



Charged Party(ies)	Eva Fann Ronald Fennell	ACBL #	5434890 M107608	Hearing Date	11/6/22
Disciplinary Body	Online Ethical Oversight Committee	Hearing Location	Web-Conference using Zoom		
Charging Party	Joseph Jones	ACBL#	5399696	Complainant	Jeff Edelstein
				ACBL#	O200338

COMMITTEE MEMBERS WHO HEARD THE CHARGES

Name	ACBL #	Name	ACBL #
Jordan Chodorow, Chairman	Q498482		
Cheri Bjerkan	M868447		
Chris Moll	K496399		

INDIVIDUALS WHO PARTICIPATED IN THE HEARING (excluding committee members)

Name	ACBL#	Via	Capacity	Name	ACBL#	Via	Capacity
Ronald Fennell	M107608	web conf.	Charged Party	Ray Yuenger	P913494	web conf.	Panel Advisor
Eva Fann	5434890	web conf.	Charged Party			Select One	Select One
Jeff Edelstein	O200338	web conf.	Adv-Charging P			Select One	Select One
Justin Coniglio	Q809461	web conf.	Adv-Charging P			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 pages 1-27 of attached narrative report and Appendix A on pages 35-36.

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

See pages 28-34 of attached narrative report.

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).

301(A)(2): 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	Eva Fann and Ronald Fennell will each be on probation for five years following their suspensions during which they cannot play together.
<input checked="" type="checkbox"/> PROBATION	See comments to the right		
<input checked="" type="checkbox"/> SUSPENSION	See comments to the right		Eva Fann is suspended for 30 months 12/4/22 - 6/3/25 . Ronald Fennell is suspended for five years (12/4/22 - 12/3/27)

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:

Forfeiture of 50% of all Masterpoints held by each Charged Party.

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 Appendix B, Chart 1 and/or Chart 2. If it is OUTSIDE the guidelines, a reason must be stated below.

N/A

RESPECTFULLY SUBMITTED (CHAIR)

/s/ Jordan Chodorow

Date: 11/25/2022

Electronic Signature (type name above)

Wet Signature (sign above)

I. Summary of Evidence and Arguments

A. Procedural Overview

On September 6, 2022, the Executive Director of the American Contract Bridge League (“ACBL”), Joseph Jones, filed a Charge Letter alleging that Ronald Fennell and Eva Fann had violated section 301(A)(2) of the Code of Disciplinary Regulations (“CDR”) effective on August 1, 2021¹ by a pattern of conduct involving a “flagrant and pervasive exchange of illicit information in order to gain a competitive advantage in ACBL sanctioned games.” (P. 4.)²

The Charge Letter was based on a Recorder Complaint that was filed the same day. The Recorder Complaint alleged in part, “A thorough examination of Mr. Fennel’s [sic] and Ms. Fann’s online sessions from May 2022 through September 2022 has found overwhelming evidence of flagrant and pervasive exchange of illicit information in order to gain a competitive advantage in ACBL sanctioned games.” (Pp. 1-2.) The Recorder Complaint did not specifically identify any instance of misconduct as the first incident.

On the same date, September 6, the Executive Director suspended both Charged Parties pending a hearing as authorized by CDR section 401(B). (Pp. 5-8.)³

On September 22, the Charging Party submitted 116 pages of pre-hearing disclosure, as is customarily requested by panels of the Online Ethical Oversight Committee (“OEOC”). There were four parts to the disclosure. First was background information about the Charged Parties’ ACBL memberships and a short version of their convention card posted on Bridge Base Online (“BBO”). Fennell’s BBO handle was “ronfen9”; Vann’s was “frmg.” Second, the disclosure identified as Co-Advocates Jeff Edelstein, National Recorder, and Justin Coniglio, Assistant National Recorder.⁴

Section III of the disclosure listed all the boards with BBO movie hyperlinks from five sessions played by the Charged Parties on May 5 and 16, June 14, August 6 and 30. All sessions but June 14 were 12 boards. The Charging Party expressed concerns about 25 of those 68 boards.

¹ Section 301(A)(2), effective on August 1, 2021, listed “Online Collusive Cheating” as a First Degree Ethical violation and defined it as “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 remained the same when the CDR was revised effective February 1, 2022.

² Unspecified page references are to the 141-page hearing packet distributed to the Hearing Panel in advance of the disciplinary hearing.

³ All dates are from 2022, so the year won’t be repeated in this report.

⁴ Further references to “Co-Advocate” are to Jeff Edelstein, who presented the ACBL’s case at the hearing.

Section IV of the disclosure focused on different questionable actions. There was a list of all underleads of Aces and Kings against suit contracts, six Ace underleads and 42 underleads of Kings. The first underlead was on May 2 and the last on September 3. All these honor underleads are listed in Appendix A to this report. There was also a list of Fennell's nine Ace and King underleads with a different partner between May 5 and August 25.

The disclosure in Section IV also diagrammed the auctions on 81 boards played between May 2 and September 2 that the Charging Party alleged to demonstrate use of "illicit information." (Pp. 25-106.) The disclosure also diagrammed another 22 boards allegedly involving questionable leads and defense. The first questioned defense was from May 6 and the last was on September 2. (Pp. 107-129.) BBO links were provided for each diagrammed auction. Other BBO links were provided to boards alleged to involve similar conduct that weren't diagrammed.

Pre-hearing disclosure from the Charged Parties was due on October 6. (P. 10.) The disciplinary hearing was scheduled for October 23.

On October 10, all pending disciplinary hearings were postponed by the OEOC Chair.

