

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

BETWEEN

Dmytro Badanov (hereafter "Badanov" 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 Mr. Badanov: No Response

Representing the PTIOs: Mr. Stephen Busey
Mr. John MacLennan
Smith Hulse & Busey
225 Water Street, Suite 1800
Jacksonville Florida 32202

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 Program”). They have the responsibility to administer the Program and direct the TIU.
2. Dmytro Badanov is a 30 year old professional tennis player of Ukrainian nationality, who participated in ITF Futures tournaments in 2015 and 2016. In order to enter ITF Futures tournaments players are required to register for an annual Pro Circuit International Player Identification Number (“IPIN”) Membership.² Therefore, at the time of the alleged Corruption Offenses Badanov was registered with the ITF through the use of his ITF IPIN. By participating Badanov accepted the ITF rules and regulations, which incorporate the ITF Code of Conduct and in turn incorporate the Program. Therefore, Badanov is a Covered Person under the Program.

BACKGROUND

3. In 2015 and 2016, the TIU received an unusually high number of suspicious betting alerts from the gambling industry regarding [REDACTED] [REDACTED] one of those Players being Badanov. The TIU investigated these betting alerts by interviewing witnesses and the [REDACTED] Players. The TIU also examined and analyzed electronic data received from the betting companies and forensically examined mobile phones of the Players. The TIU’s investigation suggested that each of the Players may be associated with [REDACTED] [REDACTED] a well-known professional tennis bettor. Bets were made from accounts linked to [REDACTED] on various

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

² *ITF Pro Circuit Regulations* (London, UK: International Tennis Federation, 2018) at 6.

matches in which Badanov was a participant. The TIU linked these accounts to [REDACTED] through the use of IP addresses and other information and data obtained from open sources and betting operators.

4. The Notice of Charge was sent to each of the [REDACTED] Players. As detailed below the Notice of Charge was received by Badanov but no response has ever been produced by him acknowledging the contents of any correspondence. So far as the Notice of Charge pertains to Badanov, it is alleged that he “contrived the outcome or other aspect of the following Events”, described below, in violation of Section D.1.d. of the 2015 and 2016 Programs:

- *“On 16 September 2015, Dymtro Badanov played a singles match against [REDACTED] at the ITF Futures F23 Event in El Kantaoui, Tunisia. [REDACTED] Accounts linked to [REDACTED] placed winning bets on the outcome of the first set. The outcome of this match was also accurately predicted in a treble bet related to three separate matches placed by an account the TIU has linked to [REDACTED]”*
- *“On 28 September 2016, Dymtro Badanov played a singles match against [REDACTED] at the ITF Futures F26 Event in Cairo, Egypt. [REDACTED] won the match 6-0 6-2. Both the tournament supervisor and the chair umpire reported to the TIU that Badanov was not using his best efforts in this match. One of the bettors that wagered on this match used a betting account that the TIU has linked to [REDACTED]”*

5. Badanov is one of the [REDACTED] Players named in the Notice of Charge, who along with the other [REDACTED], are alleged to have also breached Section D.1.b. of the 2015 and 2016 Programs. It is alleged that each of the [REDACTED] Players “directly or indirectly solicited or facilitated [REDACTED] or other persons linked to [REDACTED] to wager on the outcome or other aspects of each of the Events” described above in paragraph 4 and in the following ITF Futures Events:

1. F4 Event in Kazan, Russia on 17 June 2015;
2. F10 Event in Wetzlar, Germany on 6 August 2015;

3. F15 Event in Brasov, Romania on 1 September 2015;
 4. F37 Event in Antalya, Turkey on 16 September 2015;
 5. F37 Event in Antalya, Turkey on 19 September 2015; and
 6. F2 Event in Antalya Turkey on 13 January 2016.
6. The allegations in the Notice of Charge refer to events that took place between 17 June 2015 and 28 September 2016. Therefore the 2015 and 2016 rules of the Program apply to the merits. The rules of the 2018 Program provide the procedural basis for this Decision.

