

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

BETWEEN:

Peng Shuai (hereafter the "Player")

- 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 Ms. Shuai:

Mr. Howard Jacobs
2815 Townsgate Road
Suite 200
Westlake Village, California
U.S.A. 91361

Representing the PTIOs:

Ms. Kendrah Potts
4 New Square
London, Greater London
UK WC2A 2RJ

Anti-Corruption Hearing Officer,
Tennis Anti-Corruption Program

Professor Richard H. McLaren, O.C.
(hereafter "AHO")

DECISION of the *AHO*

PARTIES

1. The PTIOs¹ are appointed by each Governing Body (ATP, ITF, WTA and GSB) participating in the Tennis Anti-Corruption Program (“the TACP”).
2. Peng Shuai is a 32 year old professional tennis player of Chinese nationality. She has been playing on the professional tennis circuit since 2001. On 3 January 2016 and, in respect of the playing year 2017, on 31 December 2016, the Player had her assistant sign on her behalf a WTA Annual Player Form confirming her agreement to be bound by and comply with the TACP in both 2016 and 2017. She describes herself as not being proficient in the English language and uses Google Translate to read and write. The Player registered for an ITF International Player Identification Number (“IPIN”), electronically signed the ITF Player Welfare Statement in 2017, and completed the Tennis Integrity Protection Program (“TIPP”) on 2 April 2017. Therefore, at the time of the alleged Corruption Offenses the Player was registered with the ITF. By participating in competitions, the Player accepted the ITF rules and regulations, which incorporate the ITF Code of Conduct and in turn incorporate the TACP. Therefore, the Player is a Covered Person under the TACP and is subject to the jurisdiction of the AHO.
3. At the time of the Hearing, held on 16 July 2018, Coach Bertrand Perret (the Player’s coach) was accepted by counsel as a Related Person under the TACP, as noted in a companion Decision released at the same time as this Decision.

BACKGROUND

4. The Notice of Charge (the “Notice”) was sent to the Player on 31 January 2018. In it, the Player is charged with breaching Section D.1.d of the TACP:

¹ All capitalized words or acronyms take their defined meaning from this text or the Program Definitions.

- (i) *“Contriving the draw of the Competition by asking [REDACTED] to withdraw from the Competition. This occurred in circumstances where the relevant rules provided that [REDACTED] could only legitimately withdraw if she was injured, which [REDACTED] said that she was not, and [REDACTED] also said that she did not want to withdraw, following which the Player and Mr Perret offered [REDACTED] money if she would agree to withdraw.”*

The same Notice was sent, on the same date, to Mr. Bertrand Perret (“Coach Perret”). The AHO found that Coach Perret is a Related Person under Section B. 21 and Section C of the TACP and, therefore a Covered Person under the TACP definition.

5. The allegations in the Notice refer to actions that took place in the calendar year 2017. Therefore, the rules of the 2017 TACP apply to the merits of this proceeding. The rules of the 2018 TACP will apply to the procedural aspects of the case.
6. The Player regularly plays doubles where she reached a career high ranking of WTA World No. 1 in February of 2014 making her the first Chinese professional tennis player regardless of gender to achieve this level of success. She has won two Grand Slam doubles titles, in 2013 at Wimbledon and 2014 at the French Open. Her highest singles ranking was 14th in August 2011. Her career prize money is \$8,944,706 up to 17 May 2018.
7. The Player was originally scheduled to play doubles at Wimbledon 2017 (the “Tournament”) with [REDACTED] whose doubles ranking at the time was [REDACTED]. On arriving in the UK to prepare for the Tournament the Player was informed by Coach Perret that [REDACTED] would be unable to partner with the Player in the Women’s Doubles Competition at the Tournament (the “Competition”).

8. That information set the Player and Coach Perret on a quest to find a suitable replacement doubles partner. The Player and [REDACTED] had had previous discussions concerning playing together in the future and had an intention to pair up after the Tournament. Based on those earlier discussions the Player contacted [REDACTED] by text message. Unfortunately, the request therein arrived too late, for [REDACTED] already had a partner for the Tournament.
9. After the [REDACTED] rejection the options were limited, and the time was short before the deadline to register for the doubles Competition at the Tournament. Coach Perret decided to reach out to his counterpart coach [REDACTED]
[REDACTED]
[REDACTED] He wanted to determine if [REDACTED] could be the Player's partner in the Competition. Coach [REDACTED] and Coach Perret signed-in the pair on 22 June 2017.
10. Subsequently [REDACTED] and could no longer play doubles with [REDACTED] On 25 June 2017 [REDACTED] contacted the Player to advise her of her new circumstances. She asked the Player if she would like to play with her. This proposal would be a re-pairing by the Player [REDACTED] Such re-pairing is common in doubles even up to the time of the draw for a tournament. At this point the Player made an assumption that she could simply ask [REDACTED] to stand down in order for [REDACTED] to be her partner. At that time the Competition was one week away.
11. The Player had a preference for playing with a partner with whom she was familiar and exhibited enthusiasm for playing doubles. Thus, her interest in [REDACTED] By way of contrast the Player was unfamiliar with [REDACTED] playing style and had not even met her.
12. After the approach on 25 June 2017 by [REDACTED] to the Player their coaches discussed the situation and what to do to enable the re-pairing. [REDACTED]