On October 21, the Charged Parties requested additional time to submit disclosure. On October 27, the Chair of the Hearing Panel granted them additional time. The same day the Charged Parties filed 11 pages of disclosure.

The disciplinary hearing was rescheduled and a two-hour hearing was held via Zoom on Sunday, November 6. The meeting was video- and audio-recorded. Both Charged Parties appeared by video and audio. Fennell had initial difficulty with his computer audio, but he was eventually able to hear on his own computer and to speak via a phone call with Fann that was audible from her Zoom screen.⁵ There was a 10-minute break in the meeting after roughly an hour had passed.⁶

B. A Jurisdictional Issue

Before evidence was presented, the Panel Chair brought up a jurisdictional issue that he asked the Advisor to explain. The issue is that due to changes in the CDR, OEOC Panels are limited in what discipline they can impose for misconduct committed after February 1, 2022. The discipline limitations, including a maximum suspension of

⁵ We will refer to the Charged Parties by their last names for clarity, not intending to indicate familiarity.

⁶ We also note that the start of the hearing was delayed about 12 minutes due to a combination of technical difficulties, with Fann arranging for Fennell to speak to the Panel through her phone and Fann needing to log out and back in to make the video display reappear on her monitor.

six months, are in new section 403(C).⁷ Section 403(A) dictates which CDR version is applicable, stating: “**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.* Revisions of this CDR regarding procedures for all hearings apply to all hearings conducted on or after the effective date of the revision.” (Our italics.)

The Recorder responded that a pattern of conduct has been alleged. The Charge Letter listed conduct in May 2022 as the first conduct for which a defense was required of the Charged Parties, but not as the first incident of their conduct. The Recorder believed it is fair play to not require Charged Parties go back and defend hands from 12 months ago when newer hands are available. The Recorder said he has evidence that the misconduct began well before February 1, but he believed it would be unfair to the Charged Parties to present earlier hands when there are fresher hands to discuss. The Recorder did not want to prejudice the Panel by discussing earlier boards.

When the Charged Parties were asked for their comments, Fennell first said that due to audio breakup he wasn't able to hear much of what had been said. Fann began to say that their actions had reasonable explanations. The Chair said our focus at the moment was just on the effect of the evidence being from May forward. Fennell commented that they maintain their innocence and that May 1st was the earliest board they were given.

The Recorder explained that if boards from January had been presented, the Charged Parties wouldn't have been able to access them on BBO. But in the interest of justice, the OEOC Panel should apply the earlier CDR discipline.

⁷ Section 403(C), effective on February 1, 2022, stated:

“**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))”

The IBA according to the CDR is the Institute for Bridge Arbitration, which “is the specialized disciplinary body of the American Arbitration Association (AAA) that hears cases alleging an Ethical Violation set out in CDR § 301(A)-(D).”

Section 403(C) has been modified in an irrelevant way effective on July 15, 2022.

The Chair ended this topic by saying that the Panel would hear evidence regarding the Charges and would address the jurisdictional issue in its deliberations.

C. The Evidence at the Hearing

Ronald Fennell joined the ACBL in 1979 and became a Life Master on March 14, 1993. As of August 6, 2022, he was a Diamond Life Master with 6,396 Masterpoints, including 3,058 online points. He is an ACBL accredited teacher, a certified director, and an inactive Associate Tournament Director. In response to a Panelist's questions, Fennell elaborated that he used to own a bridge club in Asheville, North Carolina, where he directed five games a week. He also directed sectionals and regionals in the Mid-Atlantic Bridge Conference. When he moved to Panama City, Florida, he became a director there because they needed one.

Eva Fann joined the ACBL in 2011. As of August 6, 2022, she was a Junior Master with 1,313 Masterpoints, all of them earned online.

While they once, according to BBO, shared an IP address, the Co-Advocate accepted that they reside and played online in different states.

They had a truncated convention card posted on BBO that listed, among other things, negative doubles below 3 ♠s and support doubles and redoubles. (P. 16.) Their card did not include Lebensohl or splinters.

They have played together for more than a decade. Fennell has been mentoring Fann. At the hearing Fann said they usually played once a day. Fennell said it was about five days a week.

The Co-Advocate asserted that it is unusual to see in such a partnership a lack of alerts and the passing of forcing bids. They do not have "bad landings," for example, ending up in 4-2 fits. The Co-Advocate reviewed the nature of the evidence that the Charging Party had presented in disclosure. The Panel was invited to review the five full sessions that were listed. Rather than reviewing all 129 boards that the ACBL questioned in its disclosure, the Co-Advocate focused on diagrams of 39 boards, grouping them by six themes.⁸ Fennell in his presentation offered an explanation for each of those boards, occasionally joined by Fann. We will summarize each side's views below following the diagram of each board.

In response to the Co-Advocate's questions, Fann said that she wouldn't know how to look for exculpatory hands on BBO. Fennell disputed the Co-Advocate's assertion that all Charged Parties are advised when receiving the Charge Letter to show exculpatory hands.⁹ Fann admitted that she didn't read everything.

⁸ The Co-Advocate's presentation was 40 minutes, 15 more than he had estimated.

⁹ We note that the scheduling letter of September 22 from the Panel Chair stated in part, "I recommend reviewing the Charged Party Tips included in the Notice of (Cont.)"

1. Ace and King Underleads against Suit Contracts

The list of underleads in Appendix A showed that each of six times one of them underled an Ace against a suit contract, partner had the King. On two of those occasions, the partner had bid or raised the suit or made a lead-directing double.