PROCEDURE

7. Richard H. McLaren holds an appointment as an Anti-Corruption Hearing Officer under Section F.1. of the Program. The Covered Person is entitled to dispute the PTIO's allegations and request that the AHO hold a Hearing to determine the matter. To be entitled to a hearing a written request must be submitted to the AHO within 14 business days of the date of receipt of the Notice of Charge.
8. The Covered Person failed to file a written request within the stipulated time period. Under Rule G.1.d. of the Program, by failing to reply to correspondence, it is deemed that the Covered Person has waived his entitlement to a hearing. The Rule deems Badanov to have admitted to the commission of the Corruption Offenses stipulated in the Notice of Charge. Furthermore, he is deemed to have agreed to the potential sanctions as outlined in the Notice of Charge. The AHO by this Decision will set the sanctions to be applied to the Covered Person.
9. Under Section G.1.d.iv. of the Program, it is therefore within the AHO's authority to issue a Decision confirming the commission of the alleged Corruption Offenses outlined in the Notice of Charge and to impose sanctions.

10. Badanov's case has been deconsolidated from the cases of the [REDACTED] who are also alleged to have committed Corruption Offenses outlined in the Notice of Charge. [REDACTED] have responded to the Notice of Charge and obtained a lawyer. To continue the proceedings on a consolidated basis Badanov's consent would be required. Due to Badanov's failure to respond to the Notice of Charge the AHO has been unable to obtain Badanov's consent. Badanov's case is proceeding *in absentia* and will be separate from [REDACTED]
[REDACTED]

EVIDENCE

11. On 14 March 2018, Mr. Busey, counsel for the PTIOs, sent correspondence by email notifying the Covered Person of the alleged Corruption Offenses committed under D.1.b. and D.1.d. of the 2015 and 2016 Programs. This Notice of Charge outlined the process for requesting a hearing and the results of failing to file a written request within the stipulated time period.
12. On 15 March 2018 (the day following the date the Notice of Charge was issued by email) the AHO sent correspondence by email to Badanov advising him of his options under the Program and that he must communicate with the AHO as to how he wished to proceed and deal with the matter within 14 business days of receipt of the Notice of Charge. No reply to this email correspondence from the AHO has been received by the AHO.
13. On 24 March 2018 and 27 March 2018 follow up emails were sent to the Covered Person by the AHO to confirm the Covered Person's desired course of action and to warn him of the implications of failing to file a written request for a hearing or otherwise respond to his correspondence.

These emails advised that if the AHO did not receive a response within the stipulated period the AHO would proceed by issuing a Decision confirming the commission of the alleged Offenses specified in the Notice of Charge and impose appropriate sanctions.

14. No notice or error message was received from the Covered Person's email provider to suggest that the emails of the PTIOs' counsel and those of the AHO were not received.
15. The email address, used to deliver the Notice of Charge and follow up correspondence, was previously used to successfully arrange TIU interviews with the Covered Person on 6 September 2016 and 18 October 2016. The Covered Person confirmed that this was his email address during the interview in September 2016. Furthermore, this email address was used in September 2017 by the Covered Person to log into his ITF IPIN account when he withdrew from the last tournament he entered. It was also used on 19 December 2017 by the Covered Person to sign the ITF Player Welfare Statement and on multiple other occasions during 2017 to log into the ITF online system.
16. A hard copy of the Notice of Charge and the AHO's warning letter of 24 March 2018 were sent by FedEx courier on 26 March 2018 to the Covered Person's last known address [REDACTED]. The Covered Person provided this address during a TIU interview in September 2016. Mr. Busey provided documentary evidence to the AHO by email on 27 April 2018 that the Notice of Charge was delivered in the Ukraine on 25 April 2018, as confirmed by the US Postal Service.
17. On 18 May 2018, counsel for the PTIOs in their submission regarding sanctions, provided excerpts of a TIU interview of [REDACTED] on 23 August 2016. This evidence establishes that Badanov introduced the [REDACTED]

