



Charged Party(ies) Paul Birnbaum, Evan Markowitz, Jared Markowitz ACBL # P482019, K547260, K435624 Hearing Date NR review 8/21/2023
Disciplinary Body Appeals and Charges Committee Hearing Location Web conference using Zoom
Charging Party Paul Cuneo ACBL# M499891 Complainant Jeff Edelstein ACBL# O200338

COMMITTEE MEMBERS WHO HEARD THE CHARGES

Table with 4 columns: Name, ACBL #, Name, ACBL #. Rows include Tim White, Chairman (M029585), Larry Sealy (P541643), Dennis Carman (O828450), Georgia Heth (N638399), and Deana Liddy (P205082).

INDIVIDUALS THAT PARTICIPATED IN THE HEARING (excluding committee members)

Table with 8 columns: Name, ACBL#, Via, Capacity, Name, ACBL#, Via, Capacity. Rows include Jeff Edelstein, Justin Coniglio, and two empty rows.

EVIDENCE AND ARGUMENTS PRESENTED (Summarize evidence and arguments presented including testimony. If additional space is needed, continue on page 3 of this hearing report.) (Note: provide new documentary evidence introduced during the hearing to the Office of National Recorder)

A Negotiated Resolution packet was provided to the Committee by the Compliance Coordinator. It contained a Procedural Summary, Factors Considered by the Charging Party, Negotiated Resolutions, Membership Profiles, Recorder Complaint and Charge Letter. The Committee was also provided revised packets documenting corrections of errors in Mr. Birnbaum's Negotiated Resolution. The corrections resolved textual errors; there were no issues with the intended terms of the Negotiated Resolution. The parties agreed to the corrections.
The Negotiated Resolutions included statements from each party. Mr. Birnbaum stated: "While playing in ACBL sanctioned online games, Messrs. Markowitz and I sometimes exchange unauthorized information about our hands. I'm sorry that actions such as these damage the integrity of the game that I actually love. I support every effort to keep competitive bridge fair." Mr. Evan Markowitz stated: "While playing in ACBL sanctioned games, Mr. Birnbaum, Mr. Markowitz and I sometimes exchanged unauthorized information about our hands. I'm sorry that actions such as these damage the integrity of the game that I actually love. I support every effort to keep competitive bridge fair." Mr. Jared Markowitz stated: "While playing in ACBL sanctioned online games [sic], Mr. Birnbaum, Mr. Markowitz (Evan) and I sometimes exchanged unauthorized information about our hands. I'm sorry that actions such as these damage the integrity of the game that I really enjoy and love. I support every effort to keep competitive bridge fair."

COMMITTEE FINDINGS OF FACT (based on the evidence, state the committee's conclusion as to what happened)

In the Matter of Paul Birnbaum, Evan Markowitz and Jared Markowitz, the Committee approved the Negotiated Resolutions entered into by the parties and ACBL Management in which the parties admitted to violation of CDR 301(A)(2) Collusive Cheating: Online (CDR effective August 1, 2021). Mr. Birnbaum agreed to a 6-month suspension to begin on March 30, 2023, followed by 2 years probation with a prohibition against playing with Jared Markowitz and Evan Markowitz in ACBL sanctioned games online games for the duration of the probationary period and in ACBL sanctioned face to face games for the first year of the probationary period, and forfeiture of 200 Masterpoints®. Mr. Evan Markowitz agreed to a 9-month suspension to begin on March 1, 2023, followed by 2 years probation with a prohibition against playing with Paul Birnbaum and Jared Markowitz in ACBL sanctioned games online games for the duration of the probationary period and ACBL sanctioned face to face games for the first year of the probationary period, and forfeiture of 200 Masterpoints®. Mr. Jared Markowitz agreed to a 6-month suspension to begin on March 1, 2023, followed by 2 years probation with a prohibition against playing with Paul Birnbaum and Evan Markowitz in ACBL sanctioned games online games for the duration of the probationary period and ACBL sanctioned face to face games for the first year of the probationary period, and forfeiture of 200 Masterpoints®. Each further agreed that If they play in any ACBL sanctioned games between the beginning of their suspension and when the agreements are accepted by A&C, the agreement is voidable by the ACBL. They will be members "Not in Good Standing" during the period of their discipline.

DECISION (click on the box next to Not Responsible or Responsible of violating the CDR to add a check mark.)