Kings were underled 42 times, and each time partner had the Ace or Queen or a void.

When playing with a different partner in the same time frame, Fennell underled a King five times. Three of those times partner did not have the Ace or Queen.

Fennell said that underleading Aces and Kings is in chapter four of Audrey Grant's defense book, which says to lead low from an honor. They will lead the Ace from Ace fifth, but otherwise will underlead an Ace with a shorter suit.

2. Jumps to Slam

The first theme of diagrammed boards was seven jumps to slam.

D 8	N ronfen9	W N E S
	♠ Q10987 ♥ AKJ92 ♦ ♣ 762	1♦ 2♦ 3♦ 4♠ 5♦ 6♠ P P P
W honnydoo		E cmdad
♠ A2 ♥ Q1084 ♦ KQ54 ♣ Q103		♠ 63 ♥ 75 ♦ J109832 ♣ 985
	S frmg	
	♠ KJ54 ♥ 63 ♦ A76 ♣ AKJ4	6♠ S NS: 0 EW: 0

The Charging Party believed that on board [8](#) on May 2, Fennell's jump to slam reflected knowledge of Fann's hand. Fennell said her jump to 4 ♠ showed him at least an opening hand, so he bid on with his ♦ void.

Charges provided on September 7, 2022." (P. 10.) However, the Tips document is not included in the hearing packet.

<div style="border: 1px solid black; padding: 5px; text-align: center; width: 40px; margin: 0 auto;"> 11 D </div>	N ronfen9 ♠ 962 ♥ 104 ♦ AKQJ8653 ♣	<table border="1" style="width: 100%; text-align: center;"> <tr><th>W</th><th>N</th><th>E</th><th>S</th></tr> <tr><td>P</td><td>6♦</td><td>P</td><td>1♠</td></tr> <tr><td>P</td><td></td><td></td><td>P</td></tr> </table>	W	N	E	S	P	6♦	P	1♠	P			P
	W	N	E	S										
P	6♦	P	1♠											
P			P											
W kakiesan ♠ AJ3 ♥ 975 ♦ ♣ K1097654	E clyphy ♠ 74 ♥ QJ8632 ♦ 10942 ♣ Q	S frmg ♠ KQ1085 ♥ AK ♦ 7 ♣ AJ832	6♦ N NS: 0 EW: 0											

The Charging Party noted that 6♦ is the only making slam on board [11](#) on May 8. Fennell said that he was counting on his partner for four tricks due to her opening and, if trump was ♦s, they would have plenty of ♣ ruffs available.

<div style="border: 1px solid black; padding: 5px; text-align: center; width: 40px; margin: 0 auto;"> 6 D </div>	N ronfen9 ♠ QJ10875 ♥ 963 ♦ ♣ KQJ6	<table border="1" style="width: 100%; text-align: center;"> <tr><th>W</th><th>N</th><th>E</th><th>S</th></tr> <tr><td>P</td><td>3♥</td><td>P</td><td>2NT</td></tr> <tr><td>P</td><td>6♠</td><td>P</td><td>3♠</td></tr> <tr><td>P</td><td></td><td></td><td>P</td></tr> </table>	W	N	E	S	P	3♥	P	2NT	P	6♠	P	3♠	P			P
	W	N	E	S														
P	3♥	P	2NT															
P	6♠	P	3♠															
P			P															
W sharonroe ♠ 9 ♥ 10542 ♦ AJ74 ♣ 8542	E Keithc ♠ 64 ♥ KJ ♦ Q109632 ♣ 1097	S frmg ♠ AK32 ♥ AQ87 ♦ K85 ♣ A3	6♠ S NS: 0 EW: 0															

The Charging Party noted that there were several ways that they could be missing two tricks on board [6](#) on May 9. Fennell said that based on the 2NT opening, it was a good shot to make six ♠s.

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> 6 D </div>	N ronfen9 ♠ 97 ♥ AK987542 ♦ KJ3 ♣	W N E S P 6♥ P X P
	W donkey1938 ♠ 10642 ♥ 63 ♦ 109876 ♣ Q10	E bosterak ♠ J85 ♥ J10 ♦ 4 ♣ AKJ6542
	S frmg ♠ AKQ3 ♥ Q ♦ AQ52 ♣ 9873	6♥ N NS: 0 EW: 0

The Charging Party noted that, on board [6](#) on May 21, Fann had extra values for her off-shape takeout double. The Co-Advocate pointed out that 7♥ is a superior contract. Fennell said he knew Fann had a couple of tricks for her double, so he bid 6♥s. He said, “I took a flyer. I frequently take flyers.” One Panelist noted that for most bridge players, taking flyers works about half the time.¹⁰

¹⁰ Keeping board descriptions and diagrams on the same page for readability results in some white space in hearing reports.

D 12	N margiebroo	W	N	E	S
	♠ 10	P	2♦	X	P
	♥ 954	2♣	P	6♣	P
	♦ KQ10963	P	P		
	♣ 1043				
W frmg		E ronfen9			
♠ 8652		♠ AKQ3			
♥ Q3		♥ AKJ8			
♦ AJ4		♦ 72			
♣ A762		♣ KQ9			
	S tinygal				
	♠ J974				
	♥ 10762				
	♦ 85				
	♣ J85				
		6♣ W		NS: 0 EW: 0	
Rewind	Previous	Next	Options	GIB	Play

The Charging Party noted that Fann showed no values on board [12](#) on July 7 in responding 2♠ to his take-out double, but Fennell easily jumped to slam, finding hidden values in Fann's hand. Fennell explained that he had a 2♣ opener. He admitted that he could have bid 4NT to find out what she had. One Panelist noted that Fennell wasn't deterred by having two small ♦s after a 2♦ opening.

