

In the matter of alleged Corruption Offences under the Tennis Anti-Corruption Program

**The International Tennis Integrity Agency**

**-and-**

**Igor Smilansky**

Before Anti-Corruption Hearing Officer :

Janie Soublière

Representing The International Tennis Integrity Agency :

George Cottle

Ross Brown

Julia Lowis

Representing Igor Smilansky:

Dr. Lucien Valloni

## **RULING ON LIABILITY**

### **SUMMARY**

The International Tennis Integrity Agency (hereinafter the 'ITIA') charged Igor Smilansky (along with █████ █████ and █████ █████ with corruption offences under the Tennis Anti-Corruption Program (hereinafter 'Program' or 'TACP').

The three Charges brought against Igor Smilansky relate to the alleged fixing of two matches in 2018 and together amount to five possible TACP offences as detailed herein:

#### Charge 1

- One alleged breach of Section D.1.b of the 2018 Program by directly or indirectly soliciting or facilitating any other person to wager on the outcome or any other aspect of any Event or any other tennis competition;

- One alleged breach of Section D.1.d of the 2018 Program by directly or indirectly contriving or attempting to contrive the outcome or any other aspect of any Event.

#### Charge 2

- One alleged breach of Section D.1.b of the 2018 Program by directly or indirectly soliciting or facilitating any other person to wager on the outcome or any other aspect of any Event or any other tennis competition;
- One alleged breach of Section D.1.d of the 2018 Program by directly or indirectly contriving or attempting to contrive the outcome or any other aspect of any Event.

#### Charge 3

- In addition to or in the alternative, one alleged breach of Section D.2.a.i of the 2018 Program by failing to report a corrupt approach.

Further to the conclusion of the first step in this adjudication process, Igor Smilansky has been found liable on a balance of probabilities for two of the three Charges.

Mr. Smilansky is to be sanctioned by the Anti-Corruption Hearing Officer (hereinafter the 'AHO') in a forthcoming decision once written submissions on sanctions have been made and the AHO has carefully considered the same.

## INTRODUCTION

1. This dispute involves the TIA and Igor Smilansky, a professional tennis player.
2. On 13 December 2022, the ITIA charged Mr. Igor Smilansky, [REDACTED] [REDACTED] and [REDACTED] [REDACTED] (all 'Covered Persons' or individually 'the Player' herein) with various Tennis Anti-Corruption Program ('TACP') Corruption Offences.
3. As outlined later in this Ruling, the three (3) Charges Mr. Smilansky relate to his involvement in the fixing of two (2) professional tennis matches played at tournaments in 2018.
4. Mr. Smilansky denied the Charges and requested a hearing before an AHO.
5. Janie Soublière holds an appointment as an AHO per Section F.1 of the TACP. The AHO was appointed without objection by any party to these proceedings as the independent and impartial adjudicator to determine this matter as set out in the 2022 TACP, which governs all procedural aspects of this dispute.
6. The case was consolidated pursuant to Section G.1.c.iii of the TACP because all charges being faced by the three Covered Persons pertain to the same alleged conspiracy, common

scheme or plan. Thus, the procedure for all Covered Persons has been joined with a sole hearing being held. However, a separate ruling is issued for each Player.

7. This is the AHO's Ruling on Liability.

## THE PARTIES

8. The ITIA is appointed by the Governing Bodies who participate in the TACP, namely the ATP Tour Inc., the Grand Slam Board, the International Tennis Federation ('ITF') and the Women's Tennis Association ('WTA') Tour Inc., to administer the TACP. Professional tennis is structured such that top-level men's tournaments are organized by the ATP, whereas lower-level men's tournaments, such as ITF Futures tournaments which are part of the ITF Pro Circuit, are organized by the ITF. A player must register with the relevant Governing Body to be eligible to compete in their tournaments. The ITIA is empowered to investigate potential breaches of the TACP and to later bring charges against Covered Persons where they conclude that there are sufficient grounds to do so.
9. Mr. Smilansky is 28-year-old Israeli national and a professional tennis player who reached his career-high singles ranking of 451 in March 2018. All players who wish to play in professional tennis tournaments must register for an ITF International Player Identification Number ('IPIN'). Mr. Smilansky first registered in January 2010 and received the IPIN [REDACTED]. Professional tennis players are required to endorse the ITF Player Welfare Statement ('PWS') expressly on an annual basis which requires compliance with the TACP and the Tennis Anti-Doping Programme. The PWS contains clear wording that the relevant player is bound by the terms of the TACP, and the player acknowledges and accepts this by confirming their agreement to the content of the PWS. Mr. Smilansky has endorsed the PWS every year from 2010 to 2022 save for 2020. The mandatory Tennis Integrity Protection Programme (TIPP) is an online educational tool to assist a Covered Person with understanding their responsibilities under the TACP and how to spot when other individuals are breaching the terms of the TACP (including match-fixing and corrupt approaches). Mr. Smilansky completed the mandatory TIPP on several occasions, most recently on 1 May 2021.
10. Although Mr. Smilansky challenges being so, for the reasons outlined, he is a Covered Person under the TACP.

## THE NOTICE OF CHARGE

11. The alleged Corruption Offences that Mr. Smilansky has been charged with are outlined in the ITIA's 13 December 2022 *Notice of Major Offence under the 2022 Tennis Anti-Doping Program and referral to Anti-Corruption Hearing Officer* ('Notice of Charge').

12. Three Charges have been brought against Mr. Smilansky consisting of five TACP Offences. Some of the Charges brought against Mr. Smilansky are also being brought against ██████████ ██████████ for his involvement in fixing the same relevant match.
13. Schedule 2 of the Notice of Charge sent to Mr. Smilansky outlines the factual background giving rise to the Corruption Offences brought against him. These are reproduced below as the AHO could not summarize them any better:

*“Former ██████████ professional tennis player, ██████████ ██████████ was investigated for match fixing and betting on tennis by the ITIA (then known as the Tennis Integrity Unit) in 2014 and 2015. In May 2017, ██████████ was issued with a life ban by the ITIA for, amongst other things, making corrupt approaches to other Covered Persons. ██████████ later contacted the ITIA in January 2020 to provide a considerable amount of information to assist the ITIA in its match-fixing investigations (the “Investigation”) so that he could benefit from Substantial Assistance. ██████████ was interviewed by the ITIA on several occasions during 2020 and subsequently, including in 2022 (the “Interviews”). The content of ██████████ personal mobile phone was also forensically downloaded and reviewed by the ITIA as part of the Investigation. ██████████ provided, during the course of the Interviews, extensive details of his relationship and corrupt match fixing and betting activities with various individuals over the course of several years, one of which he alleges was Kazakhstani tennis player, ██████████ ██████████ and another he alleges was you. The messages and files contained on ██████████ personal mobile phone demonstrate the extensive discussions ██████████ had with ██████████ including in relation to match-fixing arrangements involving you. The evidence of ██████████ or provided by him, is relevant to all of the Charges against you.. ( ...)”*

14. The two main Charges against Mr. Smilansky relate to two separate matches in which he competed in November 2018 and make the same broad allegation that he worked directly with ██████████ who, in turn, acted as an intermediary on behalf of ██████████ to fix those matches. The remaining Charge relates to Mr. Smilansky’s failure to report the match-fixing approaches.
15. For the first Charge, the ITIA submits, given the admissions of ██████████ and the evidence of betting operators, that Mr. Smilansky agreed directly with ██████████ (and therefore indirectly with ██████████ that he was to lose the first set of a match played on ██████████ November 2018 in order to facilitate the successful bets of a third party in breach of Section D.1.b of the 2018 Program. In doing so, Mr. Smilansky contrived the outcome of an aspect of an Event (or ‘match’, hereinafter) in breach of Section D.1.d of the 2018 Program.