raised the fact that the [REDACTED] entourage had booked accommodation for two weeks relying upon the strength of the pairing with the Player. The precise details of the discussion and the circumstances surrounding them will be found in the Evidence section of this Decision.

13. In respect of withdrawals and re-pairing in doubles competitions, the 2017 Official Grand Slam Rule Book has specific rules to follow. In summary, if either player to a doubles team cannot play, that doubles entry is defaulted. Substitution is permitted before the draw if one player in the doubles duo is injured; or, there are unavoidable circumstances that arise after the deadline for submitting the entry. Substitution may also occur before the draw for the particular tournament. Otherwise players may not change partners after the doubles entry deadline.
14. Aside from the Grand Slam Rules noted above the Competition has a specific provision addressing re-pairing between the main draw sign-in date and the start of qualifying competitions. The rule is in the 2017 Wimbledon Entry Rules. In summary, it provides for re-pairing between the main draw sign-in date and the start of the qualifying competitions in the event of injury to their partner. The new pairing must have an entry ranking better than the 1st alternate pair at the time of the re-pairing. After the start of the Qualifiers only Lucky Losers (“LL’s”) can replace any withdrawing pairs from the main draw acceptance list.
15. The combination of the foregoing rules resulted in the sign-in deadline being 23 June 2017 at 12:00 noon, the day after [REDACTED] and the Player had become partners. Based on Wimbledon Entry Rules the deadline for re-pairing for the Competition was Wednesday 28 June (before the first qualifying match started).
16. On 5 July 2017 [REDACTED] contacted the Player to inform her that [REDACTED] had an injury that flared up and that she would not be able to play in

the Competition. The consequence of all of these events was that the Player never played in the 2017 Wimbledon doubles tournament.

17. The investigative staff of the Tennis Integrity Unit ("TIU") conducted an interview with the Player on 28 June 2017. A written summary of each interview conducted by the TIU was provided as part of the disclosure process to the Player's representatives. This included an interview with the Player, Coach Perret, [REDACTED]. The TIU investigative staff also obtained text messages between the Player, [REDACTED]
- [REDACTED]
- [REDACTED]

PROCEDURE

18. Richard H. McLaren holds an appointment as an Anti-Corruption Hearing Officer ("AHO") under Section F.1 of the Program. The Parties acknowledged that the AHO is properly appointed and qualified as an independent, impartial, neutral adjudicator to render a determination in this case. The Parties had no objections to the jurisdiction of the AHO; or, to his being the decision maker as the AHO in this matter. Ultimately all parties agreed that the matter was arbitral.
19. In accordance with Procedural Order No. 1 issued on 11 April 2018, the PTIOs submitted their brief and exhibits on 18 May 2018 together with a list of witnesses that they intended to call at the Hearing. Signed witness statements and related exhibits thereto were also submitted on behalf of: [REDACTED]
- [REDACTED] Subsequently all counsel agreed to the filing of a second witness statement from [REDACTED] in lieu of his appearance at the Hearing for cross-examination.
20. In accordance with Procedural Order No. 1, on 12 June 2018, the Player submitted her brief with exhibits. The Player's witness statement in both Chinese and English was submitted on that date.

