

**In The Matter of a Notice of Major Offense pursuant to the Tennis Anti-Corruption
Program ("TACP") (2022)**

Before Anti-Corruption Hearing Officer, Ian Mill KC

BETWEEN:

INTERNATIONAL TENNIS INTEGRITY AGENCY

-AND-

FABIAN CARRERO

DECISION AND ORDER

Summary

For the reasons set out below:

- 1. Mr Carrero is guilty of each of the Major Offenses with which he has been charged.**
- 2. Accordingly, Mr Carrero is to suffer permanent revocation of his credentials and denial of access to any Event organised, sanctioned or recognised by any tennis Governing Body.**

Introduction; the Charges

1. At the relevant times, Fabian Carrero (“**Mr Carrero**”) was a chair umpire officiating at ITF Tournaments¹ in ██████████ Dominican Republic. As such, he came within the definition of “Tournament Support Person” and therefore was a Covered Person for the purposes of the relevant annual editions of the TACP².
2. By a written Notice of Major Offense dated 13 July 2022 (“**the Notice**”), the International Tennis Integrity Agency (“**ITIA**”) charged Mr Carrero with the commission of eight Corruption Offenses, consisting of sixteen alleged breaches of the 2019 TACP (“**the Charges**”).
3. Each alleged Offense in the Notice related to a different match in respect of which Mr Carrero had officiated during the ██████████ 5 Tournament in ██████████ in November and December 2019.
4. In relation to each such match, the Notice alleged two breaches of the 2019 TACP as follows:
 - a. Fixing aspects of the match, contrary to Section D.1.d, which provides:

“No Covered Person shall, directly or indirectly, contrive, attempt to contrive, agree to contrive, or conspire to contrive the outcome, or any other aspect, of any Event”.
 - b. Breach of reporting obligations in relation to the match, contrary to Section D.2.b.i, which provides (insofar as relevant):

“In the event any...Tournament Support Person is approached by any person who offers any type of money, benefit or Consideration to a...Tournament Support Person to (i) influence or attempt to influence the outcome of any

¹ Capitalised terms bear the meanings given to them in the 2019 TACP.

² 2019 and 2022.

aspect of an Event...it shall be...the Tournament Support Person's obligation to report such incident to the TIU as soon as possible."

5. The matches to which these Charges related were as follows:

Charge 1: [REDACTED] v [REDACTED] on [REDACTED] November 2019.

Charge 2: [REDACTED] v [REDACTED] on [REDACTED] November 2019.

Charge 3: [REDACTED] & [REDACTED] v [REDACTED] & [REDACTED]
[REDACTED] on [REDACTED] November 2019.

Charge 4: [REDACTED] v [REDACTED] on [REDACTED] December 2019.

Charge 5: [REDACTED] v [REDACTED] on [REDACTED] December 2019.

Charge 6: [REDACTED] & [REDACTED] v [REDACTED] & [REDACTED] on [REDACTED]
December 2019.

Charge 7: [REDACTED] v [REDACTED] on [REDACTED] December 2019.

Charge 8: [REDACTED] v [REDACTED] on [REDACTED] December 2019.

6. In essence, the factual allegations were the same in relation to each Charge:

- a. that Mr Carrero had manipulated the official match scores on specified points which he had entered into his HESD³ in order to facilitate guaranteed betting wins on those points;
- b. that he had done so following a corrupt approach by an unknown person who referred to himself as [REDACTED];

³ Handheld Electronic Scoring Device.

- c. that he had failed to report that approach.
7. The ITIA⁴ became aware of the existence of such alleged approach as a result of information imparted by Mr Carrero when he was interviewed by two ITIA investigators (Helen Calton and Lacksley Harris) on 27 February 2022.
8. The Notice relied upon the following matters in order to prove those Charges:
 - a. Discrepancies between Mr Carrero's audio announcements and what he had entered into the HESD on those points.
 - b. Suspicious betting alerts in relation to relevant games in the specified matches.
 - c. Admissions as to fixing matches in ██████████ at the relevant time made by Mr Carrero during his February 2022 interview.