16. For the second Charge, the ITIA submits that, given the admissions of ██████████ the WhatsApp exchanges between ██████████ and ██████████ and the corroborating evidence from betting operators provided to the ITIA, that Mr. Smilansky agreed with ██████████ ██████████ that he would intentionally lose a match on 13 November 2018 in order to facilitate the successful bets of a third party in breach of Section D.1.b of the 2018 Program. In doing so, Mr. Smilansky also contrived the outcome of, or an aspect of, an Event in breach of Section D.1.d of the 2018 Program.
17. For the third Charge, the ITIA infers, as a minimum, that Mr. Smilansky was the recipient of a corrupt approach from ██████████ for each of the matches. As he is required under the terms of the Program to have reported these corrupt approaches to the ITIA and failed to do so, the ITIA submits that he breached the Program on each occasion.
18. Mr. Smilansky denied all Charges and requested a hearing before an AHO.

#### **APPLICABLE LAW AND JURISDICTION**

19. All Parties to this matter agree that the substantive allegations of this dispute are governed by the TACP in force when the alleged Corruption Offences brought against each Covered Person occurred and that each respective Player is considered a Covered Person under each respective TACP. Mr. Smilansky had expressly reserved the right to make submissions on the applicable law, yet later agreed that the substantive allegations of the Charges brought against him are governed by the 2018 TACP and that he is a Covered Person under the same. Therefore, the 2018 TACP applies to the substantive allegations of this dispute.
20. All Parties to this matter agree that the procedural rules applicable to the resolution of this dispute are the 2022 TACP and that each relevant Player is a Covered Person under the same. Mr. Smilansky had expressly reserved the right to make submissions on the applicable procedural rules, but later agreed that the procedural rules applicable to all procedural aspects of this dispute are the 2022 TACP and that he is considered a Covered Person under the same.
21. Mr. Smilansky has not objected to the appointment of the AHO, undersigned, to hear this matter. She has been properly appointed and seized of the matters in dispute.
22. No other matters relating to jurisdiction or the arbitrability of these matters have been raised by any party.

## BURDEN AND STANDARD OF PROOF

23. Section G.3.a of the TACP provides that *the ITIA shall have the burden of establishing that a Corruption Offense has been committed. The standard of proof shall be whether the ITIA has established the commission of the alleged Corruption Offense by a preponderance of the evidence.*
24. Section G.3.c. of the TACP provides that *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.*
25. Relying on CAS 2011/A/2566, Mr. Smilansky argued that in some cases where more serious offences are alleged to have been committed, Court of Arbitration for Sport ('CAS') panels have agreed to apply a higher standard of proof. The ITIA rightly rebutted this argument clarifying that the case relied upon was a doping case and that the Rules in doping cases clearly provide that the standard of proof is that of comfortable satisfaction. This standard of proof does not apply here. When rejecting a similar argument, the Swiss Federation Tribunal recently held in 4A\_486/2022 at paragraph 8.2 that the fact that doping cases provide for a higher standard of proof can have no bearing on match-fixing cases when it said:

(free translation from French)

*"The fact that the anti-doping regulations set a stricter standard of proof than that applicable in the present case for finding the existence of an offence does not appear to be an issue. Given the difficulties inherent in proving cases of corruption and manipulation of sports matches and the limited investigative powers of the judicial bodies of sports federations, the standard of proof required by the TACP does not offend the sense of justice."*

26. The Player has argued that given the severity of the Charges brought against him, the standard of proof should be higher than 51%. The TACP clearly states, however, that the standard of proof is to be on the balance of probabilities. This has also been confirmed by the CAS in CAS 2011/A/2490 when the Panel held that *"the fact that a player has been charged with serious offences does not require that a higher standard of proof should be applied than the one applicable"*.
27. The Swiss Federal Tribunal at paragraph 8.2 of 4A\_486/2022 also confirmed that it was correct for an AHO and the CAS on appeal, to have applied the standard of proof of a balance of probabilities, as provided in the TACP, when making its findings on liability.

(free translation from French)

*"In this case, the Panel, by referring to the applicable regulatory provisions and the case law of the CAS, apportioned the burden of proof and correctly determined the degree of proof required to find the existence of an infringement of the TACP."*

28. The standard of proof that applies is the one provided for in the TACP, which is unequivocally *a preponderance of the evidence*. Given the severity of the Charges, the AHO is ready to accept that the weight and quality of the evidence tendered by the party holding the burden of proof, here the ITIA, is all the more important. But the standard of proof remains as legislated in the TACP.
29. Thus, the ITIA bears the burden of proof, and the standard of proof to establish the corruption offences is the equivalent of the English law's "*balance of probabilities*" and can be satisfied by any reliable means; so long as the means and or evidence relied upon are sufficiently compelling to meet the evidentiary standard established by the governing regulation.

## PROCEDURAL BACKGROUND

30. On 13 December 2022, the ITIA sent the Notice of Charge to Messrs. Smilansky, [REDACTED] and [REDACTED] outlining the allegations and charges against the three Covered Persons, informing them of the identity of the AHO responsible for deciding this dispute, explaining that the allegations fall within the scope of Article G.1.c. TACP and that the cases were to proceed on a consolidated basis, without objection from any party. In the Notice of Charge, the Covered Persons were given ten Business Days to respond, either by requesting a hearing, making submissions, or other.
31. All three Covered Persons requested a hearing and a Conference Call was convened with all Parties, their Counsel and the AHO in order to set a Procedural Calendar. Directions were discussed and agreed upon by all Parties.
32. Further to this call, and after giving the Parties an opportunity to comment on the same, Procedural Order 1 ('PO1') was formally issued reflecting the directions agree upon.
33. On 8 February 2023, Mr. Smilansky objected to the concurrent disclosure and filing of documentation. The AHO rejected the application as follows:

*"In response to Dr Valloni's request, the AHO notes that 3 February 2023 was the date by which he was to return proposed changes of this nature to the Draft PO1,*

*which he elected not to do. The AHO further notes that Dr. Valloni had expressly agreed to concurrent disclosure (along with all other procedural calendar items) during the Conference Call.*

*Thus, as expressly agreed upon by all during the Conference Call, all parties will be expected to produce all of the documents and information on which they intend to rely upon during the hearing by 27 February 2023 pursuant to paragraphs 15 and 16 of Procedural Order 1. The parties may, of course, supplement their documentation at a later date in accordance with paragraph 18 of Procedural Order 1.*

*Under the circumstances, the AHO considers this to be a fair procedure in accordance with TACP Section G.2.c. and thanks all parties for their cooperation.”*

