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**Date: August 13, 2008** 

To: ACBL Executive Committee Members

CC: Jay Baum

From: Peter Rank, Esq. League Counsel

RE: Maloney-Rafaie v. ACBL et al

Litigation counsel for the ACBL in the above matter (see Attachment A) recommends that we accept the plaintiff's settlement offer of a "walk-away." In such a settlement, plaintiff will dismiss his suit "with prejudice' so that this matter may never again be brought up in court. I concur with this recommendation. This will eliminate the possibility of a judgment against the League and eliminate further cost, time and effort.

I recommended to Jay that this offer be subject to the approved by the Executive Committee because the offer is contingent on the League waiving implementation of Code of Disciplinary Regulations Sections 3.10, 3.4.4 and 3.4.5 (see Attachment B). Without such waiver the League could discipline the plaintiff if she lost the action. She is a Life Master and evidently earns some income from bridge. There is little doubt in my mind that the existence of these sections has encouraged her to drop her lawsuit against the League.

## ATTACHMENT A

Elizabeth Maloney-Rafaie v. Bridge at Schools, Inc., American Contract Bridge League, American Contract Bridge League Educational Foundation, Barbara Heller, Nadine Wood, Charity Sack and Joan Gerard

FACTS On December 28, 2005, Ms. Maloney-Rafaie filed a complaint in the Delaware Superior Court alleging breach of her employment agreement by her employer, Bridge at Schools. The League is not a party to the employment agreement. However, Plaintiff alleges that the League was the alter ego of Bridge at Schools, despite the fact that the League had no legal relationship to or control of Bridge at Schools. The Educational Foundation is also alleged to be the alter ego of Bridge at Schools, and the individual defendants are alleged to have improperly induced Bridge at Schools to breach the employment agreement. The League's insurance carrier has agreed to cover legal costs and has appointed legal counsel. The League was served in this matter.

The League's insurance counsel is determining if the service was proper and timely under relevant law. Appointed counsel was preparing to answer by means of a Motion to Dismiss based on improper service and statute of limitations when the matter was transferred to the Delaware Court of Chancery upon motion of another defendant. As soon as the Court of Chancery accepts the case the League's Motion to Dismiss will be filed.

<u>FACTS</u> League Counsel has filed the Motion to Dismiss in the Chancery Court and is waiting for the Court to set a date for oral argument.

## ACBL Code of Disciplinary Regulations

- 3.4 Grounds for Discipline
- 3.10 Filing formal legal action against a Unit, District or the ACBL without first exhausting ACBL administrative or other internal remedies.

- 4.3.4 ACBL Management shall automatically impose an administrative suspension on a person who files a civil action (which may or may not result in arbitration) or submits a dispute to arbitration for damages (the "action") against the ACBL upon the occurrence of any of the following (this does not apply to civil actions brought by ACBL employees for anything concerning their ACBL employment):
  - (a) A judgment in the action which is favorable to the ACBL;
  - (b) A dismissal of the action by the court with or without prejudice;
  - (c) Failure by the ACBL member to prosecute the action for any consecutive six month period after filing of the action; or
  - (d) A settlement of the action which does not specifically waive the provisions of this paragraph.
- 4.3.5 Such suspension shall be lifted only upon the occurrence of one of the following:
  - (a) Payment by the ACBL member of costs incurred in the action by the ACBL, its officers, agents, representatives and insurers; or
  - (b) Resolution by the ACBL Board of Directors absolving the ACBL member of payment of such costs. "Costs incurred in the action" shall mean all lawyers fees and expenses, witness fees and expenses, court costs and other costs related to the defense of the action. The Appeals and Charges Committee, shall make all determinations and decisions relating to the implementation of this section (CDR 4.3.5)