



Charged Party(ies)
 ACBL #
 Hearing Date

Disciplinary Body Hearing Location

Charging Party ACBL# Complainant ACBL#

COMMITTEE MEMBERS WHO HEARD THE CHARGES

Name	ACBL #	Name	ACBL #
Jon Brissman	M105486		
Ira Chorush	J278924		
Phil Clayton	N026806		

INDIVIDUALS WHO PARTICIPATED IN THE HEARING (excluding committee members)

Name	ACBL#	Via	Capacity	Name	ACBL#	Via	Capacity
Jeff Edelstein	O200338	web conf.	Adv-Charging P	Ray Yuenger	P913494	web conf.	Panel Advisor
Justin Coniglio	Q809461	web conf.	Adv-Charging P			Select One	Select One
		Select One	Select One			Select One	Select One
		Select One	Select One			Select One	Select One

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)

See attached narrative report pages 1 through 14.

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

See attached narrative report pages 3 through 15.

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 February 1, 2022: 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 401(H) YES NO

	Start Date	End Date	Additional Requirements/Comments
<input type="checkbox"/> REPRIMAND		N/A	<input type="checkbox"/> Letter of Reprimand Attached
<input checked="" type="checkbox"/> PROBATION	9/8/2023	9/7/2025	2 years; Preclusion of playing together during probation.
<input checked="" type="checkbox"/> SUSPENSION	3/8/2023	9/7/2023	6 months

Is the disciplined party Suspended because of an Ethical Violation (CDR 401(H))? YES NO

Is the Suspension imposed due to an Ethical Violation more than one year (CDR 401(H))? YES NO

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 401(F)

REDUCTION OR FORFEITURE of Masterpoints (MP) or Tournament Rank or Disqualification. Please specify below:
10% forfeiture of all masterpoints.

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

N/A

The discipline imposed above is within the recommended guidelines of Section 403(C).
If it is OUTSIDE the guidelines, a reason must be stated below.

RESPECTFULLY SUBMITTED (CHAIR)

/s/ Jon Brissman

Date: 2/27/23

Electronic Signature (type name above)

Wet Signature (sign above)

I. Summary of Evidence and Arguments

A. Procedural Overview

On December 2, 2022, a Charge Letter was filed by Paul Cuneo, the interim Executive Director of the American Contract Bridge League (“ACBL”), alleging that Mary Brown (“mgbrown” on Bridge Base Online (“BBO”)) and Emma Horrell (“E_Lulu39”) have engaged in a pattern of conduct violating section 301(A)(2) of the Code of Disciplinary Regulations (“CDR”), which prohibits “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.”¹ (P. 4.)² The Charge Letter was based on a Recorder Complaint submitted on November 17, 2022 that alleged that “[a] thorough investigation of Ms. Brown’s and Ms. Horrell’s online sessions has found overwhelming evidence of exchanges of illicit information in order to gain a competitive advantage in ACBL sanctioned games.” (P. 1.) The two-page Recorder Complaint alleged a “pattern of conduct,” but did not allege when the first incident of information exchange occurred or indeed the time frame of the online sessions that were thoroughly investigated. Unlike the Charge Letter, the Recorder Complaint didn’t identify which version of the CDR was violated. (Pp. 1-2.)³

As requested by the Chair of this Panel of the Online Ethical Oversight Committee (“OEOC”), the Charging Party provided 77 pages of prehearing disclosure, set out in four sections. Section I described the background of the Charged Parties. Section II introduced the Charging Party’s Co-Advocates and witnesses. Section III provided links to the BBO movies of five full 18-board sessions played by the Charged Parties on February 15, 18, 24, and March 3 and 22.⁴ The Charging Party questioned 35 of those boards, asking about the bidding on most and the defenses on ten of them.

¹ Law 73 says in part: **“A. Appropriate Communication between Partners**

“1. Communication between partners during the auction and play shall be effected only by means of calls and plays, except as specifically authorized by these laws. . . .

“B. Inappropriate Communication between Partners

“1. Partners shall not communicate by means such as . . . extraneous remarks

“2. The gravest possible offence is for a partnership to exchange information through prearranged methods of communication other than those sanctioned by these Laws.”

² Unspecified page references are to the 86-page hearing packet distributed to the Parties and the Panel in advance of the disciplinary hearing.

³ The Charge Letter alleged that the applicable CDR was the one that took effect on August 1, 2021. (P. 4.)

⁴ Since all boards were played in 2022, the year will not be repeated.

The final unnumbered section set out hand and auction diagrams for 64 boards with BBO movie links that the Charging Party asserted to be “bidding that demonstrates illicit information.” (Pp. 20-84.) Included on those pages were links without diagrams to seven other boards with similar auctions. These boards ranged in dates from January 21 through April 28.⁵

The Charged Parties did not comply with a request to provide disclosure. The January 19, 2023 scheduling letter from the Chair advised them, “The Charged Party is not required to appear at the hearing and your failure to appear will not be grounds for discipline.” (P. 7.) The Charged Parties did not appear for the 40-minute disciplinary hearing held via Zoom on February 16, 2023.

B. Evidence at the Hearing

Emma Horrell (“Horrell”) joined the ACBL in late 2017. As of December 6, 2022 she had attained the rank of NABC Master, having earned 344 Masterpoints, including 30 gold, 40 red, 36 silver, 119 black, and the remainder, 118, online points.⁶ Mary Brown (“Brown”) joined the ACBL in early 2019. As of December 6, 2022, she had also attained the rank of NABC Master, having earned 304 Masterpoints, including 30 gold, 38 red, 35 silver, 102 black, and the remainder, 97, online points. Both players reside in Jackson, Mississippi at separate addresses. (P. 9.)

Their single BBO card said they play Standard American Yellow Card, which included Stayman and Jacoby transfers after 1 and 2NT openings and negative doubles over interference, and which did not include transfer advances. (Pp. 10-11.)

At the outset of the hearing, the Panel Chair asked the Co-Advocates not to recite all 99 boards questioned in the Charging Party’s disclosure, because the Panel was familiar with them. During the hearing, Co-Advocate and Assistant Recorder Justin Coniglio displayed and reviewed 35 boards. He grouped these boards into four types of bidding misconduct repeatedly engaged in by the Charged Parties, including passing forcing bids and making “compensating” bids, bids of insufficient length, and “fit-finding” bids. “Compensating” bids are those where, when one partner had underbid her hand,

⁵ Listing the questioned boards reveals a 24-day gap between the first board played on January 21 and the next boards played on February 14. The next biggest time gap is the 13 days between February 25 and March 10, but there is evidence of the full session played on March 3.