34. As agreed and procedurally ordered, all parties concurrently submitted a full and complete production of all documents and information which they intended to rely upon during the hearing and such other document(s) and other information in their possession and control which are or may be relevant in these proceedings on 27 February 2023, except for [REDACTED] [REDACTED] who elected not to do so.
35. Prior to the 5pm GMT deadline on 27 February 2023, Counsel for the ITIA informed all Parties and the AHO that although it had started uploading all its documents onto the SharePoint file, there was some delay in the system upload and thus some of the documents would effectively be uploaded after the established deadline of 5pm. No Parties immediately objected to the same.
36. On 16 March 2023, Mr. Smilansky filed an objection applying to exclude all the documents the ITIA had disclosed after the 5pm deadline on 27 February 2023. The AHO requested the other Parties to respond to Mr. Smilansky’s objection. [REDACTED] did not, and the ITIA objected on multiple grounds. The AHO then ruled as follows:

*“The AHO acknowledges receipt of both Dr. Valloni’s request/Application on behalf of Mr. Smilansky and Mr. Cottle’s response to the same on behalf of the ITIA.*

*The AHO finds that the ITIA’s expressly disclosed and (sic) inadvertent delay in uploading the Documents was in fact due to technical issues and that the minor technical delay in successfully uploading the documents neither caused prejudice to any Party to these proceedings nor breached any Rules of the TACP or of natural justice.*



*Thus, the AHO holds that all Documents uploaded into the SharePoint by the ITIA on 27 February 2023 (regardless of the time uploaded) shall be included into the case file.”*

37. Mr. Smilansky later maintained his objection in writing and at the outset of the hearing, which was duly noted by the AHO.

38. On 3 April 2023, Counsel for the ITIA requested an extension to file its written submissions further to which the AHO invited the other parties to make submissions on the same. Although none of the Covered Persons responded to the AHO’s invitation, on 5 April 2023, the AHO denied the request and ruled as follows:

*“Counsel for the ITIA’s request for extension to file its submissions has been received.*

*The AHO notes that during the Procedural Call, the timeline for the ITIA’s submissions was first proposed by the ITIA’s counsel and then agreed upon by the parties and the AHO, with the rest of the procedural calendar being set as a result. PO1 was issued further to the same as also agreed upon by the ITIA’s counsel.*

*Neither ██████████ counsel, Mr. Smilansky’s counsel nor ██████████ have made submissions objecting to the ITIA’s request in the short timeline that was provided for them to do so.*

*Nonetheless, considering the various other procedural requests, objections raised and ruled on to date, the AHO hereby denies the ITIA’s request for a one-week extension to 18 April 2023 to file its written submissions.*

*Given the Easter break, the AHO does extend the ITIA’s deadline to file its submissions by two days to 13 April 2023 5 pm GMT.*

*Without needing to alter the rest of PO1’s procedural calendar, the AHO also extends by two days ██████████ Mr. Smilansky’s and ██████████ deadline to file their submissions to 25 May 2023 5 pm GMT.”*

39. The ITIA later filed its written submissions in a timely manner.

40. On 24 May 2023, Counsel for ██████████ requested an extension of 7 days to file her submissions without objection from any Party. The AHO granted an extension to all Covered Persons to 30 May 2023 to file their Response submissions, and modified the rest of the Procedural Calendar accordingly.

41. Both Messrs. ██████████ and Smilansky filed their Response submissions in a timely manner on 30 May 2023. ██████████ did not.

42. On 5 June 2023, the AHO wrote to the Parties (i) asking ██████████ to confirm his intention to participate in the hearing, and asking him to file submissions by 7 June 2023, if he wished to do so, (ii) asking Counsel for ██████████ to confirm if he intended to give evidence and be cross-examined at the hearing and if so, to file a will-say statement by 8 June 2023 and (iii) asking Counsels for ██████████ and Mr. Smilansky to inform the AHO if the respective Players would agree to waive confidentiality, which they both eventually did.

43. On 6 June 2023, ██████████ confirmed that he intended to participate in the hearing but did not file his submissions by the extended deadline of 20 June 2023.

44. As directed by the AHO, the ITIA filed its Rejoinder in relation to Mr. Smilansky (and ██████████ on 13 June 2023. While ██████████ filed a Rejoinder, Mr. Smilansky elected not to do so.

45. On the eve of the hearing, ██████████ made a full admission to the AHO, admitted that he had committed all the Offences for which he had been charged and confirmed that he would be attending the hearing unrepresented. Later that same day, he recanted part of his admission to exclude charges related to any matches involving other Covered Persons, including those involving Mr. Smilansky.

46. A hearing was held by video conference, as scheduled, on 29 and 30 June 2023.

47. Attending the hearing were:

AHO	Janie Soublière
For the ITIA	Julia Lewis – Counsel George Cottle – Counsel Ross Brown - Counsel Denise Bain – Witness
For Mr. Smilansky	Igor Smilansky – Covered Person Dr. Lucien Valloni – Counsel ██████████ - Witness
For ██████████	██████████ ██████████ – Covered Person Feruz Bobokulova – Counsel
For ██████████	██████████ ██████████ – Covered Person

48. Prior to the closing of the hearing, subject to his procedural objections, notably that of not having the right to cross-examine [REDACTED] [REDACTED] Mr. Smilansky confirmed that he was satisfied that the hearing had been conducted in respect of all his rights to natural justice.

## **PARTIES' SUBMISSIONS ON LIABILITY**

49. The AHO has carefully considered the totality of the Parties' written submissions. They are summarised below. Additional facts and allegations found in the Parties' submissions and evidence may be set out, where relevant, in connection with the legal discussion that follows. The AHO refers in its award only to the submissions and evidence it considers necessary to explain her reasoning.

## **SUBMISSIONS AND EVIDENCE**

### **I. ITIA**

50. The ITIA submits that Mr. Smilansky is liable for all the Charges. On a preponderance of the evidence there is strong evidence of Mr. Smilansky's involvement in match-fixing activities during the relevant period in respect of his own matches. The evidence demonstrates Mr. Smilansky's involvement in these activities and paints a clear picture of an individual who was content to corrupt the sport of tennis for his own financial gain. That is the most logical conclusion to draw from the evidence that is available. It is also supported by admissions made by [REDACTED] in the course of his interviews with the ITIA. The ITIA submits that there is no credible alternative explanation for the evidence available.

### *The Evidence*

51. The evidence the ITIA relies upon is varied. The sources of evidence are outlined as follows:

#### Evidence from Betting Operators

52. The ITIA explains that it works closely with betting operators and related organisations to target corruption in tennis. This relationship is mutually beneficial: the ITIA is able to locate, identify and sanction individuals who seek to corrupt the sport of tennis to the detriment of all those who play it, and the betting organisations protect their members and

customers from being negatively impacted by corruption and those who profit from illegal activity. The ITIA receives reports of suspicious betting patterns either directly from betting operators or from organisations like the International Betting Integrity Association (formerly known as ESSA) or Sportradar AG.

53. Information received by the ITIA from betting operators relates to Charges 1 and 2.

#### Admissions in Interview

54. The ITIA interviewed ██████████ on six separate occasions between February 2020 and July 2022. During the course of those interviews, ██████████ explained how he, ██████████ and Mr. Smilansky fixed two separate matches in 2018.