D 3	N kooncejf	W	N	E	S
	♠ J108	P	2♥	X	P
	♥ 1098732	2♣	P	6♣	P
	♦ J	P	P		
	♣ K102				
W frmg		E ronfen9			
♠ A754		♠ KQ632			
♥ KQ		♥ AJ6			
♦ 985		♦ AQ104			
♣ Q863		♣ A			
	S SKempner				
	♠ 9				
	♥ 54				
	♦ K7632				
	♣ J9754				
		6♣ W		NS: 0 EW: 0	

The Charging Party considered this auction on board [3](#) above on an unspecified date similar to board 12 above, with another minimal 2♠ call by Fann with an 11 count.¹¹ Fennell again said that he could have bid 4NT to find out what she had, but he decided 6♠s would make.

D	8	N ronfen9	W	N	E	S
		♠ AKQJ83 ♥ A ♦ A1095 ♣ 64	P	1♠	P	2NT
W	lvsrn		P	6♠	P	P
			P			
		E drowzee				
		♠ 1076 ♥ Q943 ♦ QJ7 ♣ KJ8				
		S frmng				
		♠ 9542 ♥ K1076 ♦ 3 ♣ AQ107				
			6♠ N		NS: 0	EW: 0

On board [8](#) on August 23, 2NT was alerted by Fann as “Jacoby.” The Charging Party commented that this light raise paved the path to a slam. Fennell explained that Audrey Grant adds 3 points for a singleton, so Fann had a Jacoby raise. After her bid, he figured his hand was good for a slam.

3. Staying out of No Trump

Three boards showed the Charged Parties maneuvering out of a risky NT contract.

¹¹ While the Charging Party diagrammed 81 questioned auctions in disclosure, it also provided links to comparable auctions from unspecified dates like this board 3 that were first diagrammed at the disciplinary hearing.

D 12	N ronfen9	W	N	E	S
	♠ AQ5 ♥ 96 ♦ AKJ2 ♣ AK65	P	2NT	P	3♣
W 1145360023		P	3NT	P	4♦
♠ 83 ♥ AKJ32 ♦ 8 ♣ J10872	E santillo	P	5♦	P	P
		P			
	S frmg	5♦ S NS: 0 EW: 0			
	♠ KJ97 ♥ 75 ♦ Q10975 ♣ 93				

The Charging Party suggested that Fann's bidding on board [12](#) on May 6 reflected awareness of the lack of a ♥ stopper. Fennel said that Fann bid 4 ♦ because she had two suits unguarded, and, as he liked ♦s, he raised to five.

D 11	N ronfen9	W	N	E	S
	♠ 108643 ♥ 63 ♦ 9872 ♣ 106	P	2♦	P	2NT
W billcollis		P	3♠	P	3NT
♠ AJ952 ♥ J1075 ♦ Q105 ♣ 7	E DonFree	P	4♦	P	5♦
		P		P	
	S frmg	5♦ N NS: 0 EW: 0			
	♠ 7 ♥ AK4 ♦ AK64 ♣ AKQ85				

On board [11](#) on June 11, 3 ♠s was alerted as natural. This time Fennel maneuvered the contract into a making 5 ♦ instead of an unsuccessful 3NT. Fennel said that when Fann didn't raise ♠s he knew her values were elsewhere, so he offered his ♦ suit to see if she liked it.

4. Passing Forcing Bids

The next six boards involved one of the Charged Party's passing what would ordinarily be a forcing bid by the other Charged Party.

<div style="border: 1px solid black; padding: 5px; text-align: center;"> 3 <small>D</small> </div>	N foosh ♠ 1084 ♥ K9 ♦ KQJ6 ♣ Q963	W N E S 1♣ P 1♠ P P P
	W frmng ♠ Q52 ♥ 3 ♦ A532 ♣ AJ1042	E ronfen9 ♠ AKJ76 ♥ J10542 ♦ 107 ♣ 5
	S jennie5223 ♠ 93 ♥ AQ876 ♦ 984 ♣ K87	1♠ E NS: 0 EW: 0

Fann said she passed on board [3](#) on May 17 because she had a marginal opener. In response to a Panelist's comments, Fennell agreed that Audrey Grant does not teaching passing in such an auction.

On a series of three boards, a bid in response to partner's preempt was passed while not being alerted as passable. At the hearing, the Charged Parties said that they play responses to preempts as non-forcing. Fennell said he thought that the opponents would know of their treatment because it was on their card.¹² Fann said that she doesn't know what is alertable. In response to questions by the Co-Advocate, Fennell said there was never a director call about their failures to alert. As a certified director, Fennell knew the bid was alertable. In response to a Panelist's question, Fennell admitted that it was his error to not alert these nonforcing bids.

¹² It doesn't appear on the truncated card in evidence.

First in this series was board [3](#) on June 22.

<div style="border: 1px solid black; padding: 5px; text-align: center;"> 3 D </div>	N ronfen9 ♠ QJ974 ♥ 42 ♦ 5 ♣ AK986	W N E S P 3♠ P P P	
	W redpony2 ♠ K8 ♥ Q8653 ♦ QJ1097 ♣ 10	E stanley99 ♠ 1053 ♥ AK1097 ♦ AK32 ♣ 5	
	S frmg ♠ A62 ♥ J ♦ 864 ♣ QJ7432		3♠ N NS: 0 EW: 0

One Panelist said it was hard to believe that with 5-card ♣ support, Fennell would bid 3 ♠ instead. Yet it worked on this hand.