21. Simultaneously, on 12 June 2018, Coach Perret also submitted his brief and exhibits. No witness statements were submitted. It was decided on 22 June 2018 that if Coach Perret was to be examined in chief then a will say or sworn statement was required. However, if he was merely to be presented for questioning by the Player and PTIO's counsel or the AHO, no will say or sworn statement was required. The election was to file a sworn witness statement which was done on 29 June 2018.
22. In the exhibits filed with the brief for Coach Perret was a short affidavit by [REDACTED]. [REDACTED] Counsel for the PTIOs advised that they wished to cross-examine that individual. On 13 July 2018 all counsel agreed that an additional affidavit would be filed by this person in lieu of cross-examination at the Hearing.
23. On 22 June 2018, counsel for the PTIOs submitted a reply brief on new issues raised in the Player and Coach Perret's briefs. Attached was [REDACTED] [REDACTED] witness statement and related exhibits. [REDACTED]

EVIDENCE

24. The events in this matter surround the entry into the pairing of doubles teams for the Competition and being eligible to play in the Tournament in the UK.
25. In a companion Decision released at the time of this Decision there was a finding of the AHO that Coach Perret was a Related Person under the Program.
26. On Wednesday 21 June 2017 the Player's original partner, [REDACTED] withdrew due to injury. The Player initiated the first step in the sequence of events to find a replacement for the injured [REDACTED]. The night of 21 June 2017 she text messaged [REDACTED] inquiring whether she was still available. [REDACTED] replied on 22

June 2017 that she had changed partners due to injury and was now partnered with [REDACTED]

27. The next step in the time line was for Coach Perret to contact [REDACTED] to make inquiries concerning [REDACTED] becoming a possible doubles partner. That contact resulted in a pairing between the Player and [REDACTED]. The pair was signed-in to play in the Competition on 22 June 2017 the day before the noon deadline for the sign-in.
28. On Sunday 25 June 2017, [REDACTED] telephoned the Player to advise her that she was suddenly and unexpectedly available to be the Player's partner because [REDACTED] own partner, [REDACTED] was now unable to compete due to an injury. The problem was that in the interim, the Player, with the assistance of her coach, had agreed to be paired with [REDACTED]
29. Under the re-pairing rules that exist for the Competition, re-pairing between the main draw sign-in date, 12:00 noon on 23 June 2017, and the start of the qualifying competitions, 28 June 2017, could only occur in the circumstance where one member of the duo was injured. Since there was no injury in this case, [REDACTED] could not have withdrawn to enable [REDACTED] to pair with the Player. The crucial sequence of events then began on 26 June 2017 and carried over to 28 June 2017 just before the start of the first qualifying match.
30. During the evening of 26 June 2017 [REDACTED] and the Player exchanged messages. The thrust of those exchanges were that Coach Perret and [REDACTED] were to speak to make the arrangements for a re-pairing. The two players were apparently under the impression that they could make a re-pairing without one partner being injured. At 22:43 Coach Perret texted [REDACTED] to call him. They spoke at 23:31 and Coach Perret explained that the Player wished to re-pair with [REDACTED]

31. Aside from the coach to coach communications, that same evening the Player and Coach Perret exchanged WeChat messages. The thrust of those exchanges was that the Player made it very definite that she wanted to play with [REDACTED] and not her current registered partner.
32. Through a series of communications between [REDACTED] and [REDACTED] into the discussions, it became very obvious to each one of them that re-pairing at this stage in the Competition could only occur because one partner was injured. The re-pairing must have also occurred before the start of the first women's qualifying matches. There are also other rules to this process but they do not come into play in this case as there never was a re-pairing.
33. At 9:58 on 27 June 2017 [REDACTED] requesting clarification of the rules regarding re-pairing if [REDACTED] withdrew. At that point he was informed and aware of the rules for re-pairing.
34. Within the hour following this phone call [REDACTED] texted Coach Perret informing him that the only way for the Player to re-pair was if [REDACTED] was injured, which she was not. He further advised that [REDACTED] "...has also made arrangements to play".
35. At 10:18 [REDACTED] phoned to double check the re-pairing rules with [REDACTED] [REDACTED] was injured. [REDACTED] who spoke to [REDACTED] and confirmed to her the rules regarding re-pairing. Therefore, [REDACTED] knew the re-pairing rules by 27 June 2017.
36. The evidence is unclear when the Player became aware of the re-pairing rules. [REDACTED] remembers telling the Player early one morning in Eastborne when it was raining, that [REDACTED] could only withdraw due to injury. Based on texts sent between Coach Perret and [REDACTED] it is likely this was early Tuesday

morning. However, the Player claims she did not understand the rules until meeting with the TIU on 28 June 2017. I do not accept the Player's explanation.

