

In the Matter of an Alleged Corruption Offense under the Tennis-Anti Corruption Program

BETWEEN

Cristobal Saavedra-Corvalan (hereafter the "Player" or the "Covered Person")

- and -

Professional Tennis Integrity Officers (hereafter the "PTIOs")

Being constituted by appointments from each of the following Governing Bodies:

ATP Tour, Inc.	("ATP")
Grand Slam Board	("GSB")
International Tennis Federation	("ITF")
WTA Tour, Inc.	("WTA")

Representing the Covered Person:	Edwin Flores Rodriguez, Avocat Prat 814, Oficina 502 Valparaiso, Chile
----------------------------------	--

Representing the PTIOs:	Nicholas Corsellis, Barrister Ross Brown, Solicitor Onside Law 642 Kings Road London, UK, SW6 2DU
-------------------------	---

Anti-Corruption Hearing Officer, Tennis Anti-Corruption Program	Professor Richard H. McLaren, O.C. (hereafter "AHO")
--	---

DECISION of the AHO

THE PARTIES

1. The PTIOs¹ are appointed by each Governing Body (ATP, GSB, ITF and WTA) participating in the Tennis Anti-Corruption Program (“TACP”). They have the responsibility to administer the TACP and direct the Tennis Integrity Unit (“TIU”).
2. Cristobal Saavedra-Corvalan (hereafter “Saavedra” or the “Player”) is a 28 year-old professional tennis player. He was registered with the ITF through his ITF International Player Identification Number (“IPIN”) in 2017, which is a requirement for competing in ITF tournaments, and has been since 2010. By registering, Saavedra accepted the ITF rules and regulations, which incorporate the ITF Code of Conduct and in turn the TACP. He also agreed to abide by the TACP by signing the ITF Player Welfare Statement every year from 2010 to 2017. Therefore, Saavedra is a Covered Person under the TACP and is subject to the jurisdiction of the AHO.
3. Richard H. McLaren holds an appointment as an Anti-Corruption Hearing Officer (“AHO”) under Section F.1. of the Program. The Parties have made no objection to the arbitrability of the matter, nor the appointment or jurisdiction of the AHO. By agreeing to Procedural Order No.1 (“PO No. 1”), the Parties have confirmed that the AHO is properly appointed and seized of the matters in dispute.

¹ All capitalized words or acronyms take their defined meaning from this text; the Program Definitions; or, ordinary English language usage or custom.

BACKGROUND

4. The TIU received information regarding suspicious betting activity surrounding a match in which the Player was competing. On 5 October 2015, the Player was interviewed by the TIU. During the interview the Player seemingly complied with a request of the TIU to provide his mobile phone and tablet for forensic examination. The results of this examination led to a second interview on the same day. The Player explained that the devices contained limited information because they were replacements, as he had lost both of his previous devices at the Charles de Gaulle airport while traveling five days prior to the interviews. The loss was not reported to the French authorities.
5. Between 5 October 2015 and 5 June 2017, the TIU received further betting alerts from betting operators relating to seven suspicious matches in which the Player was a participant. These alerts led to the Player being interviewed by the TIU on 5 June 2017 in Istanbul.
 - (i) *The First Demand*
6. During the Istanbul interview a Demand was issued to the Player to surrender his mobile phone to the TIU (hereafter the "First Demand"). The Player refused to do so until he had spoken with a lawyer. He was given alternative ways to do so while he or his phone remained in the interview room. He insisted on doing it on his own phone in private. He left the interview room having agreed to be available the following day if required.
7. In a follow up interview on the following day the Player confirmed that he had consulted legal counsel. However, he notified the TIU that he would be unable to comply with the First Demand because the previous evening he had been the victim of a theft in central Istanbul in which his mobile phone,

wallet and passport had been stolen. The theft in Istanbul was reported to the Turkish authorities.

(ii) *The Second Demand*

8. On 12 June 2017, a subsequent Demand (hereafter the "Second Demand") was made by the TIU. The Second Demand requested email accounts, bank accounts, phone contracts, social media accounts and information from the Turkish authorities relating to the theft. The failure of the Player to comply with all elements of the Second Demand led the PTIOs to request a non-compete order from the AHO.
9. On 16 October 2017, the AHO issued a non-compete order against Saavedra for his failure to produce required information pursuant to the TIU's Second Demand under Section F.2.c. of the 2017 TACP. The order was issued by email correspondence as follows:

Mr. Cristobal Saavedra-Corvalan is hereby declared ineligible to compete and is denied credentials and access to Events pending compliance with the Demands of the TIU investigators. The ineligibility to compete will continue until such time as he complies with the Demands of the TIU and surrenders his mobile phone and electronic devices for forensic examination and records relating to the alleged Corruption Offense.