There is no disclosure about how many online sessions the Charged Parties played during this time period. The questioned bidding includes five boards played on the dates of the listed full sessions that were not playing during those full sessions (namely board [17](#) on February 15, boards [3](#) and [13](#) on February 24, and [2](#) and [4](#) on March 22). Only 17 and 3 are diagrammed later in this report in the summary of the hearing evidence.

⁶ We recognize these numbers don’t add up to 344. The underlying data included fractional masterpoints not reflected in this report.

the other partner made one more bid to allow the partnership to reach game. Within each category, the Advocate presented the boards in chronological order.

This summary of the hearing evidence will follow the order of the Charging Party's categories but will change the order of some of the boards. This report will not include hand and auction diagrams for all of the 35 boards reviewed at the hearing, but it will include hyperlinks to the BBO movie of each board.

1. Passing Forcing Bids

Some partnerships allow for lighter opening hands in third seat. The Charged Parties also passed openings in other positions without missing an obvious game.

6 D	N Kaludi1	W N E S	4 D	N CurlyHair2	W N E S
	♠ 1093	P P 1♥ P		♠ 1085	1♠ P P P
	♥ 85			♥ AKQ53	
	♦ J108653		♦ J54		
	♣ A8		♣ 85		
W E_Lulu39	E mgbrown		W E_Lulu39	E mgbrown	
♠ AQ62	♠ K87		♠ AKJ742	♠ 3	
♥ QJ3	♥ A7642		♥ J4	♥ 10762	
♦ 94	♦ K7		♦ 106	♦ AK2	
♣ J1064	♣ Q53		♣ QJ10	♣ K9632	
	S petandd			S elainerhod	
	♠ J54			♠ Q96	
	♥ K109			♥ 98	
	♦ AQ2			♦ Q9873	
	♣ K972	1♥ E NS: 0 EW: 0		♣ A74	1♠ W NS: 0 EW: 0

On April 1, Horrell passed a first seat opener on board [6](#) despite holding a limit raise. On April 24, Brown passed on board [4](#) with a 10 count and no support. Fortunately, the first seat ♠ opener held a strong six-card suit.

14 D	N mgbrown	W N E S	11 D	N bbumit	W N E S
	♠ AK105	P P P 1♠		♠ A1094	P P 1♥ P
	♥ 743			♥ 105	P P P
	♦ 64		♦ A654		
	♣ J1075		♣ 1065		
W AshaAnjali	E Bharati k		W E_Lulu39	E mgbrown	
♠ Q972	♠ KJ85		♠ J75	♠ K32	
♥ Q10	♥ K9853		♥ A8	♥ KJ962	
♦ AQJ102	♦ K9853		♦ Q10873	♦ KJ	
♣ 98	♣ Q632		♣ K32	♣ J87	
	S E_Lulu39			S schmidt165	
	♠ J8643			♠ Q86	
	♥ A962			♥ Q743	
	♦ 7			♦ 92	
	♣ AK4	1♠ S NS: 0 EW: 0		♣ AQ94	1♥ E NS: 0 EW: 0

Also on April 24, Brown passed on board [14](#) with great ♠ support for a second seat opener. On March 10, Horrell passed a fourth seat opening on board [11](#) with decent values, but no better fit.

14	N marilyn205	W N E S
	♠ 10987543	1♥ P P P
	♥ KQJ	1♣ P P
	♦ J	
	♣ K5	
W E_Lulu39	E mgbrown	
♠ A10963	♠ AKJ2	
♥ K32	♥ 875	
♣ QJ987	♦ A876	
	♣ 106	
	S jerryg	
	♠ Q6	
	♥ 42	
	♦ Q10954	
	♣ A432	
	1♥ W	NS: 0 EW: 0

With Horrell holding an unpassed hand on board 14 on April 25 , Brown had no reason not to rebid her ♠ suit after opening, except that Horrell in fact had a ♠ void and they had already found an eight-card major fit.

The other three passes of forcing bids were after third-seat openers.

12	N marmar 1	W N E S
	♠ 1063	P P 1♦ P
	♥ AK102	P P
	♦ 10	
	♣ J10943	
W E_Lulu39	E mgbrown	
♠ J8	♠ AK75	
♥ QJ873	♥ 95	
♦ Q8	♦ K965432	
♣ K852	♣	
	S vegas007	
	♠ Q942	
	♥ 64	
	♦ AJ7	
	♣ AQ76	
	1♦ E	NS: 0 EW: 0

14	N redhead19	W N E S
	♠ J8	1♦ P P X
	♥ AQ96	P 1♥ 2♦ 2♥
	♦ K972	3♦ 3♥ P P
	♣ KQ4	
W E_Lulu39	E mgbrown	
♠ A742	♠ 1095	
♥ 5	♥ KJ104	
♦ J8654	♦ AQ10	
♣ A53	♣ J92	
	S GRMANN1949	
	♠ KQ63	
	♥ 8732	
	♦ 3	
	♣ 10876	
	3♥ N	NS: 0 EW: 0

2	N Kou123	W N E S
	♠ J63	1♥ P P 1♠
	♥ 943	P P 2♥ P
	♦ J973	P P
	♣ AK10	
W E_Lulu39	E mgbrown	
♠ 7	♠ K952	
♥ KQ1085	♥ A72	
♦ Q65	♦ A82	
♣ QJ94	♣ 863	
	S dslazar	
	♠ AQ1084	
	♥ J6	
	♦ K104	
	♣ 752	
	2♥ W	NS: 0 EW: 0

On February 15, Horrell elected to pass on board 12 with a five-card ♥ suit. Brown happened to hold seven ♦s without ♥ support. On February 20, Brown declined to mention her four-card ♥ suit on board 14 and Horrell had 5 ♦s and no ♥ fit. On February 25, Brown passed with a ♥ limit raise on board 2 and Horrell had a light third-seat opener.

2. Compensating Bids

Five times responders with game-forcing hands made what would ordinarily be passable rebids, but the weaker hand kept the auction open until game was reached.