37. Therefore by mid-morning on 27 June 2017 [REDACTED], Coach Perret and [REDACTED] had learned that there could only be a re-pairing if one of the doubles partners was injured.
38. At 11:08 when Coach Perret called [REDACTED] both coaches and [REDACTED] knew the rules regarding re-pairing. In that conversation, Coach Perret stated that the Player "absolutely wanted to play with [REDACTED] and that she would not play with somebody else". In effect the communication was that either [REDACTED] withdraws or the Player would not play doubles. This ultimatum was the initial coercion to attempt to push [REDACTED] into a withdrawal.
39. At 13:03 the Player texted [REDACTED] requesting the phone number for [REDACTED]. At 13:11² Coach Perret texted [REDACTED] requesting the same information. Following the Player's request [REDACTED] for the phone number. She obtained the number from [REDACTED] and relayed it to the Player. The Player attempted to contact [REDACTED] but was unsuccessful.
40. The coaches had a subsequent exchange of WhatsApp messages and phone calls between 13.12 and 13:28. [REDACTED] was disappointed by the Player's reaction to what he described as her blackmail situation ([REDACTED] or nothing). He advised that his player was not going to withdraw due to injury or personal reasons and the solution would be for the Player and Coach Perret to notify the WTA. [REDACTED] closed with the statement: *"If you want, we can talk about it later, I have to see whether we are*

² This is the time from Coach Perret's phone. [REDACTED] phone indicates the message was sent earlier.

going to play". This statement seems to suggest that [REDACTED] would not play with the Player.

41. During the two coaches' communications the Player and [REDACTED] were speaking to each other in the change room about the re-pairing and the possibility of compensating [REDACTED]
42. At 16:12 the Player texted [REDACTED] to explain her reasons for wanting to re-pair. In so doing she offered the first round money of her new potential partner [REDACTED] and then later added her own first round prize money.
43. At 20:38 the Player sent an iPhone message to [REDACTED]. This was a final attempt to persuade [REDACTED] to, as the Player calls it, "switch" pairing with her. Final confirmation was given by [REDACTED] that she would not withdraw from the doubles, saying "I don't want the money".
44. The reaction obtained by the Player and then communicated to Coach Perret made both of them realise that she was not going to play in the Competition.
45. The next day, 28 June 2017, the draw for the Ladies Doubles Qualifying was to take place at 12:00 noon. That was the effective deadline for re-pairing for injury to one's partner. Later that day the TIU interviewed [REDACTED] Coach Perret and the Player. The TIU had first interviewed [REDACTED] the previous day at around 16:20 and did so a second time on 30 June 2017.
46. The matter came to a close when [REDACTED] had to withdraw from the doubles competition on 5 July 2017 due to injury.

SUBMISSIONS of the PARTIES

(i) PTIOs

47. The PTIOs submitted that the Player and Coach Perret attempted to contrive the draw of the Competition by asking ██████████ to withdraw from the Competition after the sign-in deadline so that the Player could re-pair with ██████████. The PTIOs submit that both Coach Perret and the Player have breached Section D.1.d. of the TACP.
48. It is submitted that the messages between ██████████ and Coach Perret, the messages between the Player and ██████████ and the witness evidence that the Player and Coach Perret repeatedly asked ██████████ to withdraw from the Competition, establish the fact that the Player and Coach Perret attempted to contrive the draw of the Competition. The PTIOs also submit that messages exchanged between Coach Perret and ██████████ at 10:00 am on Tuesday 27 June 2017 show that Coach Perret was aware that the rules provided that the Player could only re-pair if ██████████ withdrew as a result of injury.
49. The PTIOs submit that money should never be offered to persuade someone to withdraw from an Event. Further, the amount offered was more than any expected expenses would have been. In addition, on Tuesday 27 June 2017, ██████████ was offered more after her initial refusal to withdraw. The PTIOs submit that this is consistent with bribery.
50. The following jurisprudence was submitted as being of use in analyzing the case. The cases of *PTIOs v. Renard*; *PTIOs v. Trusendi*; *PTIOs v. Rousset* and *PTIOs v. Garza*, demonstrate that the Player and Coach Perret were attempting to contrive a draw, which constitutes an “aspect of an Event”. Therefore, the Player is in breach of Section D.1.d. In each of these cases, the Player was given a period of ineligibility of 6 months and fined \$5,000. In *Savic v. PTIOs* (CAS 2011/A/2621), the CAS panel noted that a sanction “*must not be disproportionate to the offense and must always reflect the extent of the*

athlete's guilt." Furthermore, sanctions for a breach of the TACP must be sufficient to serve as a deterrent.³