SUBMISSIONS of the PARTIES

(i) PTIOs

18. The PTIOs submitted that on 16 September 2015, Badanov, contrived the outcome of a singles match against [REDACTED] at an ITF Futures Event, in which [REDACTED]. It is also submitted that at a separate ITF Futures Event on 28 September 2016 Badanov contrived the outcome of a singles match against [REDACTED]. [REDACTED] The tournament supervisor and chair umpire reported to the TIU that during this match Badanov was not utilizing his best efforts. It is alleged that Badanov's actions at both Events breached Section D.1.d. of the 2015 and 2016 Programs.
19. It was further submitted that Badanov solicited or facilitated [REDACTED] or others linked to him, to wager on each of the aforementioned Events. In each instance Badanov was in violation of Section D.1.b. of the 2015 and 2016 Programs.
20. Counsel for the PTIOs submitted that Badanov received the Notice of Charge through email. The email address used to deliver notice of the proceedings was the same as the one used to arrange interviews on 6 September 2016 and 18 October 2016 and was used on multiple occasions by Badanov to sign into the ITF's portal during 2017. The AHO and counsel for the PTIOs have not received an error message from Badanov's email provider. This suggests that all the messages from the AHO and counsel were received. In accordance with Florida Law and Section F.3. of the Program, these circumstances create a rebuttable presumption that the addressee received the Notice of Charge and later communications by the AHO and counsel for the PTIOs.³

³ Florida Rules of Judicial Administration, Rule 2.516(b)(1)(D) outlines, "Service by e-mail is complete on the date it is sent."

21. Counsel also submitted evidence to the AHO sufficient to establish that Badanov received the Notice of Charge by delivery of a hard copy to his mailing address, as confirmed by the US Postal Service. Based on Badanov's failure to respond to either form of correspondence it is requested that the AHO proceed with a sanction *in absentia*.
22. By the Covered Person's failure to respond to the Notice of Charge of 14 March 2018, it is submitted that he is deemed to have committed the allegations contained in the Notice of Charge.
23. It was submitted that given the serious nature of the charges and the deemed admission of the same there is ample justification for a lifetime period of ineligibility. The following cases in support of that submission were cited: *CAS 2011/A/2490 Köllerer v ATP*, *CAS 2011/A/2621 Savic v PTIOs*, *CAS 2016/A/4388 Jakupovic v TIU*.
24. It was further submitted that given the serious nature of the Corruption Offenses admitted by the Covered Person's failure to respond, the starting point in any analysis to determine sanctions ought to be permanent ineligibility and a substantial fine.

(ii) The Covered Person

25. Badanov had failed to respond to the Notice of Charge and repeated correspondence sent by the PTIOs and the AHO. Therefore, the Covered Person has made no submissions relevant to this decision.

THE RELEVANT PROVISIONS OF THE 2015 AND 2016 PROGRAMS

26. Section D.1.b. and D.1.d. of the 2015 and 2016 Programs reads as follows:

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.

b. No Covered Person shall, directly or indirectly, solicit or facilitate any other person to wager on the outcome or any other aspect of any Event or any other tennis competition. For the avoidance of doubt, to solicit or facilitate to wager shall include, but not be limited to: display of live tennis betting odds on a Covered Person website; writing articles for a tennis betting publication or website; conducting personal appearances for a tennis betting company; and appearing in commercials encouraging others to bet on tennis.

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

27. Section H.1. of the 2015 and 2016 Programs reads as follows:

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.

...

- 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

- 28. The Covered Person failed to file a written request for a hearing within the required 14 business days following receipt of the Notice of Charge. The US Postal Service has confirmed the delivery of a hard copy of the Notice of Charge to the Covered Person's mailing address and multiple email notifications have been sent to the Covered Person's last known personal email address. There is no available contrary evidence that suggests that the Covered Person has not received the Notice of Charge. I conclude that he has had full and adequate notice of the alleged Corruption Offenses and has simply ignored them or otherwise failed to respond to them. Therefore, the AHO is completely justified in proceeding in *absentia* in deciding this matter.