<p>3</p> <p>D</p>	<p>N mgbrown</p> <p>♠ KJ109</p> <p>♥ 76</p> <p>♦ AKQJ96</p> <p>♣ 8</p>	<p>W N E S</p> <p>P 1♦ 1♠ 2♣</p> <p>P 2♦ P 2NT</p> <p>P 3NT P P</p>	<p>W Velvet33</p> <p>♠ 742</p> <p>♥ 10932</p> <p>♦ 875</p> <p>♣ 432</p>	<p>E carnadian</p> <p>♠ A865</p> <p>♥ Q54</p> <p>♦ 42</p> <p>♣ AK95</p>	<p>S E_Lulu39</p> <p>♠ Q3</p> <p>♥ AKJ8</p> <p>♦ 103</p> <p>♣ QJ1076</p>	<p>3NT S NS: 0 EW: 0</p>
<p>11</p> <p>D</p>	<p>N mgbrown</p> <p>♠ J2</p> <p>♥ AKQ10982</p> <p>♦ A96</p> <p>♣ 10</p>	<p>W N E S</p> <p>P 1♥ P 2♣</p> <p>P 2♥ P 3♣</p> <p>P 4♥ P P</p>	<p>W Mary721</p> <p>♠ KQ87</p> <p>♥ 5</p> <p>♦ 8542</p> <p>♣ J953</p>	<p>E char2lind</p> <p>♠ 1053</p> <p>♥ J73</p> <p>♦ KQ1073</p> <p>♣ Q7</p>	<p>S E_Lulu39</p> <p>♠ A964</p> <p>♥ 64</p> <p>♦ J</p> <p>♣ AK8642</p>	<p>4♥ N NS: 0 EW: 0</p>
<p>14</p> <p>D</p>	<p>N mgbrown</p> <p>♠ AJ852</p> <p>♥ AK2</p> <p>♦ AJ3</p> <p>♣ 86</p>	<p>W N E S</p> <p>P 1♠ P 2♣</p> <p>P 2NT P 3NT</p> <p>P P P</p>	<p>W carolcab</p> <p>♠ 7</p> <p>♥ J10985</p> <p>♦ 986</p> <p>♣ A754</p>	<p>E dowens375</p> <p>♠ K109643</p> <p>♥ 64</p> <p>♦ Q52</p> <p>♣ 109</p>	<p>S E_Lulu39</p> <p>♠ Q</p> <p>♥ Q73</p> <p>♦ K1074</p> <p>♣ KQJ32</p>	<p>3NT N NS: 0 EW: 0</p>
<p>16</p> <p>D</p>	<p>N mstaqo</p> <p>♠ 1074</p> <p>♥ 10543</p> <p>♦ A843</p> <p>♣ K10</p>	<p>W N E S</p> <p>1♦ P 1♠ P</p> <p>2♦ P 2♣ P</p> <p>2NT P 4♠ P</p> <p>P P</p>	<p>W E_Lulu39</p> <p>♠ J5</p> <p>♥ AQJ7</p> <p>♦ Q10762</p> <p>♣ Q7</p>	<p>E mgbrown</p> <p>♠ AKQ32</p> <p>♥</p> <p>♦ K9</p> <p>♣ A98543</p>	<p>S cirr</p> <p>♠ 986</p> <p>♥ K9862</p> <p>♦ J5</p> <p>♣ J62</p>	<p>4♠ E NS: 0 EW: 0</p>
<p>13</p> <p>D</p>	<p>N mgbrown</p> <p>♠ A65</p> <p>♥ A54</p> <p>♦ 94</p> <p>♣ KQ953</p>	<p>W N E S</p> <p>1♣ P 1♦</p> <p>P 2♣ P 2♦</p> <p>P 2NT P 3NT</p> <p>P P P</p>	<p>W karlola1</p> <p>♠ KJ3</p> <p>♥ 10876</p> <p>♦ 76</p> <p>♣ AJ87</p>	<p>E zulieo1</p> <p>♠ 10942</p> <p>♥ QJ92</p> <p>♦ J103</p> <p>♣ 62</p>	<p>S E_Lulu39</p> <p>♠ Q87</p> <p>♥ K3</p> <p>♦ AKQ852</p> <p>♣ 104</p>	<p>3NT N NS: 0 EW: 0</p>

On boards [3](#) on February 24, [11](#) on March 16, and [16](#) on April 4, Brown made minimum rebids with strong responding hands and solid suits and Horrell kept the auctions open with minimal openers. On board [13](#) on April 8, Brown reciprocated. On [14](#), also on March 16, Brown as responder rebid 2NT with a 17-count, and Horrell raised with an aceless minimum. It is also notable that on board 3, Horrell rebid 2NT to keep the auction open with ♠ Q3 despite a 1♠ overcall, but it was Brown who had ♠s well stopped holding KJT9.

On the next two boards from February 15, the responder invited game after a NT opening with 10 or more HCP, and opener accepted with a flat minimum.⁷

D 16	N mbell42	W	N	E	S
	♠ 985	1NT	P	2♣	P
	♥ J62	2♥	P	2NT	P
	♦ J1043	3NT	P	P	P
♣ QJ4					
W E_Lulu39		E mgbrown			
♠ AKJ		♠ 7432			
♥ K983		♥ Q5			
♦ A862		♦ KQ97			
♣ 63		♣ A95			
	S digitaldr				
	♠ Q106				
	♥ A1074				
	♦ 5				
	♣ K10872				
		3NT W	NS: 0	EW: 0	

D 17	N mgbrown	W	N	E	S
	♠ K1065		P	P	1NT
	♥ KJ10		P	2NT	P
	♦ 965		P	P	P
♣ K107					
W katrina789		E hamtowngb			
♠ 943		♠ A82			
♥ 842		♥ 965			
♦ A74		♦ 1083			
♣ A982		♣ QJ65			
	S E_Lulu39				
	♠ QJ7				
	♥ AQ73				
	♦ KQJ2				
	♣ 43				
		3NT S	NS: 0	EW: 0	

3. Bids of Insufficient Length

This category of bids characterizes suit length as “insufficient” relative to the level of the bid. It is common to bid five-card suits at the one- and two-levels, but it is ordinarily riskier at higher levels with no indication of support from partner. However, this pair seemed to invariably find concealed support when rebidding five-card suits. By “concealed” support, we mean support not showed by the bidding. We will conclude that the bidder somehow seemed to be aware of the support. The following boards are listed from the highest to lowest rebid levels.⁸

⁷ We note that while these boards, 16 and 17, are numbered consecutively, they were not from the same session on February 15. 16 was from the full session on that date and 17 was from another unspecified session.

The Advocate’s presentation of compensating bids included two more boards we will discuss here without diagrams. On board 11 on February 18, Brown directly raised Horrell’s 1♦ opening with five-card support and an 11-count, bypassing bidding her four-card♥ suit when Horrell didn’t have four♥s. The auction on board 11 stalled in 2♦ when the two hands can make 4NT despite 11 vs. 11 HCP due to favorable card locations.