10. The Player challenged the 16 October 2017 ineligible to compete order. In an Interim Ruling the AHO held that an in-person examination was required to complete the PTIOs request for a ruling. On 12 February 2018, over Skype conference call the Player was cross-examined by counsel for the PTIOs before the AHO.
11. On 14 February 2018, the AHO confirmed the non-compete order on the basis that the Player had not complied with the TIU's demands and ruled that the Player remain provisionally suspended. The AHO ordered that the

ineligible to compete order was to remain in effect pending the Player's compliance with the Second Demand.

(iii) *The Third Demand*

12. The TIU, on 23 February 2018, made a further Demand (hereafter the "Third Demand") for the provision of additional personal information. This information included bank statements and telephone records as well as confirmation that the Player contacted his lawyer on 5 June 2017.

(iv) *The Notice*

13. A Notice of Charge (the "Notice"), dated 26 July 2018, was sent to the Player in accordance with Section G.1.a. of the TACP. The Notice alleged that: *"neither the demand of 12 June 2017 nor the demand of 23 February 2018 have been properly complied with."* It also alleged that the Player, *"failed to cooperate with the TIU by providing your personal mobile telephone when a demand was made by the TIU"* during his 5 June 2017 interview. The combined effect meant that the Player is alleged to have committed a Corruption Offense under Section F.2.c. of the 2017 TACP.
14. The foregoing allegations against the Player took place in 2017 and 2018. In the Notice the PTIOs state: *"...The wording of the relevant Corruption Offense has been updated for the 2018 version of the TACP. Therefore, the relevant charge will be taken from the 2017 version of the TACP."* On this basis, the rules of the 2017 TACP apply to the merits and the procedural basis for this Decision is governed by the 2018 TACP.

PROCEDURAL SUMMARY

15. The Notice of Charge was served on the Player on 26 July 2018 with a copy sent to the AHO. The Notice is attached hereto as Annex #1. In summary, it alleges that neither the Second Demand of 12 June 2017 nor the Third Demand of 23 February 2018 have been properly complied with. There is also an allegation of failure to cooperate with the TIU by providing the Player's personal mobile telephone following the First Demand made during the 5 June 2017 interview. In essence explanations are lacking to explain the Player's actions, which led to the suspicion that he is deliberately seeking to avoid providing requested information to the TIU investigators. Therefore, they allege that all of his conduct during the investigation and various Demands in and of themselves constitute a Corruption Offense.
16. In accordance with Section G.1.f. of the 2018 Program, on 12 September 2018 a pre-hearing telephone conference call was held with the counsels for all parties to determine the procedure applicable to these matters and PO No. 1 was executed by the AHO.
17. The jurisdiction to hear the matter stems from the Player's registration of his ITF IPIN. When registering the player confirms their agreement to the player welfare statement which include adhering to the relevant rules of tennis which expressly includes the TACP. At the directions hearing to set the present procedure held on 12 September 2018 no objections were raised to determining the notice in accordance with the terms of the TACP.
18. Production of documents took place pursuant to PO No. 1 and was completed by both Parties by 19 October 2018.
19. On 28 September 2018 pursuant to PO No. 1 counsel for the Player submitted witness statements, with translations at a later date, on behalf of



20. On 24 October 2018, the PTIOs filed a signed witness statement and exhibits related to the contents of that statement on behalf of [REDACTED], an investigator with the TIU.
21. In accordance with PO No. 1 and permitted extensions the PTIOs then submitted their Initial Brief and associated exhibits on 16 November 2018. On 30 November 2018, counsel for the Player submitted his Initial Brief. On 7 December 2018 counsel for the PTIOs submitted their Reply Brief.
22. After the completion of the Hearing the Player wrote to the AHO on 28 December 2018 making a Request that sought confidentiality of his case and non-publication of this Decision and Award. The submission was based upon the premise that publication was an additional penalty beyond any suspension or fine that might be imposed. The AHO admitted the Request despite the fact that the Hearing was closed. A reply was granted to the PTIO's counsel.
23. On 3 January 2019 the Reply to the Request was filed. The PTIOs submitted that under Section G.4.d. of the 2018 TACP, there is a presumption that a decision by an AHO will be publicised in full (both as to liability and sanction) should a Corruption Offense be found to have been

committed. The only limitation in the TACP on that section is for specific information that the PTIOs consider to be confidential.

HEARING

24. A two-day hearing was held on 11 and 12 December 2018 at the J.W. Marriott Marquis Hotel in Miami, Florida, USA. Instantaneous translation from Spanish to English and English to Spanish was provided throughout the Hearing.