(ii) *The Player*

51. Counsel for the Player submitted that based on a preponderance of evidence, the PTIOs did not meet the burden of proving of the Corruption Offense. It was submitted that the burden was not met because (i) the Player was unaware of the requirements for re-partnering at the Competition; and (ii) had no intent to contrive the draw of the Competition. Therefore, it was respectfully requested that the matter against the Player be dismissed. In the alternative it was submitted that the sanction ought to be reduced to the minimum.
52. It was submitted that when the Player was interviewed by the TIU, she spoke in English, a language in which she is not proficient. A translator was available but only by telephone. The Player was not able to clearly explain herself during this interview and it appears, based on the interview transcript, the TIU did not fully understand her.
53. The Player submits that the money offered was merely to cover expenses for [REDACTED] stay in Roehampton as a result of playing doubles with the Player. The offer could not have been made as an inducement, as the offer was made before the Player was aware of the rules. Additionally, the counsel for the Player submitted that she had no way to know that this would constitute "contriving" of a match, as the doubles qualifying draw had not yet been complete.
54. In the alternative, if the burden is found to have been met, the Player submits that the sanctions sought by the PTIO are excessive. The sanction must not be

³ *Kollerer v. ATP*, CAS 2011/A/2490.

disproportionate to the offense and must always reflect the extent of the Player's guilt.⁴ In this case, there are no deterrent factors.⁵

55. The Player submits the case at hand is distinguishable on the basis that in the four cases referenced by the PTIOs, the money was offered before the draw had been done. In those cases, unlike in this case, it is likely the athletes acted deliberately to engage in what they knew to be a violation of the program.⁶

56. The Player submits that the following should be considered mitigating factors:

- (i) The Player contacted the WTA to clarify the rules;
- (ii) The Player cannot read English and has a limited ability to speak English;
- (iii) Coach Perret made executive decisions on her behalf;
- (iv) The Player made the offer after Coach Perret explained to her that this was why [REDACTED] offered a portion of the earnings; and
- (v) The Player never intended to contrive the draw or a match.

57. Based on the foregoing reasons the Player submits that no sanction is appropriate in this matter and if one is imposed it should not exceed a warning and/or fine.

(iii) *Reply of the PTIOs*

58. The PTIOs submit that a misunderstanding or misinterpretation of the rules is not a defense to the charges. At any Grand Slam tournament players can only re-pair (after the entry deadline) in the event of injury or other unavoidable circumstances.

⁴ *Savic v. PTIOs*, CAS 2011/A/2621.

⁵ *Daniel Kollerer v. ATP et al*, CAS 2011/A/2490.

⁶ *Guillermo Olaso de la Rica v. TIU*, CAS 2014/A/3467.

59. Further, professionals are required to know the rules of their sport.⁷ The TACP is available to players on the internet and via an App in English, Chinese, and French. The Grand Slam Rules were also available on the internet and the Wimbledon Entry Rules were available on the WTA Player Zone website. If the Player had any doubts, there were many ways she could have informed herself without undue effort or expense.⁸ It is implausible that the Player did not become aware that ██████████ could only withdraw if she was injured. Both ██████████ and Coach Perret, whom the Player was in constant communication with, were aware of this rule by Tuesday 27 June 2017.
60. The PTIOs submit that the money offered to ██████████ could not have been compensation for expenses incurred, since ██████████ had already stated she did not want to withdraw, the money offered was more than any expenses, and the amount increased throughout the day. This shows the money had been offered to persuade her to withdraw.
61. It is the PTIOS submission that the following factors are not relevant to the commission of the offense:
- (i) That no money exchanged hands, since under Section E.2 it is sufficient that an offer was made;
 - (ii) That the Player could not have in fact paired with ██████████;
 - (iii) That the Player did not contrive a match because the doubles qualifying round had not yet started, since the TACP provides that Covered Persons must not contrive the outcome or any aspect of the event; and
 - (iv) The intention of the Player.
62. Lastly, there is no basis for the Player's submission that ██████████ failed to disclose an injury. She competed in the Wimbledon Singles Competition and considered herself fit enough to do so.

⁷ *Montcourt v. ATP*, CAS 2008/A/1630.

⁸ *Ibid.*

THE RELEVANT PROVISIONS OF THE 2017 PROGRAM

63. The following provisions are the material provisions of the 2017 TACP:

B. Definitions

6. *“Covered Person” refers to any Player, Related Person, or Tournament Support Personnel.*

21. *“Related Person” refers to any coach, trainer, therapist, physician, management representative, agent, family member, tournament guest, business associate or other affiliate or associate of any Player, or any other person who receives accreditation at an Event at the request of the Player or any other Related Person.*

C. Covered Players, Persons and Events

1. *All Players, Related Persons, and Tournament Support Personnel shall be bound by and shall comply with all of the provisions of this Program and shall be deemed to accept all terms set out herein as well as the Tennis Integrity Unit Privacy Policy which can be found at www.tennisintegrityunit.com.*