Next in this series were boards [6](#) and [9](#) on unspecified dates.

<div style="border: 1px solid black; padding: 5px; text-align: center;"> 6 D </div>	N tater ♠ A102 ♥ AQ ♦ KJ862 ♣ K54	W N E S 2♠ P 2♥ P P	
	W frmg ♠ QJ876 ♥ 2 ♦ Q1094 ♣ 986	E ronfen9 ♠ K9543 ♥ K109874 ♦ 7 ♣ 10	
	S verify ♠ J653 ♥ A53 ♣ AQJ732		2♠ W NS: 0 EW: 0

<div style="border: 1px solid black; padding: 5px; text-align: center;"> 9 D </div>	N rxguy2 ♠ K1082 ♥ A105 ♦ J94 ♣ 965	W N E S 3♦ P 2♠ P P	
	W frmg ♠ Q832 ♥ AKQ102 ♣ QJ74	E ronfen9 ♠ J96543 ♥ K4 ♦ 863 ♣ A10	
	S tobias31 ♠ AQ7 ♥ J976 ♦ 75 ♣ K832		3♦ W NS: 0 EW: 0

Board [3](#) (below) on another unspecified date showed another kind of pass of a forcing bid.

<div style="border: 1px solid black; padding: 5px; text-align: center;"> 3 D </div>	N Kaludi1 ♠ 98 ♥ 2 ♦ QJ862 ♣ A8732	W N E S 1♣ 2♦ 2♥ P P P P
	W frm9 ♠ K1076 ♥ QJ6 ♦ AK ♣ J954	E ronfen9 ♠ AQ4 ♥ 108754 ♦ 10543 ♣ Q
	S mugunghwa ♠ J532 ♥ AK93 ♦ 97 ♣ K106	2♥ E NS: 0 EW: 0

At the hearing, Fennell said that Fann should have bid 3♥ and she acknowledged that she “probably” should have.

<div style="border: 1px solid black; padding: 5px; text-align: center;"> 6 D </div>	N Phil619 ♠ 10853 ♥ AJ10 ♦ AQ2 ♣ 953	W N E S 3♥ P 2♠ P X P 3♠ X 4♣ P P 4♥ P D
	W frm9 ♠ ♥ Q8654 ♦ 10754 ♣ KQ72	E ronfen9 ♠ KJ9762 ♥ K9732 ♦ J ♣ 10
	S billcollis ♠ AQ4 ♥ ♦ K9863 ♣ AJ864	

Board [6](#) from another unspecified date was another instance of a nonforcing response to a preempt.

D 4	N 000RAM	W N E S
	♠ Q3 ♥ KJ832 ♦ J5 ♣ Q1054	1♦ 1♥ 1NT P 3NT P 4♠ P P P
W frmg		E ronfen9
♠ AK74 ♥ Q94 ♦ AQ1086 ♣ A		♠ J1052 ♥ A65 ♦ 74 ♣ K863
	S onrelas	
	♠ 986 ♥ 107 ♦ K932 ♣ J972	
		4♠ E NS: 0 EW: 0

On board 4 on June 12, Fennel initially denied holding 4 ♠s by bidding 1NT instead of a negative double, but he later found the ♠ fit at the four-level. Fennel said that 1NT was a misclick. He intended to bid 1 ♠ which is why he bid 4 ♠ later.

D 2	N hirokony	W N E S
	♠ AK10 ♥ K8432 ♦ 742 ♣ Q10	1♦ 1♥ 2♠ P P P P
W frmg		E ronfen9
♠ QJ3 ♥ AQ105 ♦ AKQ103 ♣ 3		♠ 87654 ♥ J6 ♦ 95 ♣ J954
	S squeezeyos	
	♠ 92 ♥ 97 ♦ J86 ♣ AK8762	
		2♠ E NS: 0 EW: 0

On board 2 on June 27, Fennel made an extremely weak preemptive response with a 5-card major and found 3-card support. Fennel said that they usually have six cards to make a weak jump shift, which shows less than 6 points.

D	8	N rbd115	W	N	E	S
		♠ J1073	P	P	1♦	1NT
		♥ 6	P	P	2♥	P
		♦ 10876	P	P		
		♣ K1087				
W	frmg		E	ronfen9		
	♠ 986			♠ AK4		
	♥ KJ985			♥ Q432		
	♦ 2			♦ QJ953		
	♣ J954			♣ Q		
		S jJoAnn S				
		♠ Q52				
		♥ A107				
		♦ AK4				
		♣ A632				
			2♥ E		NS: 0	EW: 0

On board [8](#) on July 13, Fennel said he decided to bid 2♥s to show his distribution.

D	4	N Ulder	W	N	E	S
		♠ J85	1♦	P	1♠	P
		♥ KQ85	3♣	P	P	P
		♦ 8742				
		♣ 82				
W	frmg		E	ronfen9		
	♠ AK107			♠ Q932		
	♥ J2			♥ 9764		
	♦ AQJ5			♦ K9		
	♣ A54			♣ 1073		
		S IMPASS63				
		♠ 64				
		♥ A103				
		♦ 1063				
		♣ KQJ96				
			3♣ E		NS: 0	EW: 0

On board [4](#) on July 17, Fennel bypassed his 4-card♥ suit to bid 1♠ and Fann only jumped to 3 with a 19-count, finding Fennel with a subminimum response. Fennel explained that his 1♠ bid was another misclick. He meant to bid 1♥. He said that, if he had bid 1♥, they still would have ended up in ♠s.