EVIDENCE

25. The AHO has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings. The AHO refers in this Award and Decision only to the evidence and submissions considered necessary to explain the reasoning.
26. ████████ a TIU investigator, testified and was cross-examined at the Hearing. ████████ testified that the Player was given alternatives to speak to a lawyer using a different phone and that he did not take up those opportunities. During cross-examination, in regards to the Player's lost phone he stated, *"I believe that the report that was made to the police contained inconsistencies with the interview [of June 6th] that he gave."* Specifically, during his interview with the TIU the Player was asked *"If he felt there was something sharp in his back, such as a knife, which he said no, he did not recall."* *"In his report to the police, he ... mentioned that there was a knife."* In regards to the property stolen the Player mentioned that he had credit cards stolen. Nevertheless, he continued to state to the TIU investigators *"that he never had possession of any credit cards."*
27. ████████ testified with regard to the Second and Third Demands that, *"the requests that were not complied with were the revelation of his iCloud*

account. He has still not provided us satisfactorily with bank account details ... I would agree that the majority of requests were complied with. I would also state that Mr. Saavedra still had not assisted us to reach a satisfactory conclusion in this matter." When questioned about the Player's submission of his iCloud account information, [REDACTED] stated, "We received the detail of his password. We did not receive details of his PIN code to access the account. He stated that this was only available on his telephone, which had been reported stolen."

28. During redirect-examination [REDACTED] also stated, "I believe that Mr. Saavedra was providing me with information. However, I believe it was on a piecemeal basis insofar as he would provide the information, which may have suited his own purposes. The information provided led to me asking further questions at most steps." [REDACTED] agreed that this provision of information also led to his conclusion that there was clear non-cooperation in this case.

29. The Player testified and was cross-examined at the Hearing. Saavedra testified that the income he received from playing tennis was enough to support him and continue his career. All money he received until 2013 was in cash and after that money would be deposited by his tennis association

[REDACTED]
would then give him the money in cash. At tournaments the Player would either pay for travel and participation in cash or it would be paid for by a sponsor, CTS tourism. [REDACTED]
[REDACTED]

30. The Player further testified that he had never been approached about match fixing. He stated that after being interviewed by the TIU on 5 June 2017 he went back to his hotel and contacted an attorney. [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED] On his way to the Western Union a man approached him and stole his wallet, telephone and passport. He went to the police to report this theft.

31. The next day he got up very early to go to the consulate in Istanbul for help. They informed him they could not help and that he had to go to the embassy in Ankara. He returned to his hotel and called the embassy and they said they would send some people later that morning.

32. The Player stated he gave the TIU his iCloud password and username, so they could get into his account. He also stated that records regarding the telephone account movements [REDACTED] banking records were provided, completing the second request.

33. The Player testified that he [REDACTED] and a debit card in his name, [REDACTED] and that he has never had any credit cards. He alleged that the transcript from 5 June 2017 must have been a mistake made by the interpreter. The Player admitted he has one bank account in the Cayman Islands that he opened right after the interview with the TIU in 2015 because his friend, [REDACTED] [REDACTED] had recently started working at the agency and suggested it was a good idea to open a savings fund.

34. When questioned about his Facebook friendship with [REDACTED] [REDACTED] the Player testified that he did not know that the TIU was [REDACTED]

SUBMISSIONS of the PARTIES

(i) The PTIOs

35. The PTIOs submitted that the Covered Person breached the TACP by failing to comply with three Demands made by the TIU under F.2.c. The particulars of each Demand and the deficiency of the replies are particularized in the submission.

36.



37. It is submitted that the non-cooperation comes from the Player's failure to comply with the Demands. The Player engaged in a concerted effort to attempt to conceal the alleged Corruption Offenses through withholding crucial information and engaging in a series of maneuvers to frustrate the investigation of the TIU. In so acting the Player committed Corruption Offenses under Section F of the TACP by not complying with three demands from the TIU investigators to provide requested information in violation of Section F.2.c. of the 2017 TACP.

38. It is further submitted that the Player's failure to cooperate and his attempts to frustrate the TIU's investigation by withholding crucial information have been deliberately done to conceal potential Corruption Offenses committed contrary to Section D of the TACP. The self-confessed unusual lifestyle of the use of only cash in virtually all

circumstances with no bank accounts and the use of other persons' phones and credit cards confirms the inferences drawn by the TIU.

39. The PTIOs also submitted that the calculated approach of the Player's explanations for failing to comply with the three demands lacked credibility and contained significant inconsistencies. In summary, his conduct in the investigation, his life style and his constant fulfilling of requests in half measure confirm the existence of the charges in the Notice.

40. In support of its submissions the following cases were referred to:

David Savic v. PTIOs, CAS 2011/A/2621; *Oleg Oriekhov v. UEFA*, CAS 2010/A/2172; *Daniel Köllerer v. ATP*, CAS 2011/A/2490; *Ivo Klec v. PTIOs* (McLaren, August 2015); *Zuluaga Gaviria v. PTIOs* (McLaren, April 2018).