55. The information obtained by the ITIA in its interviews with ██████████ relates to Charges 1 and 2.

#### Forensic Mobile Phone Download

56. The forensic download of ██████████ phone produced a significant amount of WhatsApp exchanges between ██████████ and ██████████ between 2017 and 2019 and other relevant documentary evidence, such as screenshots of betting odds for relevant matches.

57. The content of ██████████ forensic phone download is relates to Charges 1 and 2.

#### ITIA Documents

58. The ITIA relies on documents produced internally or by tennis governing bodies, such as match scorecards.

### *The Charges*

59. On the basis of the available evidence, the ITIA submits that Mr. Smilansky should be found liable for all of the alleged breaches of the TACP that are the subject of the Charges below.

60. The ITIA's submission first addresses Charge 2 given the more fulsome WhatsApp exchanges seen in that Charge before addressing Charge 1 to which it applies the same analysis.

#### Charge 2

61. This Charge concerns the singles match between Mr. Smilansky and ██████████ which took place on ████████ November 2018 as part of an ██████████ tournament in ██████████ Thailand. ██████████ won the match ██████████ ██████████

62. The ITIA submits that the WhatsApp messages, tendered into evidence by the ITIA and reviewed at length during the hearing, present an overwhelming case that Mr. Smilansky was involved in fixing this match alongside ██████████ and ██████████. The messages are very clear and can only be explained by match-fixing. There is no other basis for the messages being exchanged between ██████████ and ██████████. ██████████ has confirmed that ██████████ acted as an intermediary in order for Mr. Smilansky to fix this match. To the ITIA, there is no reason to disbelieve ██████████ position in his interview transcripts, as all he was doing was confirm what is clear from the messages themselves.

63. Ms. Bain's witness statement and oral evidence explain that match fixing is a coordination exercise that requires for arrangements to be made and put in place with the relevant player, the fixer and usually an intermediary, keeping in mind the odds, the betting limits and the markets, whilst trying to avoid raising suspicion of betting operators.

64. Against that background, the ITIA submits that there is simply no basis for suggesting that ██████████ was at the time engaging with this process in such detail if he did not think that he stood to make significant sums of money from it. There can be no doubt that ██████████ thought this match was fixed. ██████████ delivers the crucial messages from Mr. Smilansky being that he is available and willing to fix the match to ██████████. It is clear that Mr. Smilansky is in contact with ██████████ – there is no other way to read the messages.

65. This match is also notable for Mr. Smilansky appearing to execute the fix incorrectly as ██████████ gives an unusual level of detail in explaining what went wrong. It is clear from his comments that the betting was intended to affect three aspects of the match: 1) for ██████████ to be the first player to score and reach ██████████ games in the ██████████ set 2) for ██████████ to be the ██████████ to score and reach ██████████ games in the ██████████ set and 3) for ██████████ to win the first set itself. However, Mr. Smilansky reached ██████████ games ██████████ in ██████████ first set, meaning the bets made in favour of the first outcome were lost.

66. The ITIA explains that:

- From the WhatsApp messages, it is clear upon reading that ██████████ is seemingly furious with this outcome and blames Mr. Smilansky for the mistake.
- He tells ██████████ that he is not interested in hearing any explanation for the error from Mr. Smilansky and confirms that, regardless of the overall outcome, he is still prepared to pay Mr. Smilansky the agreed fee for the fix – in this case, "6000".
- This clearly demonstrates that Mr. Smilansky had agreed to fix the match in return for financial gain – there is no other reason ██████████ would be agreeing to pay him.

67. To the extent that any additional evidence is required, the nature of the bets themselves lends further support to the ITIA's position. The account that placed the [REDACTED] bets was linked to [REDACTED] either through the individual being an associate or through it being an account [REDACTED] had control over.
68. Very significant bets were placed with over €18,000 wagered by [REDACTED] and his team. That is plainly a very substantial sum, which, the ITIA submits, would not have been gambled had [REDACTED] a professional match-fixer, not been certain about being successful and which demonstrates that at the time of placing the bets he had complete confidence in the outcome – he thought the deal with [REDACTED] and Mr. Smilansky was infallible.
69. The ITIA therefore submits that, with regards to Charge 2, Mr. Smilansky facilitated another party to wager on the outcome or an aspect of an Event and that he also contrived the outcome or an aspect of an Event in breach of Sections D.1.b and D.1.d of the 2018 TACP, respectively.

#### Charge 1

70. This Charge concerns the singles match between Mr. Smilansky and [REDACTED] [REDACTED] [REDACTED] which took place on [REDACTED] November 2018 as part of an [REDACTED] tournament in [REDACTED] Thailand. Mr. [REDACTED] won that match [REDACTED] [REDACTED]
71. The ITIA does not have any WhatsApp exchanges between [REDACTED] and [REDACTED] in relation to this Charge. Ms. Bain has explained that they are likely to exist but are just not available to the ITIA (for an unknown reason).
72. The ITIA submits that there are two potential reasons that this match was likely subject to match-fixing. The first is that the match relevant to this Charge takes place less than a week before the Charge 2 match, for which there are extensive exchanges. The second is that those exchanges for the Charge 2 match open with the comment, "*Smilansky already in*". That plainly suggests that the Charge 2 exchanges were not the first time that Mr. Smilansky was being discussed.
73. The ITIA submits that there remains sufficient evidence to prove this Charge.
- [REDACTED] was clear when interviewed that this match was fixed, and he offered some points of detail which demonstrate his own clear recollection of that fact. Firstly, he made a specific reference to an Israeli player whom [REDACTED] had forged a relationship with. This is a reference to Mr. Smilansky.

- ██████ recalled the successful nature of the betting on this match due to the significant sums won. He referred to €30,000 in total, with ██████ receiving “6,000 plus 5,000 extra” as well as it being “the best ITF match” that he had ever been involved with. The inferences being that a proportion of the winnings, the “5,000 extra” was for Mr. Smilansky and that it was higher than usual for an ITF match.
- ██████ recalled the agreed fix for the match where he stated it was “First set, max ██████ no Tie-break in the Match”. That is borne out by what happened in the match with the first set being won by Mr. ██████ and there being no tiebreak.
- ██████ recalled how payment was made for this match, by reference to meeting a woman, sent by ██████ at an airport to hand over match-fixing payments in cash, including the one for Mr. Smilansky following his fixing of this match.

74. The ITIA also submits that ██████ admissions are of some significance.

- He was, for several years, a professional gambler and match-fixer. He made substantial profits from his corrupt activity.
- One of ██████ principal contacts was ██████ They were close and their relationship was at times a strong one as they worked together for significant financial return.
- He described the basis of his relationship with ██████ as being about the business of match-fixing for profit and the extent of the relationship is portrayed across the available WhatsApp messages as they speak in detail about the possibility of fixing matches and can be seen in the language used and references to their shared experiences. The messages are, of course, contemporaneous and speak for themselves. They are of significant evidential value in these proceedings and provide relevant background to this Charge.

75. As a result, the ITIA submits that there is no reason to doubt the admissions of ██████ in interview or any of the related descriptions of his match-fixing empire. ██████ is simply describing to the ITIA what is already evident from the WhatsApp messages so his comments in interview also have evidential value in these proceedings.