2. *It is the responsibility of each Player, Related Person and Tournament Support Personnel to acquaint himself or herself with all of the provisions of this Program. Further, each Player shall have a duty to inform Related Persons with whom they are connected of all of the provisions of this Program and shall instruct Related Persons to comply with the Program.*

D. Offenses

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.

d. *No Covered Person shall, directly or indirectly, contrive or attempt to contrive the outcome or any other aspect of any Event.*

E. Additional Matters

1. *Each Player shall be responsible for any Corruption Offense committed by any Covered Person if such Player either (i) had knowledge of a Corruption Offense and failed to report such knowledge pursuant to the reporting obligations set forth in Section D.2. above or (ii) assisted the commission of a Corruption Offense. In such event, the AHO shall have the right to impose sanctions on the Player to the same extent as if the Player had committed the Corruption Offense.*
2. *For a Corruption Offense to be committed, it is sufficient that an offer or solicitation was made, regardless of whether any money, benefit or Consideration was actually paid or received.*

...

G. Due Process

...

3. Burdens and Standards of Proof.

- a. *The PTIO (which may be represented by legal counsel at the Hearing) shall have the burden of establishing that a Corruption Offense has been committed. The standard of proof shall be whether the PTIO has established the commission of the alleged Corruption Offense by a preponderance of the evidence.*

...

- c. *The AHO shall not be bound by any jurisdiction's judicial rules governing the admissibility of evidence. Instead, facts relating to a Corruption Offense may be established by any reliable means, as determined in the sole discretion of the AHO.*

4. Decisions.

...

- d. *Subject only to the rights of appeal under Section I of this Program, the AHO's Decision shall be the full, final and complete disposition of the matter and will be binding on all parties. If the AHO determines that a Corruption Offense has been committed, the TIB will publicly report the Decision, unless otherwise directed by an AHO.*

H. Sanctions

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. ...
 - c. *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

64. Section D.1.d. of the TACP stipulates that a Covered Person shall not directly or indirectly contrive or attempt to contrive the outcome or any other aspect of an Event. All counsel agreed that there was no actual contrivance. Therefore, the case involves determining if there was an attempt to contrive the outcome of an Event. The draw for the pairing of doubles teams for the 2017 Wimbledon

Championships would be an aspect of such an Event. If a breach is found the AHO is empowered, under Section H.1.a. to sanction the Player.

65. The Tournament is an Event as set out in Section D.1.d. because Annex 1 to the TACP indicates that Grand Slams, of which the Tournament is one, are Events within the rules.
66. The Player and [REDACTED] were entered to play as a pair in the Competition at the time of the entry deadline. After that deadline any re-pairing can only occur if one partner is injured. The evidence reveals the contortions which Coach Perret and the Player went through in order to attempt to allow the Player to play with [REDACTED]. The only way for the re-pairing to occur was if [REDACTED] declared that she was injured before the first ladies doubles match began during the Competition. All the communications from Coach Perret and the Player are directed to this end. There is really no dispute of the proven facts in this matter. I conclude that the process here is designed to change the pairing in the Competition without compliance with the rules for re-pairing through the use of an ultimatum and subsequently monetary benefits. Therefore it is an attempt to contrive an aspect of the Event within the language of Section D.1.d.
67. There is jurisprudence, albeit only a guideline in this matter, which also confirms that what has been proven here is an aspect of an Event. The following cases: *PTIOs v. Renard*, *PTIOs v. Trusendi*, *PTIOs v. Rousset*, and *PTIOs v. Garza*, conclude that the draw of a tournament is an aspect of an Event and attempting to or successfully contriving the draw is a violation of Section D.1.d.
68. The re-pairing never occurred and thus no monies were ever paid to [REDACTED]. The TACP in Section E.2 states for a violation to be found "*it is sufficient that an offer or solicitation was made, regardless of whether any money, benefit or Consideration was actually paid or received.*" The Player made an offer to pay for accommodation costs to [REDACTED] in her text

messages on 27 June 2017. Section E.2 can be relied upon to conclude that it was not necessary for the Player to confer a monetary or other benefit or Consideration upon [REDACTED] to be found to have committed a Corruption Offense.