Mr Carrero's responses to the Charges

9. In a written response dated 18 August 2022⁵, Mr Carrero focussed and expanded upon his contention that he had been "*threatened, intimidated and required to be able to do the events which occurred*", without identifying what those events had been or whether they had included all or any of the events specified in the Notice ("**Mr Carrero's contention**"). As a result, his response did not contain any clear admission or denial of the Charges, as required by Section G.1.d of the 2022 TACP. It also failed to state whether Mr Carrero wished there to be a Hearing in relation to the Charges.
10. On 27 September 2022, I wrote to Mr Carrero, explaining what was required of him and encouraging him to obtain legal representation. Following a period in which there was no further response from Mr Carrero, I informed the parties that I was convening a hearing at which I would give directions for the further conduct of the case. Shortly

⁴ The successor to the TIU.

⁵ In Spanish. The ITIA kindly provided an English translation on 23 September 2022, from which I quote.

before that hearing (“**the first hearing**”) was scheduled to take place, on 11 November 2022 a second written response to the Charges was received from Mr Carrero, which (in his English translation) referred to him “*resigning from the arbitration*”, which I understood to mean an intention to take no further part in the proceedings. Attached by him to this response was a letter sent by him on 7 November 2022 to the ITF, which (in his English translation) referred to him submitting “*the resignation of the act as CHAPA PRESIDENT JUDGE GREEN*” – in other words, resigning as a green badge umpire.

11. The first hearing proceeded (remotely), without any further involvement on the part of Mr Carrero, on 14 November 2022, but with the ITIA’s legal representative, Julia Lewis. At that hearing I directed the ITIA to deliver written submissions on liability and sanction by 7 December 2022⁶, and I subsequently issued a written invitation to Mr Carrero to send responsive submissions should he in the event so wish.

The ITIA’s Submissions: Liability

12. The ITIA submits that, in the circumstances set out above, Section G.1.e of the 2022 TACP applies. That provides (insofar as material) as follows:

“If the Covered Person fails to file a written request for a Hearing by the deadline set out in Section G.1.b⁷, he...shall be deemed:

- i. to have waived his...right to a Hearing;*
- ii. to have admitted that he...has committed the Corruption Offense(s) specified in the Notice of Major Offense...”*

13. The ITIA accordingly invites me to find each of the Charges against Mr Carrero in the Notice to have been proved.

⁶ I subsequently extended time, at the ITIA’s request, to 14 December 2022.

⁷ Within 10 Business Days of receipt of the Notice of Major Offense.

Decision on Liability

14. I accept the ITIA's submission. Mr Carrero has been given every opportunity to deny the Charges and to seek a Hearing on that basis and he has clearly decided not to pursue that course. He must suffer the consequences of that decision.

15. I therefore find that the ITIA has proved each of the Charges against Mr Carrero.

Sanction: background

16. Given: (i) Mr Carrero's contention, and (ii) the likelihood that Mr Carrero would not be participating in any consideration of the existence (or otherwise) of any mitigating circumstances relevant to sanction, I have been particularly concerned to question and evaluate the scope of the enquiries made by the ITIA in this regard.

17. As a result, and despite having received written submissions on sanction accompanied by a witness statement from Mr Steve Downes, an ITIA Intelligence Analyst, which specifically addressed the ITIA's response to Mr Carrero's contention, I decided to hold a further hearing (remotely) ("**the second hearing**") at which to question the ITIA's representatives who attended about the scope of its enquiries. The second hearing took place on 28 February 2023 and was attended by Mr Downes and by the ITIA's legal representative, Julia Lewis. I subsequently received a witness statement from one of the ITIA investigators (Ms Calton), who had interviewed Mr Carrero, and which contained further information about the ITIA's actions and approach in response to Mr Carrero's contention. Mr Carrero was invited to attend that hearing and was sent a copy of Ms Calton's statement. He did not attend the hearing but did send two email messages, neither of which advanced his position substantively.⁸

⁸ Essentially, they comprised complaints about a lack of support for him by the ITIA.

The ITIA's Submissions: Mr Carrero's Contention

18. As the ITIA correctly observed at the second hearing, it is not for the ITIA to disprove Mr Carrero's contention, to the extent that it is not accepted by the ITIA as truthful. That contention only has relevance in the context of potential mitigation of sanction and thus is a matter in respect of which the burden of proof lies with Mr Carrero.