76. The ITIA submits that its conclusion is further supported by the bets themselves:

- ██████ reported six bets placed by one bettor, within a minute, all on Mr. ██████ to win and on him to win the first set.
- The total sum of the bets stands out with £5,627 placed across the six bets which generated a total profit of £16,419.

77. Therefore, the ITIA submits that Mr. Smilansky facilitated another party to wager on the outcome or an aspect of an Event and that he also contrived the outcome or an aspect of an Event in breach of Sections D.1.b and D.1.d of the 2018 TACP, respectively.

### Charge 3

78. In addition, or in the alternative, to Charges 1 and 2 above, the ITIA submits that Mr. Smilansky failed to report corrupt approaches made to him, as per Section D.2.a.i of the TACP.
79. The ITIA alleges that ██████████ directly approached Mr. Smilansky in connection with fixing tennis matches and that it is inconceivable that Mr. Smilansky did not have knowledge of ██████████ corrupt practices. Mr. Smilansky was therefore required to report that information to the ITIA at the relevant time. By electing not to do so, he breached Section D.2.a.i of the 2018 TACP.

## II. Mr. Smilansky

80. Mr. Smilansky firmly contests the three Charges brought against him.
81. He first argues that the standard of proof applicable to this matter should be higher than 51% relying on what he refers to as *“the well-established rule in disciplinary matters that the heavier the allegations made, the higher the standard of the burden of proof must be”*.
82. He submits that an allegation of match fixing is similar to an allegation of fraud and that clear and direct proof of match-fixing is necessary to safeguard the rights that derive from the application of Article 6 of the European Convention of Human Rights which he says applies because of the forced arbitration situation in which the Player finds himself. He says speculation is insufficient to meet the evidentiary standard when considering that there is not one single proven contact between the Player and the match-fixers. And finally he argues that given the seriousness of the allegations, the AHO must have a very high degree of confidence in the quality of the evidence to confirm the Charges brought against him and that there is no such evidence here.
83. Mr. Smilansky submits that he does not know ██████████ and has never been in contact with him. He also submits that while he has heard of ██████████ he has never been in contact with him; other than saying mundane words like *“hello”* or *“good morning”*. There is no evidence in the case file or in Ms. Bain’s interview which confirms that Mr. Smilansky was ever in direct contact with ██████████ or ██████████ to fix matches.
84. With regards to the two matches, the first that he played on █ November 2018 and lost █ █ █ and the second, on █ November 2018 and lost █ █ █ he relies on Mindverse, an artificial intelligence research company that is designed to build digital consciousness with



autonomous consciousness and digital thinking ability. He argues that according to Mindverse [REDACTED] is statistically the most common result in a tennis match.

85. He explains, as confirmed by [REDACTED] that when he was in Thailand to play these tournaments, his physical and mental condition was poor. He attributes this to the fact that he had recently been in a motorcycle accident and had broken up with his long-time [REDACTED] (now [REDACTED] Rather than focusing on his tennis, he was going out, drinking, smoking, eating and sleeping poorly. This, added to the hot and humid conditions, made him feel physically weak.

86. He describes the reasons he lost all his matches in Thailand as follows:

*"I was feeling devastated and, as mentioned above, could not find my confidence in myself as a player, which was visible to the outside. As a player, it is crucial to have mental and physical strength and peace, both of which I was lacking during the tournaments in Thailand. After the motorcycle accident and the [REDACTED] I did not stick to my trainings as I should have, did not eat how I should during tournaments and was not at peace with my heart and thoughts."*

87. This is the only reason he lost these matches. They were not fixed.

88. Mr. Smilansky disputes Ms. Bain's witness statement in its entirety. First, he clarifies, unlike she alleged therein, that he could have adapted to the Thai climate before his matches, considering he had arrived in Thailand on [REDACTED] October 2018, three weeks ahead of the matches in question. However, according to the evidence he adduced, Mr. Smilansky was in Israel on [REDACTED] October 2018, and not Thailand.

89. Second, Mr. Smilansky contests that he acknowledged that the diminutive "smil" referred to him in his interview with Ms. Bain. What he acknowledged was that he changed his name from Smilanski to Smilansky and nothing more. (Both Ms. Bain and the ITIA later conceded this point.)

90. Third, he rebuts Ms. Bain's assertion that he was unconvincing and evasive when she showed him a WhatsApp exchange between [REDACTED] and [REDACTED] where the diminutive "smil" was used. At page 26 of the interview transcripts, he stated that *"the allegations are wrong and that he did not fix a match and that he played to win the match 100%"*. There is nothing more he could say about something he knows nothing about and individuals he did not know.

91. Mr. Smilansky is offended by the treatment he has received by the ITIA considering he was cooperating with the investigation. He feels that he was bullied by the interviewers and

the ITIA and that he has been unfairly charged with offences that have nothing to do with him and that are tarnishing his reputation.

92. He also notes that:

- ██████████ has contested all allegations and claims someone misused his phone.
- Perhaps the Russian Mafia is responsible for ██████████ misusing his phone.
- Mr. Smilansky has nothing to hide. He immediately gave Ms. Bain his Facebook password for the purpose of her investigation and she failed to find anything.

93. Specifically, with respect to Charge 1, Mr. Smilansky argues that:

- Information relating to this alleged fix is vague, speculative and based purely on Ms. Bain's interview with ██████████
- Ms. Bain reports that ██████████ allegedly handed over money to an unknown woman in a Starbucks, but there is no evidence linking the Player to this exchange of money.
- ██████████ evidence is not convincing as he initially stated that he exchanged the money in 2019, but then amended this date to 2018 when Ms. Bain corrected him.
- There is no evidence to confirm the ██████████ betting account belonged to ██████████ This is Ms. Bain's vague and unconvincing conclusion.
- Even if Ms. Bain does not believe him, his explanation as to why he lost the match is persuasive, as corroborated by ██████████

94. Specifically with respect to Charge 2, Mr. Smilansky argues that:

- The ITIA has no proof that he made himself available or was willing to fix a match.
- There is no proof whatsoever that ██████████ was ever in contact with him in relation to this alleged fix and it cannot be accepted that ██████████ told ██████████ that Mr. Smilansky had been contacted about the fix when that was never the case.
- The outcome of the match which is the object of the second Charge did not even yield the outcome expected, which makes it more likely that ██████████ simply made ██████████ believe that he had spoken to him but never had.
- Ms. Bain's unsupported assertion that the '██████████' betting account was registered to Georgios Karalis and controlled by ██████████ is speculative and vague as are most of her statements in relation to this Charge, notably the one regarding the "over and above" €6000 profit that was allegedly made.

95. Finally, with respect to Charge 3, Mr. Smilansky argues that:

- He was never in touch with ██████████ or ██████████ and knew nothing of their match-fixing operation.
- The assumption that Mr. Smilansky was either the recipient of corrupt approaches or that he had knowledge of these two men's activities is speculative as there is no proof

of any kind of conversation having occurred between Mr. Smilansky and either [REDACTED] or [REDACTED]

96. Mr. Smilansky also rebuts many of the ITIA's allegations as follows:

- The ITIA's submission that [REDACTED] has control over some of the accounts from which many of the bets related to Charge 1 and 2 were placed is unproven. It appears simply to be Ms. Bain's belief as [REDACTED] does not appear to have corroborated with the ITIA's investigation in this regard.
- The fact that he could not comment on the WhatsApp exchange between [REDACTED] and [REDACTED] cannot be held against him and lead to the conclusion that he was being evasive: *"What kind of explanation could he give when asking about a conversation between two people he does not know nor had any contact with?"*
- There is no direct evidence that the Player was ever in contact with [REDACTED] or [REDACTED]. He was not involved in any kind of match-fixing and was never approached to fix a match. Most of the ITIA's allegations and Ms. Bain's beliefs are speculative and vague.