The other compensating bid was board 4 on February 20. Horrell opened 1♦ with ♠ A54 ♥ T42 ♦ AQ93 ♣ Q95 and the opponent overcalled 1♥. Brown passed instead of making a negative double with ♠ Q976 ♥ Q7 ♦ 6542 ♣ A84. When Horrell rebid 1NT, Brown showed her♦ support, ending the auction with 2♦.

⁸ Keeping hand and auction diagrams together with the related text sometimes creates white space in this report.

15 D		N debdefever ♠ AKJ65 ♥ ♦ QJ85 ♣ AJ109	W N E S P 1♠ 2♥ P P P P 4♠ P P P	12 D		N vikingm ♠ 86 ♥ ♦ AJ108754 ♣ J1076	W N E S 3♠ P 4♥ P P 5♦ 5♥ X P P P
W E_Lulu39 ♠ 4 ♥ 98543 ♦ AK62 ♣ 842		E mgbrown ♠ 103 ♥ AKQ62 ♦ 7 ♣ KQ763		W E_Lulu39 ♠ Q10976432 ♥ Q1097 ♦ ♣ A		E mgbrown ♠ 8 ♥ AKJ42 ♦ K92 ♣ K843	
	S ggirashid ♠ Q9872 ♥ J107 ♦ 10943 ♣ 5		5♥ E NS: 0 EW: 0		S dg1950 ♠ AKJ5 ♥ 53 ♦ Q63 ♣ Q952		5♥x E NS: 0 EW: 0

On board [15](#) on April 7, Brown overcalled at the two-level with a strong five-card suit and then rebid the same suit at the five-level, finding five-card support. Brown didn't compete by introducing her other five-card suit at the five-level, but Horrell only had three-card support for it. On board [12](#) on February 18, Brown responder to Horrell's 3 ♠ preempt with 4 ♥ on a five-card suit and then competed to the five level in the same suit, finding the preemptor with good four-card support.

8 D		N mkimdieke ♠ J432 ♥ 107 ♦ KQ7432 ♣ 2	W N E S 1♣ 2♦ P 3♦ 4♣ P P P
W E_Lulu39 ♠ AQ7 ♥ 862 ♦ AJ ♣ A10943		E mgbrown ♠ 10985 ♥ A93 ♦ 105 ♣ J876	
	S Carolyn987 ♠ K6 ♥ KQJ54 ♦ 986 ♣ KQ5		4♠ W NS: 0 EW: 0

On board [8](#) on February 17, Horrell competed to the four-level with a good hand but a weak suit, finding four-card support. (Brown's pass was mysteriously alerted as "exp.")

On the four next boards, [8](#) on February 19, [3](#) on March 3, [16](#) on March 24, and [6](#) on April 4, the bidder competed to the three level with five-card suits, finding at least decent three-card or longer support every time.

8 D		N RBerman ♠ 1072 ♥ A74 ♦ Q764 ♣ 1098	W N E S 1♦ P 1♠ 2♥ 3♦ P P P	3 D		N mgbrown ♠ 74 ♥ A9765 ♦ 106532 ♣ 2	W N E S 1♠ P 2♠ 3♥ P P 4♠ P P P
W E_Lulu39 ♠ K9862 ♥ AK1093 ♣ J32		E mgbrown ♠ KQJ643 ♥ ♦ J852 ♣ AQ6		W Green05 ♠ J10853 ♥ ♦ 94 ♣ KQJ1073		E Joyceca ♠ A962 ♥ Q43 ♦ AK87 ♣ 64	
	S 0Bauhinia0 ♠ A985 ♥ QJ1053 ♦ ♣ K754		3♠ W NS: 0 EW: 0		S E_Lulu39 ♠ KQ ♥ KJ1082 ♦ QJ ♣ A985		4♠ W NS: 0 EW: 0

D 16	N mgbrown	W N E S	D 6	N mjadair	W N E S
	♠ KJ9	1♦ P 1♥ 1♠		♠ AQ94	P X P 1♠
	♥ J87	2♦ P 2NT 3♣		♥ Q10	P P 2♥ P
♦ 10	P P P		♦ AJ8	P 2♣ 3♥ P	
♣ J108754			♣ QJ102	P P	
W pampan43	E bevmliller	W E_Lulu39	E mgbrown		
♠ 10	♠ A832	♠ 7	♠ J1032		
♥ Q4	♥ K962	♥ J763	♥ A9854		
♦ KQJ654	♦ 983	♦ K10753	♦ 2		
♣ Q632	♣ K9	♣ 764	♣ AK3		
S E_Lulu39	S tink77				
♠ Q7654	♠ K865				
♥ A1053	♥ K2				
♦ A72	♦ Q964				
♣ A	♣ 985				
3♠ S NS: 0 EW: 0			3♥ E NS: 0 EW: 0		

On the next board, [12](#) on April 7, Brown rebid her four-card major, which gave Horrell another opportunity to show belated four-card support by leaping to game.

D 12	N BBiggs	W N E S
	♠ J6	1♥ P 1♠ P
	♥ 1052	2♥ P 2♣ P
♦ 852	4♣ P P P	
♣ AKJ65		
W E_Lulu39	E mgbrown	
♠ K1073	♠ AQ94	
♥ AKQ743	♥ 6	
♦ 987	♦ QJ9643	
♣ 987	♣ Q2	
S Grannie45		
♠ 852		
♥ J98		
♦ AK107		
♣ 1043		
	4♠ E NS: 0 EW: 0	

4. Fit-finding Bids

Most players are taught that overcalls at the two-level or higher should show five-card or longer suits, while it is okay to bid a four-card suit if partner has implied support with a negative or takeout double. This pair had different ways of establishing fits, usually just by bidding them.