19. In light of the lack of engagement by Mr Carrero with these proceedings, the substance of Ms Calton's statement, the responses given to my questions at the second hearing and the ITIA's overarching position that it does not accept the truthfulness of the substance of Mr Carrero's contention, the ITIA submits that there is no mitigation available to Mr Carrero based upon the circumstances in which he committed each of the breaches of the 2019 TACP with which he has been charged.

Decision on Sanction

20. I have given very careful consideration to all the available evidence relevant to Mr Carrero's contention. Having done so, I am clearly of the view that the ITIA's conclusion summarised in paragraph 19 above is fully justified. I do not, in the circumstances, consider it necessary or indeed appropriate to include within this Decision the substance of the evidence that I have considered in this respect.

21. The ITIA has provided helpful submissions on sanction, culminating in a conclusion (based upon an application of the ITIA Sanctioning Guidelines) that I should impose a period of ineligibility of 17 years and a fine of \$30,000, of which \$20,000 was suspended. However, as in my previous recent decision in the case of *ITIA v Daniel Zeferino*, I have found myself in disagreement with the ITIA over the appropriate sanction(s) to impose in the context of Charges against a chair umpire.

22. The ITIA's analysis in its written submissions started, helpfully, as follows:

“74. In the case of PTIOs v Tongplew, Apisit and Chitchal Srillal, AHO Hollander KC stated:

‘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.’

75. The importance of the position of a chair umpire as holding a particular position of trust, responsibility and respect, and the need for all stakeholders to be able to be reliant on him/her to maintain the integrity of tennis was underscored by AHO Mill KC in his decision in the case of *ITIA v Daniel Zeferino*, in which a lifetime ban was imposed in respect of manipulation of scores on an HESD during six professional tennis matches.”

23. In *Zeferino*, I observed that, in an application of the Sanctioning Guidelines: *“a Covered Person’s position of responsibility...is a factor which may be highly significant when assessing levels of culpability”* (paragraph 15). In my judgment, that observation is pertinent in the present case. The ITIA’s analysis, however, appears not to have taken it into account. Had the ITIA done so, it would or at any rate should have concluded that Mr Carrero’s misconduct – comprising Major Offenses in no fewer than eight matches over a very short period and during the same Tournament - exclusively involved *“high culpability”* on his part, with the result that the starting point for an appropriate level of sanction under the Guidelines for the Major Offenses⁹ committed by him is a lifetime ban. Such an outcome would be consistent with three cases referred to in *Zeferino* in which AHOs had imposed lifetime bans on chair umpires, and with *Zeferino* itself.

24. The remaining point for consideration in relation to the period of ineligibility for Mr Carrero is whether, as identified by the ITIA in its submissions, Mr Carrero deserves

⁹ I.e. Category 1 Offenses under the Guidelines.

“credit for early admission” based on his admission of Corruption Offenses in interview. I have concluded that no such credit should be given. Mr Carrero only admitted (in interview) misconduct in relation to two of the eight matches in respect of which he was charged, and thereafter no admissions were made by him. In my view, his largely unspecific admissions were given in the context of advancing Mr Carrero’s (unproven) contention and not for example with any obvious sense of remorse. I note that for most of the interview he denied any wrongdoing, and it appeared to be the weight of the evidence against him that caused him ultimately to “come clean”.

25. Finally, the question arises as to whether I should additionally impose a fine on Mr Carrero. The ITIA has no information about sums received by Mr Carrero, who claimed in interview that [REDACTED] had promised payments (of between \$400 and \$500 per match) but did not fulfil his promises. Moreover, his answers to questions in interview about his finances do not suggest that he is a person of any substantial means.

26. For the reasons set out above I have decided to impose a lifetime ban on Mr Carrero. In the circumstances described in the previous paragraph, I do not consider any additional financial sanction to be necessary or proportionate.

Accordingly, I order that Mr Carrero is to suffer permanent revocation of his credentials and denial of access to any Event organised sanctioned or recognised by any tennis Governing Body.

This Decision may be appealed exclusively to the Court of Arbitration for Sport in accordance with Section I of the 2022 TACP.

The ITIA will publicly report this Decision in full.

Ian Mill

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Ian Mill KC, AHO

Dated 21 March 2023