29. Section F.5. of the 2018 Program outlines that:

“Any Notice or other communication delivered hereunder to a Covered Person shall be deemed to have been received by the Covered Person (i) in the case of a postal address, on the date of delivery to such address in the confirmation of delivery provided by the relevant courier service company or (ii) in the case of a personal mobile telephone or personal email address, at the time the relevant communication was sent.”

30. Section F.5.(i) of the above provision has been satisfied. Based on the foregoing and the responsibility of the Covered Person under Section F.5. to provide the relevant Governing Body with accurate and current contact details, I find that the Notice of Charge can be held by the AHO to have been received.

31. Pursuant to Section G.1.d. of the 2018 Program, by failing to respond to the Notice of Charge within the stipulated time period the Covered Person is deemed: to have waived his entitlement to a hearing; admitted to the commission of the Corruption Offenses stipulated in the Notice of Charge; and, to have agreed to the potential sanctions.

32. Section H of the Program provides that the penalties for Corruption Offenses are to be determined by the AHO, in compliance with the procedures set forth in Section G. In the present proceedings procedure has been carried out in accordance with Section G. Therefore, jurisdiction is provided and granted to the AHO to issue a sanction in accordance with the illustrative guidelines of listed penalties contained in Section H.1. of the Program.

33. The Corruption Offenses outlined in the Notice of Charge being breaches of Section D.1.b. and D.1.d. of the Program come within the language of:

*“(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; and,
(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.”

34. In exercising my discretion to determine penalties I must assess the gravity of the breaches involved. The Covered Person breached Section D.1.d. on two separate occasions approximately a year apart. In addition, the Covered Person also breached Section D.1.b.
35. The Notice of Charge indicates that other players are involved in the allegations. Those individuals have not had their cases determined at this point. However, the AHO notes that Badanov has been involved in the most serious of Corruption Offenses on multiple occasions over several years.
36. On 16 September 2015, Badanov played a singles match against [REDACTED] [REDACTED] at the ITF Futures F2 Event in El Kantaoui, Tunisia. [REDACTED] Accounts linked to a professional tennis bettor [REDACTED] placed winning bets on the outcome of the first set. The outcome of the match was also accurately predicted in a treble bet related to three separate matches placed in an account the TIU linked to [REDACTED]
37. On 28 September 2016, Badanov played a singles match against [REDACTED] [REDACTED] at the ITF Futures F26 Event in Cairo, Egypt. [REDACTED] won the match 6-0, 6-2. Both the tournament supervisor and the chair umpire reported to the TIU that Badanov was not using his best efforts in this match. One of the bettors that wagered on this match used a betting account that the TIU has linked to [REDACTED]
38. In addition to the two foregoing Corruption Offenses, Badanov introduced the [REDACTED] The Covered Person directly or indirectly solicited or facilitated [REDACTED] or persons linked to him, to wager on the outcome or other aspects of each of the Events described in

paragraphs 36 and 37. Therefore, the Covered Person breached Section D.1.b. of the 2015 and 2016 Programs.

39. The fact that others are involved in the Notice of Charge means that Badanov has failed in his obligation to report approaches to engage in Corruption Offenses found in Section D.2.a. Furthermore, he has failed in his obligation to cooperate with the TIU in respect of his own Notice of Charge as is required by Section 2.a. While these matters have not formed part of the formal Notice of Charge they represent other breaches of the 2015 and 2016 Programs. They are background to the assessment of sanctions in this matter.
40. In determining the sanction I note that there is active co-operation with a known gambler. Badanov is engaged in Corruption Offenses with other Covered Persons. He introduced the [REDACTED] .
Thereby being a direct contributor to the spreading of misconduct and causing a more severe threat to the integrity of the sport of tennis. This type of fact pattern merits the most severe sanction because it threatens many players in the sport of tennis.
41. The purpose of the Program is to:
 - (i) *maintain the integrity of tennis;*
 - (ii) *protect against any efforts to impact improperly the results of any match; and,*
 - (iii) *establish a uniform rule and consistent scheme of enforcement and sanctions applicable to all professional tennis Events and to all Governing Bodies.*
42. Badanov has chosen to remain unresponsive. I have concluded that he represents a substantial threat to the integrity of tennis going forward. He has improperly impacted the outcome of aspects of matches and the matches themselves. He has encouraged other players to possibly have acted in a corrupt fashion. He has also aided and abetted a professional gambler to engage in betting patterns based upon the corruption of

professional tennis players willing to spot fix matches. This conduct must be punished at a level that will deter others from engaging in similar conduct with the hopes of getting away with infractions or a lesser sanction because they did not participate in the hearing of their case.