(ii) *The Player*

41. Counsel for the Player submitted that the Player used his best efforts to cooperate with the TIU's investigation and therefore has not violated Section F.2.c. of the 2017 TACP. It was submitted that the allegations are based on conjecture and lack conclusive evidence demonstrating the commission of the alleged Corruption Offenses. It is also suggested that there is a cultural difference between a Chilean player and the investigative staff, which explains many of the inconsistencies relied upon.

42. It is submitted that the Player has, wherever he could and within his own reality, delivered all that has been requested of him and more. Information that the TIU might request that has not been delivered is because it cannot be and is not within the power of the Player to deliver it. Counsel for the Player submitted that the Second and Third Demands, as well as all further requests by the TIU, were fulfilled completely.

43. Counsel for the Player further submitted that the Player intended to provide the TIU with his phone on 6 June 2017 but was unable to do so because of a theft that was unforeseen and beyond the Player's control. This incident was frustrating for both the Player and the TIU. It was also submitted that the Player's request to consult a lawyer during his 5 June 2017 interview, prior to complying with the request of the TIU was reasonable given the fact that the TIU had not given the Player feedback after his first interview in 2015. Furthermore, it was submitted that the Player's inconsistent accounts of the robbery were the result of having to file a complaint with the Turkish police through an interpreter that did not speak Spanish and the pressure created by the TIU.
44. It was submitted that the Player was in possession of his passport at the time of the robbery because this is the only valid form of identification for a Chilean in Turkey and the Player required identification to transfer money using Western Union [REDACTED]
45. Counsel for the Player submitted that any delays in submitting requested information resulted from the fact that the information requested came from third parties. He submitted that the Player made a significant effort to obtain this information from third parties and that this information was provided to the TIU as soon as it came into the possession of the Player.
46. Counsel for the Player also submitted that the Player has always managed his affairs in cash and has always received cash payments from tournaments, which is common practice in Chile.

It was also submitted that the Player's case must be resolved on its own merits and previous similar cases should not be taken into consideration. The Player's counsel also submitted that the application of the balance of probabilities standard of proof is not justified in this process.

(iii) *PTIOs Reply to Player's Answering Brief*

47. In reply counsel for the PTIOs stated that suspicious matches in which the Player competed and betting concerns are relevant and reliable evidence that can be considered by the AHO. They also submitted that the use of precedent does not violate any of the Player's rights.
48. It was submitted that the Player has not provided any detail explaining his [REDACTED] which was the alleged cause of his trip into Central Istanbul. The PTIOs submitted that this is reason to doubt the feasibility of the suggestions.
49. It is further submitted that the witness statement provided by the Player contains a Chilean identity card with an issue date of 9 October 2014. However, the Player alleges on multiple occasions that he had lost his identify card in 2017, so the possession of the identity card calls into question the existence of the alleged theft.

THE RELEVANT PROVISIONS OF THE 2017 & 2018 PROGRAM

50. **B. Definitions (2017)**

5. *"Corruption Offense" refers to any offense described in Section D or E of this Program.*

B. Definitions (2018)

5. *"Corruption Offense" refers to any violation of any provision of the Program by a Covered Person, including any offense described in Section D E or F of this Program. [Highlighting that of the AHO]*

D. Offenses (2017)

Commission of any offense set forth in Section D or E of this Program including a violation of the Reporting Obligations or any other violation of the provisions of this Program shall constitute a Corruption Offense for all purposes of this Program.

1. Corruption Offenses.

a. *No Covered Person*

2. Reporting Obligation.

a. **Players**

c. *For the avoidance of doubt, (i) a failure of the Reporting Obligation by any Covered Person; and/or (ii) a failure of the duty to cooperate under Section F.2 shall constitute a Corruption Offense for all purposes of the Program.*

F. Investigation and Procedure (2017)

2. Investigation.

c. *If the TIU believes that a Covered Person may have committed a Corruption Offense, the TIU may make a Demand to any Covered Person to furnish to the TIU any information regarding the alleged Corruption Offense, including, without limitation, (i) records relating to the alleged Corruption Offense (including, without limitation, itemized telephone billing statements, text of SMS messages received and sent, banking statements, Internet service records, computers, hard*

drives and other electronic information storage devices), and (ii) a written statement setting forth the facts and circumstances with respect to the alleged Corruption Offense. The Covered Person shall furnish such information within seven business days of the making of such Demand, or within such other time as may be set by the TIU. Any information furnished to the TIU 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 solely for the purposes of the investigation and prosecution of a Corruption Offense.