D 12	N mgbrown	W N E S	D 17	N mgbrown	W N E S
	♠ 9653	P P 3♣ 3♥		♠ 42	2♣ P 1♠ P
	♥ AJ63	5♣ P P P		♥ K103	P P 3♦ 4♣ P
♦ 52			♦ A973		
♣ J94			♣ KJ83		
W dorlesh	E yoval	W bill3408	E polly9883		
♠ Q8	♠ K74	♠ 10976	♠ AKJ85		
♥ 1087	♥ 42	♥ A9764	♥ QJ85		
♦ K108	♦ 943	♦ 65	♦ Q4		
♣ K10852	♣ AQ763	♣ 109	♣ A7		
S E_Lulu39	S E_Lulu39				
♠ AJ102	♠ Q3				
♥ KQ95	♥ 2				
♦ AQJ76	♦ KJ1082				
♣	♣ Q6542				
5♣ E NS: 0 EW: 0			4♠ E NS: 0 EW: 0		

7 D	N mgbrown	W N E S
	♠ 65 ♥ KQ8 ♦ AQ102 ♣ AQ73	P 1NT 2♣ P P 3♣ 3♠ P P P
W crdsnrkt55	E bonbon26	
♠ 8 ♥ J7643 ♦ K875 ♣ 542	♠ AKQJ973 ♥ A95 ♦ 96 ♣ 6	
	S E_Lulu39	
	♠ 1042 ♥ 102 ♦ J43 ♣ KJ1098	
		3♠ E NS: 0 EW: 0

On board [12](#) on March 3, while holding a classic takeout double of the 3♣ preempt, Horrell instead simply bid their best 4-4 major fit. On [17](#) on March 18, instead of making an imperfect takeout double of 2♠s, Brown simply bid their best 4-5 minor fit by bidding 3♦ on a four-card suit. After competition over her NT opening on board [7](#) on March 24, Brown found their best fit by bidding 3♣ with a four-card suit.

On the next two boards, [9](#) on February 24 and [14](#) on April 26, the partners found their best fits by overcalling in their shorter minor.

9 D	N soko3	W N E S
	♠ Q9632 ♥ AQ65 ♦ 109 ♣ 102	P P X 1♥ 2♣ 3♣ P 4♥ P P P
W E_Lulu39	E mgbrown	
♠ A7 ♥ J7 ♦ KJ532 ♣ AQJ6	♠ 10854 ♥ 102 ♦ 86 ♣ K7543	
	S KramRhom	
	♠ KJ ♥ K9843 ♦ AQ74 ♣ 98	
		4♥ S NS: 0 EW: 0

14 D	N mgbrown	W N E S
	♠ AKQ ♥ 2 ♦ AJ1043 ♣ K765	P 2♣ 2♥ 3♣ 3♥ P P 4♣ P P P
W deltagran	E destin 38	
♠ 97432 ♥ KJ3 ♦ 96 ♣ 983	♠ 10 ♥ AQ9754 ♦ K872 ♣ Q4	
	S E_Lulu39	
	♠ J865 ♥ 1086 ♦ Q5 ♣ AJ102	
		4♣ N NS: 0 EW: 0

D 5	N mgbrown	W	N	E	S
	♠ AK105 ♥ 82 ♦ J10954 ♣ 65	P	P	P	1♦
W bridgenute		X	2♦	2NT	3♠
♠ J42 ♥ KQ43 ♦ Q ♣ Q10732	E todtee1	P	P	P	
	S E_Lulu39				
	♠ 9863 ♥ A105 ♦ A832 ♣ AJ				
		3♠ S	NS: 0	EW: 0	

On board [5](#) on February 24, even though Brown had bypassed bidding a major to show ♦ support with her first bid, Horrell bid an anemic four-card ♠ suit in competition at the three level and found great support. Her bid of a new suit occupying the three level was understood by her partner to be a passable minimum.

D 16	N Trevie05	W	N	E	S
	♠ 932 ♥ 73 ♦ KQ1093 ♣ A64	P	P	P	1♦
W E_Lulu39		P	2♦	P	P
♠ 105 ♥ A965 ♦ A64 ♣ 8532	E mgbrown	2♥	P	P	P
	S susbusrow				
	♠ QJ76 ♥ KQ10 ♦ J852 ♣ K9				
		2♥ W	NS: 0	EW: 0	

On board [16](#) on February 23, Horrell balanced in the passout seat with a 2♥ bid holding four ♥s and an 8-count, just as though Brown had made the takeout double that many players would have made. (The opponent's 2♦ call was alerted as invitational.)

The next three bids show more inexplicable ways of finding fits.

<div style="background-color: #f00; color: white; padding: 5px; text-align: center; font-weight: bold;">10</div> <div style="background-color: #f00; color: white; padding: 2px; text-align: center; font-weight: bold;">D</div>	N mgbrown	W N E S
	♠ QJ983	1♥ X 1♦ X
	♥ Q9	2♦ X 2♠ P 1♠
	♦ 982	P
♣ KJ6	NS: 0 EW: 0	
W ecconnerjr	E rdconner17	
♠ 1065	♠ 42	
♥ J1043	♥ A85	
♦ A653	♦ KQJ4	
♣ 73	♣ A1082	
S E_Lulu39		
♠ AK7		
♥ K762		
♦ 107		
♣ Q954		

Why Brown made a negative double on board [10](#) on March 26 instead of simply bidding her five-card ♠ suit may be puzzling to an outsider, but Horrell had no problem rebidding her three-card ♠ holding and establishing their eight-card fit.

<div style="background-color: #f00; color: white; padding: 5px; text-align: center; font-weight: bold;">3</div> <div style="background-color: #f00; color: white; padding: 2px; text-align: center; font-weight: bold;">D</div>	N charleymus	W N E S
	♠ 4	P 1♦ 2♣ P
	♥ AK853	2♥ X 2♠ P
	♦ AKQ1063	P 3♥ P P
♣ 2	NS: 0 EW: 0	
W E_Lulu39	E mgbrown	
♠ QJ82	♠ AK105	
♥ J42	♥ 7	
♦ 94	♦ J852	
♣ Q863	♣ AKJ5	
S sterlingo		
♠ 9763		
♥ Q1096		
♦ 7		
♣ 10974		

The auction on board [3](#) on February 19 has two interesting features. First, Brown overcalled 2 ♣ on her four-card holding and found four-card support. Second, the

partners found a way to improve their contract. Horrell bid 2 ♥, which was alerted as “transfer,” and the partners found their 4-4 ♠ fit.⁹

Perhaps the most mystifying auction occurred on board [8](#) on February 14.

D 8	N mgbrown	W N E S
	♠ A1097642 ♥ Q842 ♦ 8 ♣ Q	P P 1♥ 2♦ X 2♥ 3♣ 3♠ 4♣ 4♠ P P P
W Knoodle1	E Jynxmom	
♠ KJ53 ♥ 106 ♦ 4 ♣ J98654	♠ ♥ AKJ73 ♦ 1052 ♣ A10732	
S E_Lulu39		
♠ Q8 ♥ 95 ♦ AKQJ9763 ♣ K		
		4♠ S NS: 0 EW: 0

Brown began the auction with a pass that was alerted or explained as “no open.” In response to Horrell’s 2 ♦ overcall, Brown cue-bid 2 ♥, opponent’s opening suit. Obviously it wasn’t intended as a limit raise for ♦s. Horrell seemed to figure out that Brown had a long ♠ suit, because she rebid 3 ♠ holding Q8 in the suit! In this way the partners landed in a ♠ game which failed by two tricks, a good sacrifice against the opponents’ ♣ part score.

