notice of Major Offense under the 2021 TACP on 24 June 2021 (the “Notice”). The Notice related to a series of Corruption Offenses alleged to have occurred in 2020. The events alleged were said to involve breaches of Sections D.1.b and D.1.d of the 2020 TACP, which provided respectively as follows:
 - a. Section D.1.b: “No Covered Person shall, directly or indirectly, facilitate any other person to wager on the outcome or any other aspect of any Event or any other tennis competition...”
 - b. Section D.1.d: “No Covered Person shall, directly or indirectly, contrive the outcome, or any other aspect, of any Event.”

2. The basis for these allegations was asserted suspicious betting activity in relation to a series of six matches at professional tennis tournaments in respect of which the accused individual ("Mr Zeferino") was the chair umpire – and, as such, a Covered Person. The structure and content of each of the six Charges asserted by the ITIA was essentially the same – Mr Zeferino had manipulated certain scores entered by him into the handheld electronic scoring device ("HESD") used by him for recording the scores in professional tennis matches, thereby generating discrepancies between those scores as recorded by him and as announced by him on court. Those discrepancies coincided with at least 39 suspicious successful bets placed by a number of individuals on the outcome of the points in question very shortly before those points were played.
3. Following the issue of the Notice and my appointment, Mr Zeferino asked the ITIA if it would agree to an adjournment of these proceedings in order that he could attend an interview at which he would tell the "whole truth". I acceded to that request on 9 July 2021. That interview took place on 26 July 2021. In that interview, Mr Zeferino admitted having deliberately entered false scores into the HESD in relation to each of the matches which were the subject of the six Charges in the Notice and having received the sum of €1,200 in consequence..
4. The ITIA and Mr Zeferino subsequently had discussions about the possibility of agreeing a sanction, but these did not conclude successfully. After some progress had apparently been made, Mr Zeferino ceased all communication with the ITIA and his cooperation with the process which I am appointed to oversee.
5. Ultimately, Mr Zeferino having failed to respond to my direction (pursuant to Section G.1.d of the 2021 TACP) that he set out in writing whether he admitted or denied each of the Charges in the Notice and whether he wished to have all issues determined at a hearing (as opposed to on paper), on 14 December 2021 I notified the parties that Mr Zeferino was deemed to have admitted each of the Charges and to have waived his right to a hearing. I did so pursuant to Sections G.1.e.i and G.1.e.ii of the 2021 TACP. At the same time, I directed the ITIA to prepare and deliver its written submissions on sanction on that basis.
6. I received these submissions on 10 January 2022. They proposed particular sanctions on the basis of Sanctioning Guidelines introduced by the ITIA in March 2021 on a trial basis (the "Guidelines"). I responded on the same day in the following terms:

"Dear Sirs

I am grateful for your helpful written submissions dated 10 January 2022. However, I do not consider that it would be appropriate for me to decide the sanction(s) to be imposed upon Mr Zeferino purely on the basis of Guidelines (as those submissions propose), which (a) have only recently been introduced on a trial basis and (b) from which I am expressly granted a full discretion to depart. In deciding whether (a) to apply or depart from those Guidelines and (b) the ITIA's submissions as to the application of the Guidelines in the present case can and should be accepted, it is important in my view to be able to have regard to previous decisions which would (but for the introduction of the Guidelines) have been relevant for the ITIA to refer to in its submissions to me.

I therefore request that the ITIA files a supplemental set of submissions which refers to, and attaches copies of, such previous decisions. In circumstances where I am not to receive submissions from Mr Zeferino, I expect those materials to include any decision which it might be anticipated would have been particularly relied upon by Mr Zeferino had submissions been made on his behalf. Finally, these further submissions should, at least briefly, explain the relevance of the attached decisions and the basis of any reliance upon them by the ITIA.

I would be grateful to receive these further materials by 1 February 2022..."

7. I received the ITIA's supplemental written submissions on 1 February 2022. They fully addressed my concerns as expressed above.
8. I wish to express my particular gratitude to the ITIA for their assistance in this regard.

Sanction

(1) The ITIA's submissions: period of ineligibility

9. For reasons that will be apparent from paragraphs 6 and 7 above, I have received two sets of written submissions on sanction from the ITIA – the first focussing upon an application of the Guidelines to the facts of the case, the second focussing on relevant earlier ITF Disciplinary Panel/AHO decisions.
10. As clearly explained in its second set of submissions, the ITIA's position in terms of the proposed sanctions is the same, irrespective of the basis of analysis. In short, I am invited to

consider imposing on Mr Zeferino a period of ineligibility of six years and six months, commencing on 9 November 2020 (when he was provisionally suspended by the ITF).