H. Sanctions (2017)

- 1.** *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 for participation in any event organized 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 D.2., ineligibility for participation in any event organized or sanctioned by any Governing Body for a maximum period of permanent ineligibility.*

- b. *No Player who has been declared ineligible may, during the period of ineligibility, participate in any capacity in any Event (other than authorized anti-gambling or anti-corruption education or rehabilitation programs) organized or sanctioned by any Governing Body. Without limiting the generality of the foregoing, such Player shall not be given accreditation for, or otherwise granted access to, any competition or event to which access is controlled by any Governing Body, nor shall the Player be credited with any points for any competition played during the period of ineligibility.*

DECISION ON THE MERITS

51. Over a four-year period from 2013 to 2017 there are seven matches in which the Player played tennis and the TIU received a betting alert. Betting alerts in themselves do not amount to an established fact or conclusion of corruption but merely a suspicion by betting operators that there may be corruption because of unusual patterns in the betting. Those suspicions of the betting operators are reported to the TIU as an alert. It is up to the TIU to evaluate what the implications may be under the TACP.
52. The TIU in this case submitted a good deal of information and argument upon the details of these alerts but never made the assertion that the evidence submitted amounted to a Corruption Offense under the provisions of Section D.1. of either the 2017 or 2018 TACP. Therefore, the only purpose of that information in this case is to determine that the evidence may fulfill mandatory or qualifying requirements of the TACP.
53. That evidence is not relied upon by the AHO for any other reason or purpose other than to determine that mandatory or qualifying conditions in various rules of the TACP are met.

54. The mandatory and qualifying condition in the 2017 and 2018 TACP is the same. The TIU must believe that: “...*a Covered Person may have committed a Corruption Offense...*” The AHO finds that the betting alerts and other information placed in evidence in this proceeding demonstrates that the TIU could hold and did hold a reasonable belief that a Corruption Offense may have occurred. Therefore, the necessary qualifying condition for operation of F.2.c. of the TACP is fulfilled and established in this case by the evidence provided. The TIU does not assert that these alerts over betting concerns are in fact matches of which the Player may have attempted to contrive the outcome. As stated above the betting information is only relied upon to satisfy this qualifying condition and for no other purpose in this particular case.
55. The definition of Corruption Offense in the 2017 version of the TACP states: “*any offense described in Section D or E of this Program*” noticeably absent is any reference to Section F. The same definition in the 2018 version of the TACP is substantially altered. It defines Corruption Offense by a Covered Person as “*any violation of any provision of the Program*” and then specifically adds a violation of Section F as a Corruption Offense. Therefore, Corruption Offense is widened to “...*any violation of any provision of the Program by a Covered Person.*”
56. The foregoing difference in the wording is noted in this Decision. The AHO determines as a matter of interpretation that this difference has no particular impact because the Notice takes the position that as to the merits only the 2017 TACP will be applied.
57. Any alleged Corruption Offense from 2013 to 2017 could include violations of Section F. The TACP in 2017 states in Section D.2.c.(ii) that “*a failure of the duty to cooperate under Section F.2. shall constitute a Corruption Offense for all purposes of the Program.*” Then Section F titled

"Investigation and Procedure" in Section 2.b. describes the previously referenced duty to "... cooperate fully with investigations conducted by the TIU..." (the "Duty to Co-operate"). The specifics of the details of that Duty to Co-operate relate to the details in making the Demand under Section F.2.c.

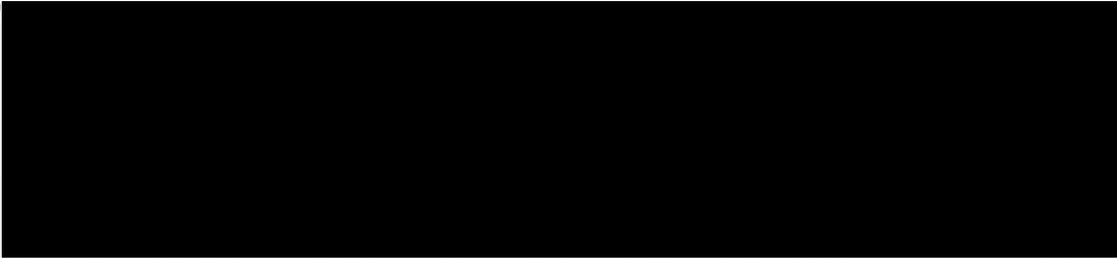
58. A Demand under F.2. requires a Covered Person to furnish information regarding a possible Corruption Offense. In that regard the First and Second Demands were made under Section F.2.c.i. of the 2017 TACP. That clause permits a Demand for "*... records relating to the alleged Corruption Offense (including without limitation, itemized telephone billing statements, text of SMS messages received and sent, banking statements, Internet service records, computers, hard drives and other electronic information storage devices), and (ii) ...*".
59. The Third Demand, which the AHO calls the clean up Demand was made in 2018. In that regard Section F.2.c.i. through iv. of the 2018 TACP is very different and more complete. That clause permits a Demand without limitation for:

"(i) personal devices (including mobile telephone(s), tablets and/or laptop computers), (ii) access to any social media accounts and cloud storage held by the Covered Person (including provision of user names and passwords); (iii) hard copy or electronic records relating to the alleged Corruption Offense (including without limitation, itemized telephone billing statements, text of SMS and What's App messages received and sent, banking statements, 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."