97. Therefore, given the seriousness of the allegations and the weak evidence tendered to support the same, the Player submits that he should not be found liable for any of the three Charges brought against him.

## DELIBERATIONS

98. Prior to assessing the merits of each Charge, the AHO first addresses key arguments raised by Mr. Smilansky in the course of these proceedings.

### *Substantial Assistance*

99. Mr. Smilansky argues that the ITIA should never have agreed to reducing [REDACTED] sanction based on his substantial assistance because he is a liar, connected to the Mafia and that he probably made everything up. He has argued that [REDACTED] testimony is unreliable because he is a liar and would have said anything to get a reduced sanction, including making up lies about other players. He chastised the ITIA for reducing [REDACTED] sanction and charging innocent players with corruption offences based solely on his unreliable testimony, but presents no facts to support the speculative character assassination assertions made in this regard.

100. The ITIA strongly rebutted the allegation made against it claiming that it is an (other) Anti-Corruption Hearing Officer, who further to having the matter brought before them, agreed to a partial coaching reinstatement for [REDACTED] Substantial Assistance. The ITIA argued that

Substantial Assistance can only be given if specific criteria are fulfilled and that in this case the AHO found that they were.

101. The AHO thus felt it imperative to verify what is effectively required under the TACP in order for the Substantial Assistance clauses of the TACP to be applied. This, in turn, has justified the AHO relying, albeit to a very limited extent, on some of [REDACTED] evidence even though he was not present at the hearing to be cross-examined on the same.

102. Section B.35 of the 2022 TACP defines Substantial Assistance as *“assistance given by a Covered Person to the ITIA that results in the discovery or establishing of a corruption offense by another Covered Person”*.

103. Section H6 of the 2022 TACP provides:

*“Substantial Assistance. At any time other than during the pendency of an appeal of a Decision, the AHO may reduce any period of ineligibility if the Covered Person has provided Substantial Assistance to the ITIA. Upon application by the Covered Person pursuant to this provision, the AHO shall establish an appropriate procedure for consideration of the application, including the opportunity for the Covered Person and the ITIA to make submissions regarding the application. Where a Covered Person commits a Corruption Offense in order to provide Substantial Assistance, the commission of the Corruption Offense shall invalidate the Substantial Assistance application and the ITIA will, notwithstanding any prior contrary order of an AHO, publicly report the Decision in full, subject to any necessary information that the ITIA considers to be sensitive or confidential and the exceptions set forth in Section G.4.e. Further, such Corruption Offense may be the subject of a separate prosecution by the ITIA. The AHO has complete discretion in consideration of an application for reduction of a penalty under this provision.”*

104. The AHO is thus satisfied that a robust process to test the legal validity and reliability of [REDACTED] evidence and admissions was followed prior to granting [REDACTED] some leniency to his lifetime ban, and that the evidence [REDACTED] provided during this process was legally tested both by the ITIA and an Anti-Corruption Hearing Officer prior to the Substantial Assistance provisions of the TACP effectively being implemented.

105. As [REDACTED] evidence and admissions have been scrutinized and tested to a certain degree by an Anti-Corruption Hearing Officer and the ITIA in order for him to benefit from Substantial Assistance provisions of the TACP, the AHO finds that attributing some very limited evidentiary weight to the evidence [REDACTED] provided in no way breaches Mr. Smilansky’s right to a fair trial and falls within an AHO’s discretionary powers under Section G.3.c of the TACP.

*The inability to cross-examine ██████████*

106. The AHO next addresses the argument raised by Mr. Smilansky (and ██████████ with regards to ██████████ not being available for cross-examination. The AHO would have compelled ██████████ to attend if she had this power. The TACP does not provide a power for the AHO to compel witnesses to present themselves at a hearing.
107. Mr. Smilansky strongly argues that his inability to cross-examine ██████████ and to test his evidence and allegations is a significant, if not fundamental, breach of his right to a fair hearing. He argues that the ITIA wrongly relies on Ms. Bain's interview transcripts and "beliefs" in relation to ██████████ admissions and that any evidence given by ██████████ cannot be relied upon. He is a liar, a known cheater and match-fixer, and a member of the Greek Mafia, who cannot be trusted. He has made up stories about other innocent players like himself in order to benefit from a reduction in his lifetime ban.
108. The ITIA, on the other hand, explains that it wanted ██████████ to be present at the hearing for direct examination as he could have confirmed all his admissions made in interview with Ms. Bain and could have explained in greater detail how all the matches were fixed for a significant profit. Counsel for the ITIA explains that as ██████████ is no longer a Covered Person, he could not be compelled to testify under the TACP. The ITIA also confirmed, as suggested by the AHO at the outset of day two of the hearing, that the AHO could also not compel ██████████ to testify.
109. It would certainly have been desirable for ██████████ to testify directly at the hearing. His non-attendance does not amount to a violation of Mr. Smilansky's right to a fair trial but it does result in the reliability and weight of ██████████ evidence being extensively reduced as it was not tested by the Covered Persons who have been charged with Corruption Offences as a result of his admissions.
110. Where the ITIA's Charges appear to flow mostly from ██████████ untested statements, the AHO has not considered the evidence as being legitimate as it remains untested, and thus it is not sufficiently compelling to even consider the drawing of inferences.
111. Therefore, although the AHO could only attribute very limited weight to ██████████ evidence due to the fact that he was not available for cross-examination, given that ██████████ evidence was legally tested by an Anti-Corruption Hearing Officer prior to agreeing to grant ██████████ a reduction in sanction based on Substantial Assistance and then by the ITIA prior to proceeding with these Charges, and given its detail and its ability to corroborate the other evidence adduced (WhatsApp messages, wire transfers, etc.) it is

deemed admissible but given very little weight due to [REDACTED] lack of viva voce testimony.

*The WhatsApp Messages between [REDACTED] and [REDACTED]*

112. All three Covered Persons have alleged that the pages upon pages of spreadsheets containing detailed WhatsApp messages between [REDACTED] and [REDACTED] whether text, video or audio could either all have been fabricated by [REDACTED] or that someone else (unidentified) has stolen [REDACTED] phone or had hacked into it and, unbeknownst to [REDACTED] had chatted with [REDACTED] and set up detailed operations (identified players, picked events, organized payment, etc.) and fixes for matches for months and years on end. The AHO rejects all such arguments.
113. Even if [REDACTED] was the one who willingly provided his phone and cannot be cross-examined on the same, the AHO is satisfied that a forensic download and analysis of [REDACTED] phone (as explained by the ITIA) was undertaken and confirmed the messages were not made up. The AHO is also satisfied that no one stole [REDACTED] phone or phone number or could have engaged in over two years of messaging without [REDACTED] being aware of the same. To suggest the same is non-sensical. Finally, the AHO is also satisfied that [REDACTED] phone was not hacked by an unknown person and that all the WhatsApp conversations between him and [REDACTED] are true and accurate representations of real conversations that were exchanged in real time between them.
114. Thus, significant weight has been attributed by the AHO to the incriminating and highly compelling WhatsApp messages which remain unsuccessfully challenged.
115. The WhatsApp messages are direct documentary evidence which has incriminated [REDACTED] and led to him being found liable for all the Corruption Offences for which he has been charged. The WhatsApp messages have also been considered compelling and reliable documentary evidence that has incriminated [REDACTED] in a parallel ruling, together with other compelling documentary and betting operator evidence, and resulted in him being found liable for some Corruption Offences. And finally, so too can these WhatsApp messages be considered highly incriminating, compelling and reliable documentary evidence that has incriminated Mr. Smilansky.