69. In order to determine if intent is required under Section D.1.d., the wording of the section must be examined. Section D.1.d., unlike Sections D.1.e. or D.1.f., makes no reference to intention, yet these other Corruption Offenses do. The absence of any reference to intention in Section D.1.d. must give rise to the interpretation that intent is not required in order to prove a violation of that section.
70. It is submitted on the Player's behalf that the Player was unaware of the requirements for re-pairing and when the language difficulties and the absence of content are included in the preponderance of the evidence, the PTIOs did not meet the burden of proving the Corruption Offense.
71. Coach Perret admitted to the TIU investigators in his interview of 28 June 2017 that he had heard about the TACP but had never read the rules. The Player professed a similar ignorance of the TACP and in her interview stated she was not even aware of the existence of the TACP. She testified that she did not really know of the TACP until she was interviewed. I conclude that she was aware of the rules earlier than the TIU investigation. That is because of the evidence of [REDACTED] discussed above.
72. Any player, even at a beginner level and including all professional athletes, knows and understands that the rules of the sport must be followed to play the sport. The re-pairing rules are rules of the sport. The Player and her coach in the course of trying to re-pair learned of the rules in professional tennis and the Grand Slams. Nevertheless, the Player persisted in trying to bend the rules or bypass them because she considered what was going on as merely "a switch".

The AHO does not accept her rationale. It is also not accepted that she is unfamiliar with this fundamental principle of playing the sport of tennis. She must be taken to know that the rules of the game must be followed. Such a concept cannot possibly be unfamiliar or unknown to her.

73. The Player then relies on her lack of knowledge to the TACP to claim a relatively innocent or naive breach of the TACP through misunderstandings and language difficulties. She is a professional tennis player of long standing who has attained the highest possible ranking in women's doubles. As a professional player with years of experience it cannot be claimed that the rules of the TACP were unknown to her and, therefore, do not apply to her or only apply with less rigour. I need only to refer to one case to make the point. Following *Montcourt v. ATP*⁹, ignorance of the rules is not an excuse available to professional tennis players. Professional athletes and coaches are required to know the rules of their sport. If they do not know them it is possible to review them from various sources or obtain appropriate advice. Indeed, when [REDACTED] was unsure of the re-pairing rule he made inquiries to inform himself and then acted in accordance with the re-pairing rule.
74. Furthermore, if the Player achieved her objective of enticing [REDACTED] to become part of the scheme [REDACTED] would also be in violation of the TACP because she would be lying in order to contrive the draw re-pairing rules. By agreeing to claim injury she would become part of the group circumventing the re-pairing rules. However, she stood her ground, refused to declare she was injured and proceeded to play in the Ladies Singles Competition thereby establishing that she was not injured. To her credit and integrity she did not succumb to the proffered enticements.
75. As for the alleged lack of intent, it is a claim predicated on the assumption of no knowledge of the TACP. Intent is not a requirement of Section D.1.d. which is a

⁹ CAS 2008/A/1630.

strict responsibility. A Covered Person is not to attempt to contrive the outcome of an aspect of an Event. It is an absolute prohibition without any requirement of intent. Despite that construction of the TACP, I would conclude that the Player did have such intent. She describes her approach to [REDACTED] as switching partners, yet she learned of the re-pairing rule and persisted in trying to have [REDACTED] move aside so the Player could re-pair with [REDACTED] despite knowing that this was asking to bend or break the rules. I find that is why she re-characterized her activities as merely “a switch” and offered some money to cover accommodation expenses.

76. The involvement of Coach Perret in a breach of Section D.1.d. is set out in a companion Decision issued at the time of issuing this Decision. Therefore, the focus in this Decision is merely on the role of the Player in the facts as proven.
77. In an effort to obtain the co-operation of [REDACTED] in bending her compliance with the re-pairing rules, the Player initially offered the first round prize money of her proposed partner and then later her own as well. The sum of the first round prize money would exceed what she described the money's purpose to be, which was to assist in covering accommodation. In that regard players at the Competition receive a per diem. While that sum might not cover all accommodation and incidental related expenses it would considerably reduce the overall cost of accommodation. The accommodation explanation is merely a convenient rationale and way to deceive oneself into believing that one is acting ethically and with integrity. I do not accept the explanations of the Player as to her conduct.
78. Based upon the proven evidence and for all of the foregoing reasons it is found that the Player engaged in attempting to contrive aspects of the Ladies Doubles draw at the Tournament by attempting to circumvent the re-pairing rules using coercion and the possibility of financial rewards to accomplish that end. Therefore, I find that the Player breached Section D.1.d. of the TACP.