In the case of the Second and Third Demands what was specifically requested and is on the PTIOs submissions not fulfilled was a statement of

account [REDACTED] and access to the Player's iCloud account on Mr. Saavedra's mobile phone.

60. Despite the foregoing revisions to the TACP rules between 2017 and 2018 the Demands made by the TIU investigators all do fall within the language of F.2.c.i. and ii. of the 2017 TACP. Therefore, all that needs to be determined in this decision is the following issue. Were the Demands fulfilled: fully, partially or not at all in a fashion which would lead to the conclusion that the Duty to Co-operate under F.2.b. was not complied with. That is the essential element of this case.
61. With respect to the failure to fulfill the various specific Demands it is found that all that remained over the period of the three Demands was the surrender of the Player's phone pursuant to the First Demand. The Player's iCloud account PIN code, and bank account details [REDACTED] remained unfilled from the Second and Third Demands.
62. It is not the failure to eventually comply with specific Demands that is the primary complaint of the PTIOs. It is the manner, process and incomplete fulfillment of specific Demands of compliance that gives rise to this case.
63. The fundamental allegation is that the manner in which the Demands were satisfied, rather haltingly and slowly, amounted to a failure to co-operate as is required by F.2.b. Therefore, a breach of the Duty to Co-operate in the 2017 TACP would be established by Section F.2.c. and that would amount to a Corruption Offense by Section D.2.c.ii.
64. The obligation is upon the Covered Person who is a professional tennis player to provide computers, hard drives and any other electronic information storage devices. The three Demands were made in the context



are three elements where the Duty to Co-operate failed:

- a. the interview process of 5 June 2017 in relation to the First Demand;
- b. the Second Demand of 12 June 2017; and,
- c. the Third Demand of 23 February 2018.

65. During the course of the interview involving the First Demand the Player was asked to turnover his phone to enable it to be downloaded. He understood his obligations for in an earlier interview in 2015 the same request had been made and he surrendered his relatively new phone and iPad to investigators at the time. He had lost or left behind his previous phone at a security check point at Charles de Gaulle airport in France. He also was familiar with the TACP and knew his obligations from twice completing the explanatory TIPP courses. The second of which was months before his interview in 2017.

66. The Player was reminded during the first interview of his Duty to Co-operate. The Player's response to the request to permit the TIU investigator to download his mobile phone was to the effect that he wished to speak with his lawyer. There is no breach of the Duty to Co-operate based solely on the desire to speak with a lawyer. Indeed, the TACP in Section F.2.a.ii. states that a "*Covered Person shall have the right to have counsel attend the interview(s).*"

67. At the time of the request from the investigator there is a need to protect the integrity of the phone from tampering, destruction or loss. To

accomplish that objective the investigators offered to permit the Player to make the call on one of their telephones or on his phone in their presence. However, he expressed the wish to make the call in private, which is his right. He also wished to make the call on his own phone in private outside of the interview room and not in the presence of an investigator; therein lays the absence of co-operation. He declined all options which would have protected the integrity of the phone. He left the interview room with his phone having been warned that this would amount to non-co-operation. He did agree he would return the following day which he did but without his phone.

68. Overnight the phone was stolen from the Player whilst he was in Istanbul. The AHO does not need to decide whether this in fact occurred; or, that the process of reporting the theft to the Turkish police was a sham. The effect of the poor choice and decision of the Player to leave the interview room with his phone left the investigators without ever having access to what might have been crucial evidence in their investigation. It may not be the Player's fault that the phone was stolen but it was certainly his fault that the circumstances where the phone was lost to the investigators was created because of a poor choice and decision on his part. Therefore, it was that poor choice that triggered a breach of the Duty to Co-operate as prescribed in the 2017 TACP.

69. The Second Demand related to providing email accounts, bank accounts, phone contracts, social media accounts and information from the Turkish authorities relating to the phone theft. This Demand ultimately led to the issuance of a non-compete order from the AHO until the Demand was satisfied. At the time of the Hearing that non-compete order or suspension was still in effect from 16 October 2017.