*Lack of direct evidence*

116. The AHO next addresses Mr. Smilansky's other main contention, which is that there is a lack of direct evidence linking Mr. Smilansky to either [REDACTED] or [REDACTED]

117. Mr. Smilansky takes exception to the fact that none of the evidence relied upon by the ITIA directly involves him in any match-fixing and that without direct evidence, the case simply must fail. The ITIA, on the other hand, submits that inference is what TACP cases are often based upon as match-fixing allegations are usually very difficult to uncover.

118. The ITIA further submits that it is not surprising for there to be little or no written communication between Mr. Smilansky and either ██████████ or ██████████ as for a number of reasons it is common in anti-corruption proceedings not to have direct communications between the player and fixer. Whereas Mr. Smilansky argues that the ITIA has “nothing” and its evidence fails to link Mr. Smilansky in any way to ██████████ the ITIA argues that the evidence in the case file is strong and sufficiently compelling to conclude that the Player committed all the offences for which he has been charged and that it would not have proceeded with the Charges otherwise. In this regard, the ITIA reiterates that the only logical or reasonable conclusion to draw from the evidence (in particular the extensive WhatsApp messages between ██████████ and ██████████ which explicitly reference Mr. Smilansky’s surname in full and by diminutive on numerous occasions and which discuss Mr. Smilansky’s matches), is match-fixing and there can be no other plausible explanation.

119. Inference does allow a decision maker to make a decision on a balance of probabilities/preponderance of probabilities or the “more likely than not” legal standard. As determined in the 2023 *Crepatte* case:

*“In some instances, the weight of the evidence may enable the drawing of a logical inference or a reasonable inference which is similar to a finding of fact even where there is no direct evidence to support the finding. In other instances, there may also be a logical deduction made from an assessment of the reliability or sufficiency of the evidence which permits the inferred finding that a Corruption Offense has occurred. In all of these instances, the AHO’s conclusion can be considered to meet the test of the preponderance of the evidence as being more likely than not.”*

120. *Crepatte* also clearly determined that “...it is possible to find a breach of the TACP without direct evidence”. And, as provided in the TACP, the burden of proof may be satisfied by any reliable means. Thus, in order to determine if TACP breaches have occurred in this case, the AHO must consider all the evidence in the case file, which in fact includes evidence that is both direct and indirect, and may draw inferences from the same so long as the evidence is sufficiently reliable and compelling.

121. Consequently, applying the above established applicable legal principles, ITIA case law, the TACP and the rules of natural justice, the AHO has considered all of the evidence in the case file, attributed weight to each party’s tendered evidentiary elements and arguments, and makes the following succinct findings with regards to each Charge.

## Charge 1

122. Charge 1 relies predominantly on ██████ recollection of this fix. Yet, ██████ is not available for examination, and there are no WhatsApp messages to corroborate ██████ admissions in relation to Charge 1.

123. Mr. Smilansky's and ██████ (who was his ██████ at the time) testified to the effect that he was physically and mentally unwell during the period this match was played and that he had no involvement in the fixing of this match.

124. It appears that Mr. Smilansky may have been involved in fixing this match: the fact that he was the higher-ranked player and expected to win, and the fact that a flurry of betting activity surrounding him losing the ██████ set to Mr. ██████ his lower-ranked opponent, led to significant amounts of money being gambled and paid out, all increase the likelihood of rendering a finding on a balance of probabilities possible. Ms. Bain also testified that ██████ had a clear recollection of this match, because it earned him so much money, as corroborated by the bettor in question whom Ms. Bain believes was controlled by ██████ and the Greek Betting syndicate with which ██████ was associated. While the AHO has not accepted Ms. Bain's beliefs and opinion as fact, the scale of the betting involved in this match, nonetheless could support the conclusion that Mr. Smilansky was in on the fix.

125. However, the evidence before the AHO is not sufficient to draw this inference and without ██████ being able to testify in order to corroborate the contents of his interview, with no additional evidence from which to draw reasonable or logical inferences of Mr. Smilansky's involvement, the weight to be given to his testimony is not sufficient to allow the ITIA to satisfy its legal burden.

126. Charge 1 is therefore not established to the required standard of proof and Mr. Smilansky cannot be found liable for the same.

## Charge 2

127. The WhatsApp messages, described in some detail by Ms. Bain, produced in evidence and meticulously reviewed by the ITIA in the course of the hearing present a compelling case that Mr. Smilansky was involved in fixing this match alongside ██████ and ██████. The messages are unambiguous. They can only be explained by match-fixing.



128. The Player has argued that [REDACTED] non-attendance at the hearing should *de facto* result in the AHO ruling that the WhatsApp messages mentioning Mr. Smilansky, as well as [REDACTED] statements to Ms. Bain in interview are inadmissible and that, as a result, the Charge must be dismissed because there is no evidence that can establish the same. Conversely, the ITIA has argued that there is no reason to disbelieve [REDACTED] position in his interview transcripts, as all he is doing is confirming what is clear from the WhatsApp messages themselves, which are convincing contemporaneous evidence of the match-fixing involving Mr. Smilansky. Notably, Mr. Smilansky is referred to on nine (9) occasions in the WhatsApp exchanges, which to the ITIA makes it abundantly clear that he is the person of focus and whom [REDACTED] is liaising with to arrange the fix. The AHO has already found above that the WhatsApp message are not only admissible, but also reliable and highly compelling.

129. The relevant sequence of WhatsApp messages indicates [REDACTED] and [REDACTED] are discussing this match involving Mr. Smilansky. The discussions take place the day before this match was played and on the day of the match, prior to, during and after the match. It is clear from the exchanges that both [REDACTED] and [REDACTED] are following the match very closely as they refer to specific events taking place, such as a warm-up and the score. Mr. Smilansky was referred to in the exchanges on nine occasions making it abundantly clear that he is the person of focus and who [REDACTED] is liaising with to arrange the fix.