43. The purpose of the Program, cited above, is to maintain the integrity of tennis. This involves ensuring fair competition, in which the outcome is uncertain. In professional tennis, match-fixing and other types of corruption are a major and world-wide concern for those attempting to protect the integrity of professional tennis. Their work is made particularly more difficult because tennis is an individual sport and only requires a single corrupt participant to obtain an improper result.
44. The conduct engaged in by Badanov damages the public perception of tennis as a sport in which uncertainty of outcome is always supposed to be present. The conduct of the Covered Person, who purposefully contrived the outcome of tennis events, causes the public to develop a negative perception of the integrity of all professional tennis competitions. His conduct brings the sport of tennis into disrepute.
45. Case law cited by the PTIOs' counsel, as discussed in paragraph 23, provides precedent for imposing permanent ineligibility to effectively deter other players from engaging in corruption. The AHO's imposition of the present sanctions is consistent with prior jurisprudence and is justified as being appropriate and proportionate in respect of this Covered Person's actions.
46. For all the foregoing reasons and in recognition of Badanov's failure to respond to my warnings, displaying a disregard for the process and an unwillingness to dispute the allegations raised, a serious sanction is warranted.

47. Therefore, the AHO finds that a penalty imposing the maximum period of ineligibility is justified. I set the sanction of a period of permanent ineligibility.
48. As the AHO I also have the power to fine the Covered Person. It is unknown what monetary benefit the Covered Person gained from his arrangement with [REDACTED]. The multiple breaches committed by the Covered Person and the potential monetary benefit received justifies the imposition of a substantial fine. It is unknown as to the extent of financial gain the Covered Person has achieved by way of his corrupt conduct. A fine is a deterrent to others as well as punishment to discourage players engaging in corrupt conduct and thinking they will be able to keep the financial benefits of that conduct even if they are unable to play tennis any longer. On this basis I would not accept the CAS approach in the *Köllerer's* case, *supra*, in its elimination of a fine. I conclude that a \$100,000 US fine is appropriate given the severity of the breaches. This fine is to be fully paid before any reconsideration of the sanctions by application of the Covered Person in the future.
49. In recognition of the dicta in the *Köllerer* case I have tried to reduce the impact of the fine by making it payable in instalments over a number of years. The fine may be paid in yearly installments of \$10,000 until the amount is fully paid at the conclusion of the first 10 years of the period of ineligibility.

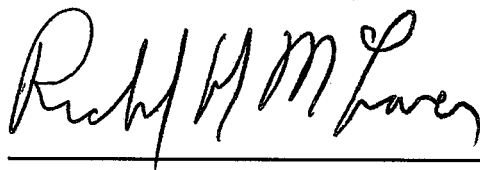
CONCLUSION

50. The Covered Person breached Sections D.1.b. and D.1.d. of the 2015 and 2016 Programs. The Covered Person is sanctioned with the following:

ORDERS

51. Badanov having committed a Corruption Offense under Section D by his breaches of D.1.b. and D.1.d. is ordered to pay a fine of \$100,000 US. This fine may be paid off at the rate of \$10,000 per year for 10 years.
52. Badanov having committed a Corruption Offense under Section D.1.d. is hereby declared permanently ineligible from participation in any event organized or sanctioned by any Governing Body as provided for under Section H.1.b.
53. 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.
54. 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 29th DAY of MAY 2018.

A handwritten signature in black ink, reading "Richard H. McLaren". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

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