70. The Player's explanation for not providing some of the requested documents and information was that he uses cash and does not have credit cards or a bank account. During the interviews and through the course of the procedure leading to the Hearing and the evidence at the Hearing the AHO now understands that many of the Player's statements were half-truths and not the whole truth. The Player drew a distinction between a request for his credit card, which he claims not to have had and access to a credit card [REDACTED] on an as needed basis. He drew a distinction between a request for bank account information, which he claimed he only had one account through which international transactions cannot be conducted and is only useable within Chile. He then drew a distinction between a request for his bank information and the fact that he had a debit card in his name capable of being used [REDACTED] bank account. Sponsorship funds and tournament prize money were deposited in this account and to which the Player also deposited funds. These various distinctions or rationalisations as to compliance with the Demands became clearer at the Hearing. Furthermore, in the course of some information being provided the investigators found out that the Player also had a second financial account in the Cayman Islands, which he had not disclosed. The Player explained that he had forgotten about that account. The AHO finds that he must have known about it for it was set up shortly after his initial interview in June 2015. It would appear as a result of his being questioned at the time although he had other unsatisfactory explanations at the Hearing.

71. The entire foregoing paragraph demonstrates the Player's level of co-operation. He gives over information when he is trapped and has no other reason, justification or rationale to withhold it. The Player submitted in argument that he has complied with the Demands and provided the foregoing explanations and previously described distinctions. What he was doing was providing information on a piecemeal basis over many

months. He only provided information when it either suited his purpose or he had no explanation for his failure to provide information such as the Cayman Island account. Once again the AHO would conclude that there was non-co-operation. The Player was not candid and forthright in providing any information and was impeding and delaying the progress of the investigation by drawing distinctions between his actions and those of his sister and sponsors to suit his purposes. All of that conduct amounts to a breach of the Duty to Co-operate.

72. The Third Demand in February of 2018 involved requesting iCloud and other personal information. He did provide the user name and password of his iCloud account. He explained that it would be impossible for him to obtain the verification code which would be sent to his now stolen phone. So there is no way for an investigator to reopen the data storage facility and examine what is on the iCloud account. This is a failure to satisfy the Demand for there most certainly is a method by which the Player could contact Apple explain the circumstances and obtain the information; or, have the AHO issue a subpoena for the information. Therefore, he did not fully and completely comply with the Demand as it relates to his iCloud account. Those actions never taken by the Player constitute not only a failure to satisfy the Demand but also amount to a breach of the Duty to Co-operate.

73. The Player constantly supplied the minimal amount of information on as delayed a time scale as possible when confronted with the three Demands. He would never disclose initially the clever distinctions he was using in his explanations to the TIU investigators by saying he worked solely in cash and had no credit cards; nor a bank account that would support a credit card. Nevertheless, he had access to [REDACTED] account and a debit card in his name linked to that account. What he appears to have done is to try and set up the perfect investigation proof

circumstances. This proceeding and Hearing allows the AHO to see through that perfect ruse and finds him to have failed to satisfy a legitimate Demand and breached his Duty to Co-operate as described in these reasons. Therefore, the AHO finds that the allegations of the Notice have been proven and the Player has committed a Corruption Offense.

74. Based upon the foregoing conclusion the matter of what is the appropriate sanction in the circumstances now arises. The PTIOs submit that the maximum sanction under the TACP is a three-year ban from participating in any form of tennis. It is submitted that the severity of the non-cooperation and the time span in obtaining responses to some of the Demands justifies the application of the maximum sanction.
75. The foregoing submission of the PTIOs' counsel is built upon an assumption that key evidence was destroyed deliberately. That proposition was never proven. Klec, *supra*, was a two-year suspension and a \$10,000 US fine; Gaviria, *supra*, was a three-year suspension and a \$5,000 US fine.
76. A non-compete order was issued by the AHO on 16 October 2017. Therefore, the period of ineligibility for the commission of a Corruption Offense will begin on that date. The submission of the PTIOs was despite the fact that while the two concepts of non-compete and ineligibility are not the same it does have the effect of preventing the person from playing tennis.
77. The AHO finds that the suspension in this case, using prior cases as a guide, ought to be short of the three-year period. Therefore, the AHO determines that the period of ineligibility ought to be 2 and one-half years. That period will end on 15 April 2020. The fine is set at \$8,000.00 US.

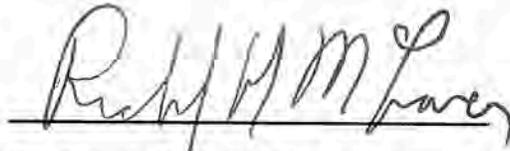
78. The Player requested that this Decision be withheld as confidential. The TACP in Section G.4.d. requires the Tennis Integrity Board to publicly report the Decision in full. The AHO has no discretion to order that this Decision not be made public. This is done to reinforce the deterrent effect of the TACP both to the Player and more particularly to other professional tennis players. The Player had agreed to this rule in the course of being a professional tennis player.