D 4	N dianne1024	W N E S
	♠ AQ32	1♦ P 2♣ P
	♥ Q4	2NT P 3♥ P
	♦ 973	4♥ P P P
	♣ J975	
W frmg		E ronfen9
♠ J9		♠ K54
♥ AKJ7		♥ 10983
♦ KJ1062		♦ A
♣ 32		♣ AK864
	S skokiegirl	
	♠ 10876	
	♥ 652	
	♦ Q854	
	♣ Q10	
		4♥ E NS: 0 EW: 0

On another board 4 from August 4, Fann bypassed rebidding her ♥ suit, allowing Fennell to bid the suit first. 2♣ was explained as “natural.” Fennel said that Fann didn’t deny holding 4♥s by rebidding 2NT. She might not have had enough points to reverse into 2♥s.

D 4	N Big Run	W N E S
	♠ QJ8	1♥ P 1♠ X
	♥ 6	2♥ P 4♠ P
	♦ 642	P P
	♣ J107542	
W frmg		E ronfen9
♠ 974		♠ AK10632
♥ AQ10974		♥ J32
♦ AK53		♦ 108
♣		♣ K8
	S gilison123	
	♠ 5	
	♥ K85	
	♦ QJ97	
	♣ AQ963	
		4♠ E NS: 0 EW: 0

On yet another board 4 on August 10, even though Fann didn’t make a support redouble, Fennell, instead of supporting Fann’s presumed 6-card ♥ suit, jumped to

game in his own 6-card suit and found 3-card support. Fennel said he really didn't know why he didn't bid 4 ♥s except that he might have been trying to protect the ♣ King. In response to a Panelist's question, Fennel said they have "absolutely forgotten" about support doubles, even though it has remained on their card.

<div style="background-color: red; color: white; padding: 5px; display: inline-block;">10</div> <div style="background-color: red; color: white; padding: 5px; display: inline-block; margin-left: 5px;">D</div>	N ronfen9 ♠ J10654 ♥ 1094 ♦ 7 ♣ QJ96	<table border="1"> <tr> <th>W</th> <th>N</th> <th>E</th> <th>S</th> </tr> <tr> <td></td> <td></td> <td>P</td> <td>1♦</td> </tr> <tr> <td>P</td> <td>2♠</td> <td>P</td> <td>P</td> </tr> <tr> <td>P</td> <td></td> <td></td> <td></td> </tr> </table>	W	N	E	S			P	1♦	P	2♠	P	P	P			
	W	N	E	S														
		P	1♦															
P	2♠	P	P															
P																		
W dgusail ♠ A32 ♥ 732 ♦ AJ1085 ♣ 82		E rhottell ♠ K9 ♥ KQ85 ♦ 632 ♣ 10543																
	S frmg ♠ Q87 ♥ AJ6 ♦ KQ94 ♣ AK7	2♠ N NS: 0 EW: 0																

On board [10](#) from August 17, Fennel again made a preemptive response vulnerable with a 5-card major and found 3-card support. He said he liked the singleton ♦.

<div style="background-color: red; color: white; padding: 5px; display: inline-block;">2</div> <div style="background-color: red; color: white; padding: 5px; display: inline-block; margin-left: 5px;">D</div>	N actuary611 ♠ J1042 ♥ A4 ♦ AKQ98 ♣ Q7	<table border="1"> <tr> <th>W</th> <th>N</th> <th>E</th> <th>S</th> </tr> <tr> <td></td> <td></td> <td>1♣</td> <td>P</td> </tr> <tr> <td>1♥</td> <td>2♦</td> <td>2♠</td> <td>P</td> </tr> <tr> <td>P</td> <td>P</td> <td></td> <td></td> </tr> </table>	W	N	E	S			1♣	P	1♥	2♦	2♠	P	P	P		
	W	N	E	S														
		1♣	P															
1♥	2♦	2♠	P															
P	P																	
W frmg ♠ A985 ♥ J752 ♦ 43 ♣ 842		E ronfen9 ♠ Q763 ♥ KQ3 ♦ 62 ♣ AJ53																
	S spudmato ♠ K ♥ 10986 ♦ J1075 ♣ K1096	2♠ E NS: 0 EW: 0																

On board [2](#) on September 2 (above), Fennell bypassed a support double to rebid a 4-card suit at the two-level with a minimum opener, not a reverse, finding partner with 4-card support. He said with his doubleton \heartsuit he was checking to see if Fann wanted to play in \clubsuit s or \spadesuit s.

<div style="border: 1px solid black; padding: 5px; text-align: center; width: 40px; margin: 0 auto;"> 3 D </div>	N ronfen9 \spadesuit 62 \heartsuit AK82 \diamondsuit Q953 \clubsuit 763	W N E S $1\spadesuit$ $2\heartsuit$ $2\spadesuit$ $1\clubsuit$ P P P $4\heartsuit$
	W nic813 \spadesuit KJ943 \heartsuit 105 \diamondsuit 864 \clubsuit K95	E Bert2708 \spadesuit 1087 \heartsuit 943 \diamondsuit KJ7 \clubsuit Q1084
S frmg \spadesuit AQ5 \heartsuit QJ76 \diamondsuit A102 \clubsuit AJ2		$4\heartsuit$ N NS: 0 EW: 0

On board [3](#) on May 19, rather than making a negative double, Fennell bid his 4-card suit at the two-level and became declarer. He explained that he could have bid $2\diamondsuit$ s, but he liked the \heartsuit s better.