130. For ease or reference the conversation is as follows:

Date	Sender	Message
9 November 2018		
10:02:18	[REDACTED]	Is him
9 November 2018 10:02:22	[REDACTED]	He win [REDACTED]
9 November 2018 12:28:47	[REDACTED]	??
9 November 2018 13:09:48	[REDACTED]	kidding me?
9 November 2018 13:12:03	[REDACTED]	Audio: speak with The [REDACTED] devi devi devi
9 November 2018 13:55:12	[REDACTED]	i just spoke whit [REDACTED]
9 November 2018 13:55:12	[REDACTED]	for last match
9 November 2018 13:55:12	[REDACTED]	can understand I have to give this money to [REDACTED]
9 November 2018 13:55:22	[REDACTED]	Ok is perfect
9 November 2018 13:55:29	[REDACTED]	We give 10 more
9 November 2018 13:55:41	[REDACTED]	No body care what u give more
9 November 2018 13:55:43	[REDACTED]	I can't say something whatever u

		want i just say
9 November 2018 13:58:40	██████████ ██████████	Audio: Listen what I will say, how many % you give That ██████ will make one set in final if tomorrow we give this 10. We will give anyway I just ask so that I will know if I buy one more account tomorrow
9 November 2018 14:07:47	██████ ██████████	tell me how many % u will send money tomorrow ?
9 November 2018 14:07:59	██████ ██████████	i have the same question
9 November 2018 14:08:11	██████████ ██████████	100 , now tell me
9 November 2018 14:08:19	██████ ██████████	100
9 November 2018 14:08:30	██████████ ██████████	That he will make set in final?
9 November 2018 14:09:30	██████ ██████████	<b>No but he give 1 or 2 match's till end of the year</b>
9 November 2018 14:09:36	██████ ██████████	<b>same like yesterday</b>
9 November 2018 14:09:47	██████████ ██████████	Good perfect
9 November 2018 14:09:49	██████████ ██████████	Ok
9 November 2018 14:09:56	██████████ ██████████	Any way i will send tomorrow

Later in the match the following messages were exchanged between ██████████ and ██████ (complete exchange):

Date	Sender	Message
█████ November 2018		
09:09:24	██████████ ██████████	Smyl must not make mist
█████ November 2018		
09:09:34	██████ ██████████	he will not
█████ November 2018		
09:10:47	██████████ ██████████	Man he plaay good
█████ November 2018		
09:10:50	██████████ ██████████	I see match
█████ November 2018		
09:10:53	██████████ ██████████	What is this
█████ November 2018		
09:11:40	██████████ ██████████	Is ██████
█████ November 2018		
09:12:13	██████████ ██████████ ██████	
█████ November 2018		
09:12:29	██████ ██████████	i wach it
█████ November 2018		
09:13:12	██████████ ██████████	He trybtro make it not



133. "What we do with Smilansky?" ... "When will Smil answer" "Ready" and "Smyl is in" all certainly allows for a direct and logical inference that ██████████ was informing ██████████ that Mr. Smilansky he was "in" to fix the match. There is no alternative explanation for these messages given the extensively well organised and operated match fixing business ██████████ and ██████████ were running, and for which ██████████ has been found liable in a parallel ruling.
134. From a simple reading of the above WhatsApp exchange and the ensuing ones, which are all quite compelling, the AHO finds it more likely than not that Mr. Smilansky had agreed to fix the match in return for financial gain.
135. The betting operator evidence only corroborates and reinforces the foregoing conclusion. It indicates a flurry of bets being placed at the outset of this match at the same time that ██████████ writes "And he in bet live" at 53 minutes past the hour supports the fact that the match was fixed and that the bets were being placed at the very beginning of the match. In fact, the bet time that seven bets were placed merely 4 minutes later in a 90-second period at 57 and 58 minutes past the hour. As the ITIA explained convincingly with reference to the betting evidence at the hearing:

*"If we look at the score card, it shows that the match started at 56 minutes past the hour local time. So we (the ITIA) say all these bets were placed very quickly after the match had started with no time to see how the match was going, no time to assess players and performance, no rationale to decide that in play going to decide what the outcome is. We (the ITIA) say therefore these bets are clearly planned in advance.*

*(Scrolling right on the betting evidence) Here we see the markets and the participant names. What they show is that all the betting is on ██████████ to either win the set or be the first to reach four games or the first to reach five games. To put it another way, they were all betting on Mr. Smilansky to lose.*

*Scrolling further on the betting we can see that the second and the fifth bets, which were the first to four games were lost, and that where we see the fixing, or we say the fixing going wrong in the WhatsApps, where Mr. Smilansky reaches four games first, and ██████████ is not happy about that, because he's bet on Mr. ██████████ to reach four games first. So if you go to the right, you can see that what is shown, and you can also see the size of the stakes and the returns and the profit. So the ones in brackets show a loss, and you can see obviously there is an impact on the overall profit with the two lost bets, but there is still sizeable sums being earned; as ██████████ said, he still "earned enough to pay Mr. Smilansky and a little bit extra."*

136. The AHO finds that the documentary evidence from four bettors from Skybet further corroborates the finding. All bettors from ██████ and ██████ made the same bets: on Mr. Smilansky to lose the first set.

137. Moreover, on Ms. Bain's evidence, the account that placed the ██████ bets was directly or indirectly linked to ██████ and significant bets were placed with over €18,000 wagered by ██████ and his team. The ITIA submits that this bet would not have been placed so early in such an insignificant match had ██████ as "*a professional match-fixer not been certain that they would be successful*". The AHO certainly finds it more probable than not that this is the case considering the evidence before her.

138. An assessment of all the evidence tendered leads to the cogent finding that the ITIA has succeeded in establishing on the preponderance of the evidence that ██████ had approached Mr. Smilansky to fix this match and attempted to contrive it. Echoing the findings of the CAS panel at paragraph 284 of CAS 2018/A/6049, this was *not mere happenstance but the execution of an agreed plan*. Mr. Smilansky thus is liable for contriving the outcome or an aspect of this match in breach of Section D.1.b and D.1.d of the 2018 TACP.

### Charge 3

139. The AHO finds that Mr. Smilansky failed to report corrupt approaches made to him by ██████ ██████ in relation to Charge 2 (the ██████ match) in contravention to Section D.2.a. i of the TACP. He is therefore liable for the same.

140. The ITIA does not succeed in satisfying its burden in this regard in relation to Charge 1.

### **RULING**

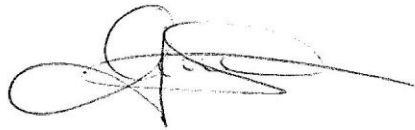
141. The AHO finds that the Covered Person is liable as follows:

- One breach of Section D.1.b and one Breach of D. 1 d of the 2018 Program in relation to his match against ██████ ██████
- One breach of Section D.2.a.i of the 2018 Program for failing to report ██████ corrupt approaches to the ITIA.

142. As provided in paragraph 40 of Procedural Order 1 and Section G.4.a of the TACP a provisional suspension is to be immediately imposed on Mr. Smilansky pending the AHO's Decision on Sanction.

143. As agreed by all Parties at the hearing, the ITIA's Submissions on Sanction are to be filed within four weeks of the issuance of this Ruling on Liability and Mr. Smilansky's Submissions on Sanction are to be filed within four weeks of the ITIA's deadline. The AHO will then issue a Decision on Sanction in accordance with the TACP, which will be appealable to the Court of Arbitration for Sport.

Dated at Beaconsfield, Quebec this 25th day of July 2023

A handwritten signature in black ink, appearing to read 'Janie Soublière', written over a horizontal line.

Janie Soublière C. Arb.  
Anti-Corruption Hearing Officer