The Anti-Corruption Hearing Officer Rules that:

79. Saavedra failed to satisfy a proper Demand under the 2017 TACP. That failure and his conduct generally during the interviews and explanations related to why he had not fully complied with the Demands amounted to a breach of the Duty to Co-operate found in Section F.2.b. For all of the foregoing reasons a finding that the Player had committed a Corruption Offense under Section D.2.c.ii. is established by the evidence. The period of ineligibility is set at 2½ years with account taken of time served to date. The period of ineligibility began on 16 October 2017 and will continue until 15 April 2020.
80. Saavedra is ordered to pay a fine of \$8,000.00 US and to serve a period of suspension under H.1.a.ii.
81. As prescribed in Section G.4.d. this Decision is a "*full, final and complete disposition*" of this matter. The orders herein take effect from the date of this Decision.
82. The Decision herein is appealable under Section I.3. for a period of "*twenty business days from the date of receipt of the Decision by the appealing*

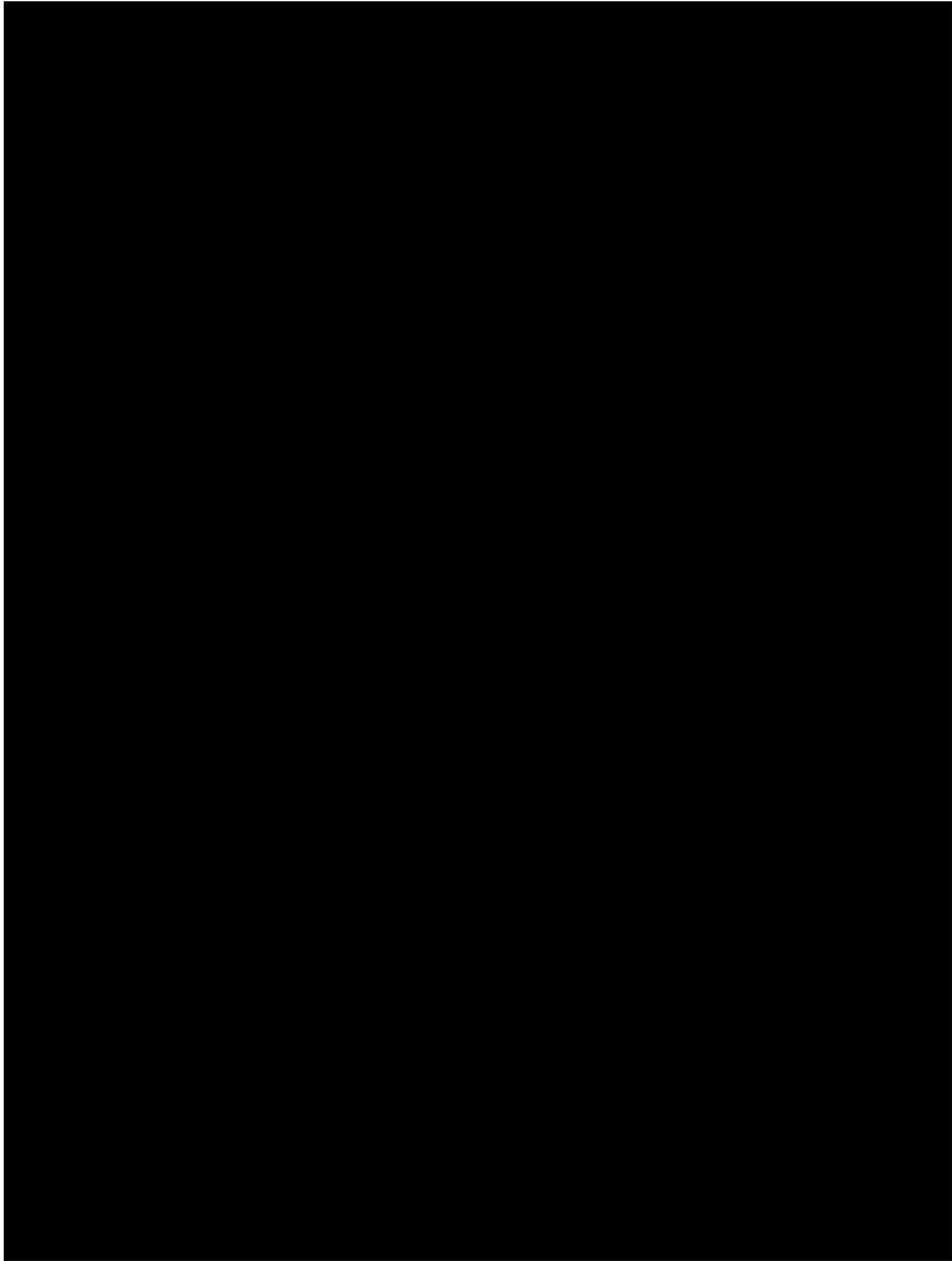
party." The appeal is to the Court of Arbitration for Sport in Lausanne, Switzerland.

DATED at LONDON, ONTARIO, CANADA THIS 8th DAY OF JANUARY 2019.

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

Professor Richard H. McLaren, O.C.

AHO



...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

...the ...