6. Inconsistent Bidding

The Charging Party characterized the next nine boards as inconsistent bidding.

D 12	N ronfen9	W	N	E	S
	♠ J93 ♥ K963 ♦ AJ10 ♣ KJ9	2♦	P	P	2♥
W richa		P	P	3♦	P
♠ AK ♥ 10 ♦ 876542 ♣ Q753	E gordon Jay	P	3♥	P	P
	S frmg	P			
	♠ Q64 ♥ 87542 ♦ 9 ♣ A1086				
		3♥ S NS: 0 EW: 0			

On board 12 from May 21, Fennell reluctantly competed to 3♥ with an opening hand after not immediately raising her. He explained that he had no bid over 2♦s without 4♠s, so he passed. Fann didn't double to show an opening hand, so he didn't bid 4♥s.

D 5	N ddominick	W	N	E	S
	♠ AQ102 ♥ K10864 ♦ Q97 ♣ 6	1♥	P	P	P
W frmg		1♠	P	2♣	P
♠ K764 ♥ AQJ ♦ K852 ♣ A8	E ronfen9	2NT	P	3NT	P
	S wbazelow	P	P		
	♠ J93 ♥ 72 ♦ 104 ♣ J109743				
		3NT W NS: 0 EW: 0			

On board 5 from May 12, Fennell kept the auction open, allowing Fann to describe her hand. Fennell asked at the hearing why Fann didn't overcall 1NT. She said it must

have been a misclick, as her normal bid was 1NT. Fennell said he bid 2 ♣s because he didn't have ♠ support. He was checking for a minor suit fit.

D 9	N ronfen9	W N E S
	♠ J854 ♥ AQ7632 ♦ 64 ♣ A	1♥ P 4♥ P P P
W weidarien		E Bridge1724
♠ AQ6 ♥ J ♦ Q10932 ♣ K1093		♠ K10972 ♥ 109 ♦ A75 ♣ J72
	S frmg	
	♠ 3 ♥ K854 ♦ KJ8 ♣ Q8654	4♥ N NS: 0 EW: 0

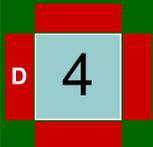
On board 9 from June 1, Fann made a preemptive jump to game with 4-card trump support, a singleton, and a 9-count. Fann said that the singleton ♠ was worth three points, which gave her enough to bid 4 ♥s.

D 8	N ronfen9	W N E S
	♠ AKQJ83 ♥ A ♦ A1095 ♣ 64	P 1♠ P 2NT P 6♠ P P P
W lvsrn		E drowzee
♠ ♥ J852 ♦ K8642 ♣ 9532		♠ 1076 ♥ Q943 ♦ QJ7 ♣ KJ8
	S frmg	
	♠ 9542 ♥ K1076 ♦ 3 ♣ AQ107	6♠ N NS: 0 EW: 0

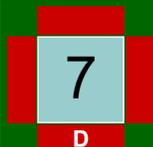
On board 8 on August 23, Fann bid 2NT, alerted as Jacoby, with a very similar hand to board 9 above. Fennell explained that with Fann having an opening hand, 6 ♠s had good play.

<div style="border: 1px solid black; padding: 5px; text-align: center; width: 40px; margin: 0 auto;"> 11 D </div>	N nicki37 ♠ 103 ♥ J97 ♦ KQ765 ♣ K108	<table border="1" style="width: 100%; text-align: center;"> <tr> <th>W</th> <th>N</th> <th>E</th> <th>S</th> </tr> <tr> <td>1♠</td> <td>P</td> <td>4♠</td> <td>P</td> </tr> <tr> <td>P</td> <td>P</td> <td></td> <td></td> </tr> </table>	W	N	E	S	1♠	P	4♠	P	P	P							
	W	N	E	S															
1♠	P	4♠	P																
P	P																		
<table border="1" style="width: 100%; text-align: center;"> <tr> <th>W</th> <th>E</th> </tr> <tr> <td>frmg</td> <td>ronfen9</td> </tr> <tr> <td>♠ AK982</td> <td>♠ J7654</td> </tr> <tr> <td>♥ K862</td> <td>♥ 43</td> </tr> <tr> <td>♦ A</td> <td>♦ 1083</td> </tr> <tr> <td>♣ AJ2</td> <td>♣ Q94</td> </tr> </table>	W	E	frmg	ronfen9	♠ AK982	♠ J7654	♥ K862	♥ 43	♦ A	♦ 1083	♣ AJ2	♣ Q94	<table border="1" style="width: 100%; text-align: center;"> <tr> <th>S</th> </tr> <tr> <td>BirdieC</td> </tr> <tr> <td>♠ Q</td> </tr> <tr> <td>♥ AQ105</td> </tr> <tr> <td>♦ J942</td> </tr> <tr> <td>♣ 7653</td> </tr> </table>	S	BirdieC	♠ Q	♥ AQ105	♦ J942	♣ 7653
W	E																		
frmg	ronfen9																		
♠ AK982	♠ J7654																		
♥ K862	♥ 43																		
♦ A	♦ 1083																		
♣ AJ2	♣ Q94																		
S																			
BirdieC																			
♠ Q																			
♥ AQ105																			
♦ J942																			
♣ 7653																			
		4♠ W NS: 0 EW: 0																	

The Charging Party said that a 4 ♠ call with the East hand on board [11](#) on June 18 was “poor bridge” (p. 77), but Fennell caught Fann with extras. Fennell objected to this characterization, saying that his bid showed what he had, namely 5 ♠s and fewer than 10 HCP.