The Charging Party’s Advocate speculated that Brown’s 2 ♥ call was simply a misclick that was fielded by Horrell. Another possibility not mentioned at the hearing was that it was intended to be another transfer advance, though it wasn’t alerted, unlike the three other transfer advances noted above.

In response to a Panelist’s question, the Advocate acknowledged that he could have presented another category of bids they call “chameleon” bids, where the partners

⁹ The Advocate accurately observed that on the diagrammed board 3, Horrell transferred into a four-card suit. He was incredulous that a beginning pair was playing transfer advances, correctly observing the convention is not on their convention card.

However, on at least two other occasions revealed in the disclosure, the Charged Parties alerted transfer advances into five-card suits and the other partner accepted the transfers. In fact, on board [3](#) on February 17, Brown, who had made a simple overcall of 2 ♣ over a ♠ opening with a four-loser hand, superaccepted Horrell’s transfer to ♥s by bidding game.

On board [4](#) on March 22, Brown opened 1 ♦ in third seat with a balanced (3=2=5=3) 17-count and simply accepted Horrell’s transfer bid of 1 ♥ by bidding 1 ♠. With ♠ A5432 ♥ KJ53 ♦ 92 ♣ J7, Horrell jumped to the cold ♠ game, indicating awareness of Brown’s extra values.

always seem to know when the same bid is natural or conventional. He explained that he didn't present those bids during the hearing out of concern about prolonging the hearing. He said such bids are emphasized more in cases involving more experienced players.

As the Panelist alluded to, some ambiguous Stayman¹⁰ and Jacoby transfer¹¹ bids appeared in disclosure and the Charged Parties seemed to always recognize whether partner's 2 ♣ or 2 ♦ bid was natural or conventional and weak or strong.

C. Argument

The Advocate's argument was succinct. He contended that the evidence presented at the disciplinary hearing convincingly established that the Charged Parties

¹⁰ In ACBL games on BBO, the Stayman convention need not be alerted after a 1NT opening. Nevertheless, Horrell twice announced (or at least explained) her 2 ♣ responses as "Stayman." On board [11](#) on February 17, Horrell bid 2 ♣ holding ♠ AQT76 ♥ Q96 ♦ Q5 ♣ 643. Brown responded in her higher major holding ♠ KJ54 ♥ A543 ♦ K92 ♣ A2 and was raised to game in ♠s. On board [10](#) on February 25, Horrell held ♠ T84 ♥ J4 ♦ K762 ♣ KT62. Brown passed 2 ♣ holding ♠ AK7 ♥ 872 ♦ AQ9 ♣ A854. Neither partner had a ♥ stopper.

On the remaining boards in this footnote, Stayman was not alerted. On April 27 on board [7](#), Brown elected to pass Horrell's 2 ♣ response to her NT opening holding ♠ 53 ♥ K95 ♦ QJ7 ♣ AKQT3 and caught Horrell with ♠ KQ8 ♥ 6432 ♦ 82 ♣ J987.

On board [4](#) on February 19, Brown alerted (or explained) her 2 ♣ response to Horrell's NT opening as "have c." Holding ♠ JT74 ♥ AK6 ♦ KQT ♣ Q84, Horrell jumped to 3NT rather than bidding 2 ♠. Brown jumped to 5 ♣ holding ♠ Q ♥ QT84 ♦ A83 ♣ AKT97. Horrell raised the contract to 6 ♣.

On two other boards, Brown bid 2 ♣ in response to Horrell's NT opener holding very similar 8 counts, ♠ 4 ♥ T62 ♦ KJT85 ♣ A942 on board [12](#) on February 14 and ♠ 642 ♥ 75 ♦ KJ743 ♣ A64 on board [7](#) on April 18. On board 7, Horrell bid 2 ♦ holding ♠ AQ ♥ AT8 ♦ QT95 ♣ QJ87 and Brown left them in their nine-card fit. On board 12, Horrell bid 2NT holding ♠ AT97 ♥ KQ95 ♦ A62 ♣ QJ, apparently knowing there was no major fit.

On board [7](#) on April 1, Brown deployed 2 ♣ holding ♠ J86 ♥ Q43 ♦ 543 ♣ AK52. When Horrell responded 2 ♠, Brown raised to 3, inviting game in ♠s. Horrell, holding ♠ AKQ42 ♥ KT7 ♦ A96 ♣ 76, accepted the invitation to play 4 ♠s.

Board [8](#) on February 23 is hard to explain, but the partners got back on track after Brown responded 2 ♣ to a NT opener holding ♠ KQ8643 ♥ Q ♦ KQ53 ♣ Q6. Horrell reasonably responded 2 ♦ holding ♠ J95 ♥ A6 ♦ AJT8 ♣ AK94, but after Brown bid 2 ♠ and alerted it as "major," Horrell initiated a keycard sequence before stopping in 6 ♠s.

¹¹ Jacoby transfers are on the Charged Parties' convention card. On BBO, such transfers should be announced by the bidder as "hearts" or "spades," the major to which the transfer is being made. Indeed, on board [18](#) from the February 18 full session, after a double of Brown's NT opening that showed either the majors or a long minor, Horrell (*Cont.*)

had pervasively shared illicit or unauthorized information about each other's hands during auctions. He asked for discipline to be imposed as recommended in the CDR.

II. The Panel's Findings of Fact and Conclusions

A. Factual Conclusions

In our above summary of the hearing evidence, the Panel deviated from a strictly chronological listing of the boards within their categories in order to highlight the most probative boards and to more clearly identify several characteristic patterns of cheating behavior by the Charged Parties. We see no need to prolong this report by repeating any of the above analysis or the board diagrams already displayed.

There are two more boards worth noting.