Not Responsible

Responsible

CDR GROUNDS FOR DISCIPLINE Type the section(s) and description(s) found in CDR 3 which led to the discipline).

CDR 301(A)(2), effective August 1, 2021: Collusive Cheating: Online. "Online Collusive Cheating" is the exchange or transmission of information between two or more people, at least one of whom is a contestant in an online bridge competition, in any manner not expressly permitted by Law 73. The information need not be actually used by a player to prove a Violation under this section. This section includes agreements made by persons who are not partners or contestants, including, but not limited to kibitzers or teammates.

DISCIPLINE (Unless a discipline begins immediately, which requires you to complete a Notice of Immediate Discipline, all begin dates should start at least five days after you submit this hearing Report to the Office of National Recorder.

Disciplined Party is convicted of premeditated or collusive cheating (or has admitted to such action), CDR 4.1.8 (a) YES NO

If yes, all masterpoints, titles and ACBL status ranks and other ACBL related awards earned by the disciplined party will be forfeited. These penalties also apply to the teammates and partners while playing with the disciplined party during the seven years preceding the date the Charges were brought through and including the date of this final decision.

Start Date End Date Additional Requirements/Comments

REPRIMAND

N/A

PROBATION

See page 3

SUSPENSION

See page 3

Is the disciplined party Suspended because of an Ethical Violation (CDR 4.1.8 (b))? YES NO

If yes, the masterpoints and titles won in the event by the disciplined party, partners and teammates in which the offense occurred will be forfeited.

Is the Suspension imposed due to an Ethical Violation more than one year (CDR 4.1.8 (b))? YES NO

If yes, the MPs, titles or other ACBL related award earned by the discipline party within twelve months preceding the date of the offense will be forfeited.

EXPULSION

N/A

SUSPENDED SENTENCE (only used in conjunction with an imposed Suspension from above that you have converted to Probation). State the condition of the sentence below

EXCLUSION from Events and Programs (list the exclusions and the dates of the events or activities). CDR 4.1.6

REDUCTION OR FORFEITURE of Masterpoints (MP) or Tournament Rank or Disqualification.

All parties - forfeiture of 200 Masterpoints

STATE THE OFFENSE(S) FROM APPENDIX B, CHART 1 and/or CHART 2 OF THE CDR

N/A

The discipline imposed above is **SELECT** the recommended guidelines of Appendix B, Chart 1 and/or Chart 2. If it is **OUTSIDE** the guidelines, a reason must be stated below.

RESPECTFULLY SUBMITTED (CHAIR)

/s/ Tim White

Date: 8/23/23

Electronic Signature (type name above)

Wet Signature (sign above)

Discipline imposed:

Paul Birnbaum:

- *Suspension 6 months: 3/30/23 - 9/29/23;
- *Probation 2 years: 9/30/23 - 9/29/25 (cannot play with Jared and Evan during)
- *Prohibited from playing with Jared Markowitz and Evan Markowitz in online ACBL sanctioned for the duration of the probationary period: 9/30/23 - 9/29/25
- *Prohibited from playing with Jared Markowitz and Evan Markowitz in ACBL sanctioned face to face games for the first year of the probationary period: 9/30/23 - 9/29/24
- *Forfeiture of 200 Masterpoints

Evan Markowitz:

- *Suspension 9 months: 3/1/23 - 11/30/23
- *Probation 2 years: 12/1/23 - 11/30/25
- *Prohibited from playing with Paul Birnbaum and Jared Markowitz in online ACBL sanctioned games for the duration of the probationary period: 12/1/2023 - 11/30/25
- *Prohibited from playing with Paul Birnbaum and Jared Markowitz in ACBL sanctioned face to face games for the first year of the probationary period: 12/1/23 - 11/30/24
- *Forfeiture of 200 Masterpoints

Jared Markowitz:

- *Suspension 6 months: 3/1/23 - 8/31/23
- *Probation 2 years: 9/1/23 - 8/31/25
- *Prohibited from playing with Paul Birnbaum and Evan Markowitz in online ACBL sanctioned games for the duration of the probationary period: 9/1/23 - 8/31/25
- *Prohibited from playing with Paul Birnbaum and Evan Markowitz in ACBL sanctioned face to face games for the first year of the probationary period: 9/1/23 - 8/31/24
- *Forfeiture of 200 Masterpoints