(i) Sanction

79. A breach of Section D.1.d. has been found to occur. Under the TACP, the AHO is empowered, under Section H.1.a.(i) to sanction the Player with a fine of up to \$250,000; and, under H.1.a.(iii) ineligibility for participation in any event organized or sanctioned by any Governing Body for a maximum period of permanent ineligibility.
80. Coach Perret initiated the attempt to circumvent the re-pairing rule for which the AHO in the companion award has determined that he should be sanctioned with a three (3) month suspension under H.1.b.(iii) (see the companion Decision to this one). While he initiated the process, the Player was not just instructing him as her messenger, but was actively involved in the process and was the party who offered financial incentives to make the request more palatable. Her conduct is more serious in degree than that of her coach, who was a novice in the field and trying to please his pupil. Her conduct also attempted to draw another professional tennis player into the circle of those who would violate the re-pairing rule. Therefore, her conduct goes beyond just herself by trying to solicit others to join the charade of claiming injury to satisfy the technical aspects of the re-pairing rules.
81. Consistent with the jurisprudence of the PTIOs to which I was referred, the type of breach of the TACP herein justifies a period of ineligibility to compete of six (6) months typically with some portion suspended. While there are no aggravating factors there are some mitigating ones to consider.
82. The Player is not a first language English speaker and it is obvious in listening to her speak and reading her text and other messages that she struggles to express herself in the English language. That language difficulty will impact how she thinks of her conduct and what she is doing. It also caused her to provide

extremely lengthy answers to questions asked at the Hearing presumably because she was unsure that she was being understood. I also formed a view that she genuinely started out thinking that the problem was merely a simple switch of partners with everyone agreeing. When it was realised that there was a re-pairing rule which required injury then panic set in and common sense and judgement were abandoned in favour of breaching the rules. I find that the Player has learned that she acted incorrectly and has some remorse for what she did. In all of these circumstances and in reflection of the fact that she was both aided and accommodated by Coach Perret it is appropriate to suspend three months of the six (6) month suspension. I also make that determination recognizing that this suspension will in effect preclude the Player from competing in the US Open in late August and early September. That is a very significant tournament to miss and could be considered as justifying some relief by way of suspended sentence.

83. As AHO I have the power to impose a fine. I note that in most of the jurisprudence referred to me the fine was typically small and in some cases a portion was suspended. While I find it is justifiable that on good behavior of the Player both she and her Coach are suspended for a similar period of time I do find the Player to have had a greater escalating role and responsibility. That justifies a fine which was not imposed on Coach Perret because of his very junior status at the professional level. Therefore, I order that the fine be \$10,000 US with one half suspended.

CONCLUSION

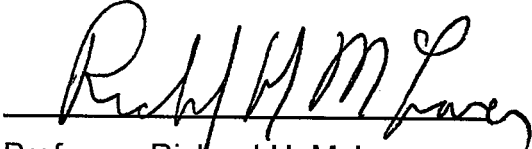
84. Based upon the proven facts and for all the foregoing reasons I find that the Player breached Section D.1.d. of the TACP by trying to attempt to contrive an aspect of the Wimbledon Tournament. In all of the circumstances of this matter, I find the appropriate and proportionate sanction to be a US \$10,000 fine with one half suspended on conditions and a suspension in the form of a six (6) month period of ineligibility with a suspension on conditions of three (3) months.

The Anti-Corruption Hearing Officer Rules that:

- (i) The Player is a Covered Person as defined in Section B. 17 and 6 of the TACP. As such it is found she committed a Corruption Offense under Section D.1.d. by attempting to contrive an aspect of an Event.
- (ii) Under Section H.1.a.(iii) a six (6) month period of ineligibility, with three (3) months suspended on the conditions set out below is to be imposed. During the applicable period imposed by this Decision the Player will be ineligible to participate in any Event organized or sanctioned by any Governing Body. This Decision shall be publicly reported.
- (iii) Under Section H.1.a.(i) a fine of US \$10,000, one half of which is to be suspended on the conditions set out below. A failure to pay before the close of the period of ineligibility will result in that period being extended until such time as payment in full has been made to the satisfaction of the PTIOs.
- (iv) The conditions of the suspension of both the period of ineligibility and the fine are:
 - a.) during the period of ineligibility there are no further violations of the TACP by the Player; and
 - b.) should there be any subsequent breach of the TACP for any reason then the full period of ineligibility will begin to run as if no time had already been served; and the fine payable will become the full amount imposed of US \$10,000.
- (v) Under Section G.4.d. this Decision is a *“full, final and complete disposition of the matter and will be binding on all parties”*.
- (iv) The Decision herein is appealable under Section I.3. of the TACP 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 7th DAY OF AUGUST 2018.



Professor Richard H. McLaren
AHO