11. Central to the ITIA's proposed period of ineligibility based on the Guidelines is its assertion that "the appropriate categorisation of the offending conduct is between categories B.1 and B.2". That categorisation involves a conclusion that, on the facts of the case, Mr Zeferino's level of culpability for the offences committed by him "medium", as opposed to "high" or "lesser". A period of six years and six months is at the mid-point between the starting point for category B.1 (ten years) and B.2 (three years). The ITIA submits that aggravating and mitigating factors are evenly balanced and that there are no other reasons to reduce the period of suspension. The ITIA's finishing position is thus the same as its starting position.
12. In its second set of submissions, the ITIA has drawn my attention to two decisions under the ITF Code¹ and one under the 2017 TACP² in which the chair umpires charged were in each case banned for life from the sport of tennis. The ITIA nonetheless maintains the appropriateness of a period of ineligibility of six and a half years, pointing to aspects of the present case which are said to make it a less serious case than the previous three which merited life bans.
13. The ITIA has also drawn my attention to the case of *PTIOS v Izotov*, a decision of AHO Professor Richard McLaren under the 2019 TACP. That case concerned a chair umpire who was offered money to delay inputting score data into the electronic scoring system during matches at a particular tournament. He failed to report that approach to the TIU in breach of Section D.2.b.i of the 2019 TACP. He was also found to have attempted to profit from contriving aspects of an Event and attempting to corrupt two other officials, contrary to Sections D.1.b, D.1.d and D.1.j of the 2019 TACP. The AHO sanctioned the umpire with a three year period of ineligibility and a US\$10,000 fine. The ITIA submits that Mr Izotov's conduct was less serious than that of Mr Zeferino, given that Mr Izotov was only charged with two Section D.1.d offences under the TACP and his actions did not actually contrive the outcome of any event. In contrast, Mr Zeferino did actually contrive the outcome of an event and did so on six separate occasions.

(2) My decision: period of ineligibility

14. On reading the first three decisions to which I have referred above, I was forcibly struck by the importance which the decision-maker in each case ascribed – correctly in my view – to the

¹ *PTIOs v Sherzod Hasanov and Arkhip Molotyagin; PTIOs v Serkan Aslan and Mehmet Ulker*

² *PTIOs v Anucha Tongplew, Apisit and Chitchai Srililai*

position of a chair umpire and the need for all stakeholders in the sport of tennis to be able to be reliant on him/her to maintain the integrity of the sport. To quote AHO Charles Hollander QC in *Tongplew*:

“Any chair umpire occupies a unique position of trust within the sport of tennis. It is vital to anyone playing tennis, watching tennis or otherwise involved in the sport that they have complete confidence in the integrity of a chair umpire to officiate any match to the highest of standards”.

15. It was this consideration which appears to have influenced the decision-makers in each of those three cases to impose lifetime bans. In my judgment, the ITIA’s approach in the present case pays insufficient attention to this crucial aspect of the matter. I disagree with its analysis leading to the conclusion, by reference to the Guidelines, that Mr Zeferino’s misconduct involved only “medium culpability”. While the particular factors listed in the current Guidelines as suggesting “high culpability” do not refer to a Covered Person’s position of responsibility, I have no doubt that this is a factor which may be highly significant when assessing levels of culpability. That is so in this case. Mr Zeferino had, according to his responses to questions during his interview with the TIU in October 2020, been chair umpiring regularly for over three and half years when the Corruption Offenses were committed by him³. In addition, he was in 2020 [REDACTED]. He was, unsurprisingly, well aware of the need to abide by the Rules of the Officials Code of Conduct and the TACP.
16. It is particularly regrettable that someone with the positions of trust, responsibility and respect enjoyed by Mr Zeferino in 2020 should have conducted himself as he did in committing the Corruption Offenses with which he has been charged.
17. I am in no doubt that, on the facts of this case, Mr Zeferino should in consequence be in receipt of a lifetime ban. That is the only sanction which is both proportionate to the Corruption Offenses committed by him and an appropriate deterrent to prevent others in similar circumstances from committing such misconduct.

³ He had used hand held scoring devices on more than 200 occasions.


(3) Should a fine be imposed in addition

18. Had I accepted the ITIA's proposal of a lesser period of ineligibility for Mr Zeferino, I would also have regarded its proposal of a US\$ 10,000 fine (partially suspended) as appropriate. However, in the light of my decision that he should be banned for life, and the modest financial gain which he has made in consequence of his misconduct, I do not consider that it necessary or proportionate that Mr Zeferino be visited with any further or additional sanction.

Decision

Mr Zeferino is to have his credentials revoked permanently.

This decision may be appealed exclusively to the Court of Arbitration for Sport in accordance with Section I of the 2021 TACP.



.....

London, England

4 May 2022