15 D	N drmohan66	W N E S	10 D	N mgbrown	W N E S
	♠ K985	P P 2NT P		♠ AQ865	P 3NT P P
	♥ 84	3♦ P 3♥ P		♥ 3	2♠ 2NT
	♦ J3	4♥ P P P		♦ K942	
	♣ A7642			♣ AJ4	
W E_Lulu39	E mgbrown	W lbech	E Donskier		
♠ QJ1076	♠ AK2	♠ 3	♠ KJ10942		
♥ Q9653	♥ AK10975	♥ 9865	♥ J104		
♦ 4	♣ KQJ3	♦ 10753	♦ Q		
♣ 109		♣ Q982	♣ 1073		
	S jlanzel	S E_Lulu39			
	♠ A432	♠ 7			
	♥ J107	♥ AKQ72			
	♦ Q862	♦ AJ86			
	♣ 85	♣ K65			
	4♥ E NS: 0 EW: 0		3NT S NS: 0 EW: 0		

On board [15](#) during a full session on February 15, Brown opened 2NT with a ♠ void. With 5-5 in the majors, Horrell readily found their eight-card major fit by transferring to ♥s and raising to game, not looking for a nonexistent fit in ♠s. On board [10](#) on March 26, Horrell overcalled 2NT over a ♠ preempt holding a small stiff ♠ rather than bidding 3♥s. Sure enough, Brown had ♠ stoppers and no ♥ fit.

bid 2♦ holding 5♥s and announced “transfer” and Brown accepted the transfer with three♥s.

However, in four other auctions, the 2♦ response to a NT opening actually showed a natural ♦ suit and wasn't announced as a transfer. In two of the most contemporary auctions, on boards [13](#) on February 20 and [4](#) on February 21, the opener bid 2♥s anyway, but when the responder continued with a 3♦ bid, the opener apparently understood the sequence as game-forcing with ♦s but not ♥s and chose to play 3NT despite holding four♥s on both hands.

On board [15](#) on March 18, another 2♦ response to a NT opening was natural and on this occasion was alerted by Horrell as “n4cardm.” Brown did not bid 2♥s, but instead later competed to 3♦s holding three of them.

On yet another board, [11](#) on April 25, Brown bid an unalerted 2♦ in response to a NT opening holding ♠ Q98 ♥ Q86 ♦ AQ865 ♣ 92. When Horrell bid 2♥ holding ♠ AJ ♥ AJ943 ♦ T42 ♣ AK4, Brown jumped to 4♥.

This is an unusual case where the evidence has been focused almost exclusively on the Charged Parties' bidding and not on defensive play. As always, the Panel is asked to infer from BBO recordings of auctions whether Charged Parties reached too many optimal contracts without mistakes to be explainable as skill or even luck. We recognize that beginning players may not conform to accepted standards of bidding length over strength, but one would expect that more risky and experimental bids would backfire as often as they succeed, and this Panel has not seen any evidence that the Charged Parties have a history of disasters from overcalling four-card suits at the two and three levels or rebidding five-card suits at the three, four, and five levels.

Based on this Panel's review of the evidence at the hearing, including the boards diagrammed in this report, other boards discussed in this report though not diagrammed, and still other boards produced in disclosure, the Panel is unanimously comfortably satisfied that the Charged Parties routinely exchanged information about each other's hands before and during their auctions. The Panel is not required to determine how they exchanged the information in order to conclude that they violated section 301(A)(2). The cheating was perhaps what might be expected of relatively new bridge players who are inclined to cheat. It was not clever or subtle, but conspicuous. There are only so many times a player can overcall four-card suits at the two level, always finding at least four-card support from a silent partner, before opponents will get suspicious about how the player knew which suit to bid.

B. Imposing Discipline

The relatively easy part of this case for this Panel has been to agree that the Charged Parties were frequently sharing and using unauthorized information about each other's hands during online auctions. The more difficult part has been determining what discipline to impose. The Panel's problem is that, effective February 1, 2022, the CDR was amended to create a two-track disciplinary system that ties the hands of the OEOC when confronted with First Degree Ethical Violations, as we will explain.

Section 403 was enacted, providing in part:

“(C) **Maximum Discipline for Ethical Violations.** Upon a finding of responsibility for a violation set forth in CDR § 301, the following are the disciplines that may be imposed:

“(1) Reprimand (§ 404(A))

“(2) Probation – Maximum of Two Years ((§ 404(B))

“(3) Suspension – Maximum of Six Months ((§ 404(C))

“(4) Expulsion – Unavailable ((§ 404(D))

“(5) Reduction of Forfeiture of Masterpoints – Maximum of 10% of Total Masterpoints ((§ 404(E))

“If the Charging Party wishes to seek a discipline exceeding the maximum available upon a finding of responsibility for an Ethical Violation, the Charge must be removed to the IBA. (See § 502(C)).”¹²

Referenced section 502(C) reinforces this restriction, stating: “**Removal to Institute for Bridge Arbitration.** If the Charging Party wishes to seek a discipline exceeding the maximum available upon a finding of responsibility for an Ethical Violation, the case must be removed to the IBA.”

The IBA is currently defined in the CDR as “the specialized disciplinary body of the American Arbitration Association (AAA) that hears cases alleging an Ethical Violation set out in CDR § 301(A)-(D).”¹³

Prior to enactment of section 403, the recommended discipline for a First Degree Ethical Violation was “no less than 2 years Suspension to Expulsion, with an appropriate term of Probation no less than 2 years following the term of suspension, and removal of 25-100% of the Disciplined Person’s total masterpoint holding.” (§ 301(A)(7).) So the section 403 discipline restrictions on the OEOC are substantial, converting a minimum of two years’ probation to a maximum of two years’ probation and limiting a minimum of two years’ suspension to a maximum of six months’ suspension. Under the two-track system, the authority to impose the greater discipline available under section 301(A)(7) has been outsourced to the IBA.¹⁴

As to which version of the CDR applies, section 403(A) provides (as it has since August 1, 2021), “**CDR Version.** Discipline imposed shall be in accordance with the version of the CDR effective at the time of the first Incident specified in the filing of the Recorder Complaint.” In this case, the Recorder Complaint neither alleged “the time of the first incident” nor the dates of the games investigated nor even which CDR was intended to apply.

In a [hearing report](#) filed on January 19, 2023, the Appeals and Charges Committee has essentially determined that in order to authorize an OEOC Panel to impose the harsher discipline available under the pre-February 1, 2022 CDR, the Charging Party is required to plead and prove to the Panel’s comfortable satisfaction

¹² Section 403(C) was later amended effective July 15, 2022 in ways irrelevant to our discussion.

¹³ As of this writing in February 2023, this definition is no longer accurate, if it ever was. It is common knowledge from a [posting](#) on the Bridge Winners website, though not part of the evidence in this case, that “the American Arbitration Association will no longer be involved in bridge arbitrations, and the ACBL has instead asked the IBA to administer all bridge arbitrations. The primary reason is that the IBA will be able to run the arbitrations by charging a fee to file each arbitration of only \$900, which is approximately one-tenth of what the American Arbitration Association would have charged.”

¹⁴ We note that IBA decisions will not be reviewed, automatically or otherwise, by the Appeals and Charges Committee, as OEOC decisions now are. (§ 603(E).)

that the Charged Parties violated section 301(A) before February 1, 2022. In the case of *Fann and Fennell*, the OEOC Panel was unsure based on the evidence about which disciplinary scheme to follow and so imposed alternative disciplines, those available under section 301(A)(7) and alternatively those restricted by 403(C), and sought the guidance of the Appeals and Charges Committee. That Committee “determined that the February 1, 2022 version is the correct version to be applied to this case, based on provisions of CDR 403(A). Although the charging party’s advocate asserted that there is evidence the misconduct started before February 1, 2022 (see Section 1.B of the Panel’s Hearing Report), the first incident specified in the Recorder Complaint is May 2022. It is also noted that no evidence of earlier misconduct was presented in the disclosure materials or at the hearing.” (P. 2.)

We note what some may consider a significant factual difference between this case and that one. In this case, the Charging Party did disclose evidence of a single questioned board played before February 1, 2022, namely board 14 played on January 21.¹⁵

14 ^D		N penel773	W N E S
		♠ J1097	1♥ P P P
		♥ K1098	
		♦ J2	
		♣ 1092	
W E_Lulu39		E mgbrown	
♠ K54		♠ 82	
♥ A763		♥ J542	
♦ AQ74		♦ 109	
♣ AQ		♣ K8643	
	S Karen Jean		
	♠ AQ63		
	♥ Q		
	♦ K8653		
	♣ J75		
		1♥ W	NS: 0 EW: 0

In its prehearing disclosure, the Charging Party made the following observation about this board. “Ms. Horrell’s simple overcall with a 19-count and only 4 hearts seems to have been based on I/I^[16] that Ms. Brown had a heart fit and a weak hand that would not want to pursue game.” (P. 20.)

The 1♥ overcall on board 14 arguably might be characterized as both a “fit-finding” bid and a “compensating” bid. The Panel’s problem is that the Charging Party has alleged that the Charged Parties were engaged in a “pattern of conduct,” actually a

¹⁵ In other recent OEOC cases it has appeared that the Charging Party is now taking care to disclose one or two boards that were played before February 1, 2022. (E.g., see footnote 15 on page 12 of the OEOC [hearing report](#) discussing two earlier boards in the *Haria* case.)

¹⁶ The Charging Party usually refers to what Laws 16 and 73 of the Laws of Duplicate Bridge call “unauthorized” information as “illicit” information or “I/I.”

pattern of misconduct.¹⁷ While the Charging Party has diligently amassed evidence of a pattern of misconduct beginning with two boards on February 14 that were featured at the disciplinary hearing followed by several boards played during the full session on February 15 and another board from February 15, there is no hard evidence of a pattern of misconduct preceding February 1, 2022.¹⁸ One board doesn't prove a pattern. This Panel isn't comfortably satisfied that much more serious discipline should be imposed due to one instance of misconduct pre-dating February 1, 2022. To be comfortably satisfied that the harsher penalties are warranted under the CDR, this Panel requires proof of a pattern of misconduct pre-dating February 1, 2022.¹⁹

After February 1, 2022, the maximum suspension that this Panel can impose is six months for misconduct after that date. In our opinion, the Charging Party should be required to state in the Complaint and Charge Letter the penalty it is seeking and to present evidence supporting the imposition of that penalty. We believe that a six-month suspension is extremely minor relative to the penalties imposed in previous published OEOC cases. The Panel believes that the section 403(C) sanction ceilings frustrate its ability to impose the discipline appropriate in this matter. Taking into account the disciplinary considerations stated in section 402 (which took effect on August 1, 2021),

¹⁷ "Pattern of conduct" is a term of art in the CDR. Section 502(A) currently states, "(2) A Complaint involving a pattern of conduct must be brought within five (5) years of the earliest instance referenced in the Complaint." Without a pattern of conduct, most Recorder Complaints must be filed within 60 days of receipt of a player memo. (§502(A)(1).) Similar provisions have been in the CDR for two decades.

However, pattern allegations are not necessary to extend the time to file certain serious complaints. Section 502(A) currently states, "(3) Notwithstanding the previous limitations period above, a Complaint alleging a violation under CDR § 301 is not subject to a period of limitations."

We note that establishing a pattern of misconduct is still relevant to the limitations period for complaints alleging other CDR violations and also in every kind of case to justify the imposition of non-minimum discipline under Appendix B of the CDR. That Appendix states in part, "When the Disciplined Person has been found responsible of several violations, such as a pattern of behavior, the Disciplinary Body should consider imposing a discipline as if each violation was a separate offense."

¹⁸ We realize that an inference is available based on cheating postdating February 1, 2022, that the players had cheated before that date. However, considering the serious disciplinary consequences that attach to proof of misconduct pre-dating February 1, we will require evidence of specific earlier misconduct before imposing the harsher discipline. A speculative inference isn't enough.

¹⁹ We do not believe that this requirement will significantly burden the Charging Party's Advocates or investigators. In other OEOC cases, the ACBL has not exhibited difficulty in obtaining BBO movies that pre-date February 1, 2022. Another [recent case](#) was based primarily on boards played in 2020.

at least the minimum recommended suspension of two years would have been appropriate.²⁰

If the Charging Party intends the Panel to impose a minimum suspension of two years or more based on one board played before February 1, 2022, the Charging Party should so state in its charge. We caution that no one board is likely to leave us comfortably satisfied that cheating occurred on that hand. It does not seem fair to Charged Parties to use one board played before February 21, 2022 to greatly increase the discipline available. In cases like this one, if the Charging Party presents only one or a limited number of hands played prior to February 1, 2022, we will feel compelled to impose a penalty of not more than six months.

Accordingly, the Charged Parties are each suspended for the maximum period of six months and thereafter subject to probation for two years, with the condition that they not play as partners during probation. Also, they are subject to forfeiture of 10% of their masterpoints.

²⁰ Without quoting section 402 at length, as mitigating considerations, the Charged Parties are relatively inexperienced and have no record of prior discipline and there is no evidence they were playing in prestigious events. As aggravating considerations, their violations were flagrant, conspicuous, and frequent over a 10-week period.