	N ronfen9	W N E S
	♠ 6	P 1♦ P 1NT
	♥ AK4	P 2♦ P P
	♦ AKQ86	P
	♣ 9863	
W kfcats		E clyphy
♠ KQJ43		♠ 109752
♥ Q10752		♥ J9
♦ 5		♦ 432
♣ J5		♣ AK10
	S frmgs	
	♠ A8	
	♥ 863	
	♦ J1097	
	♣ Q742	
		2♦ N NS: 0 EW: 0

On board 4 from June 8, Fennell said that he didn't like his ♠ singleton, so he rebid 2♦. While he could have bid 2♣, he didn't like the "9 high suit." Fann passed with a minimum.

	N ronfen9	W N E S
	♠ 9	P P P P
	♥ A532	1♦ 3NT P 1♠
	♦ AKQJ5	P P P
	♣ Q82	
W Jambynet		E patsy15
♠ K53		♠ 10874
♥ Q10976		♥ J4
♦ 3		♦ 986
♣ K1094		♣ A765
	S frmgs	
	♠ AQJ62	
	♥ K8	
	♦ 10742	
	♣ J3	
		3NT N NS: 0 EW: 0

On board 7 on May 21, Fennell jumped to 3NT with a very similar hand. He explained that he jumped to 3NT after Fann's 1♠ response because he had stoppers in all the other suits.

D 4	N PArendal	W N E S
	♠ A108 ♥ A942 ♦ 10763 ♣ K10	1NT P 2♥ P 2♠ P 4♠ P P P
W frmfg		E ronfen9
♠ K43 ♥ 83 ♦ 82 ♣ AJ7542		♠ Q7652 ♥ Q6 ♦ AKQJ9 ♣ Q
	S nhcolcot	
	♠ J9 ♥ KJ1075 ♦ 54 ♣ 9863	4♠ W NS: 0 EW: 0

Board 4 from July 19 is an anomaly with Fann opening 1NT with an off-shape 8-count. Fennel was content to stop in game with 16 HCP and he ensured the game was 4 ♠, not offering 3NT as a choice of games. At the hearing the Charged Parties agreed with each other that Fann must have misclicked to open one 1NT. Fennell said in ten years of playing together, he had never seen her open 1NT with 8 HCP. Fennell said that he had a great hand, and so he jumped to 4 ♠ to show slam interest. In response to a Panelist's question, Fennell acknowledged that Audrey Grant teaches that a responder to a NT opening should bid NT after transferring to a major to give partner a choice of games. Fennell said he is willing to play a 5-2 fit if he has weakness in a side suit.

D 11	N jw8991	W N E S
	♠ J ♥ 976 ♦ A7 ♣ Q1087542	1NT P 2♣ P 2♥ P 4♣ P 4♥ P 6NT P
W frmfg		E ronfen9
♠ 876 ♥ AKQ43 ♦ Q83 ♣ KJ		♠ AQ53 ♥ J5 ♦ KJ106 ♣ A93
	S Lucy2016	
	♠ K10942 ♥ 1082 ♦ 9542 ♣ 6	6NT W NS: 0 EW: 0

In contrast to board 4 above, on board [11](#) from an unspecified date, Fennell drove to a slam after a NT opening with 15 HCP. 2♥ was alerted as a 5-card suit and 4♣ was alerted as Gerber. Fennell explained that once Fann showed him an Ace, he jumped to 6 NT. Fennell asked, “What was wrong with that? I’ve got a good hand and she’s opened 1NT.” He wasn’t asked to explain why he didn’t do the same on board 4 with a better hand.

7. Transferring to Majors

Board 4 from July 19 above was displayed a second time to illustrate how the NT responder found support when they insisted on playing game in their five-card major.

	N ronfen9 ♠ Q72 ♥ Q732 ♦ K6 ♣ AKQ7	W N N E S 2♦ 2NT P P P 3♥ P 3♦ P P P 4♥
	W NSRaphael ♠ J94 ♥ ♦ AJ9753 ♣ 10982	E nantuck ♠ K1083 ♥ K954 ♦ 1042 ♣ J4
	S frmg ♠ A65 ♥ AJ1086 ♦ Q8 ♣ 653	4♥ N NS: 0 EW: 0

On board [3](#) on May 10, 2NT was alerted as 15-17 and 3♦ was alerted as “transfer.” Fann explained that she transferred to show ♥s. Fennell explained that with Fann’s strong holding, they thought 4♥ would make. In response to the Co-Advocate’s question, Fann said that transferring to a major and raising to game often shows six cards in the major, but she would do it with five if concerned about the side suits.

<div style="border: 1px solid black; padding: 5px; display: inline-block;"> 10 D </div>	N ronfen9 ♠ QJ542 ♥ 732 ♦ Q65 ♣ 63	<table border="1" style="width: 100%; text-align: center;"> <tr> <th style="background-color: #f08080;">W</th> <th style="background-color: #f08080;">N</th> <th style="background-color: #f08080;">E</th> <th style="background-color: #f08080;">S</th> </tr> <tr> <td></td> <td></td> <td>P</td> <td>2NT</td> </tr> <tr> <td>P</td> <td>3♥</td> <td>P</td> <td>3♠</td> </tr> <tr> <td>P</td> <td>4♠</td> <td>P</td> <td>P</td> </tr> <tr> <td>P</td> <td></td> <td></td> <td></td> </tr> </table>	W	N	E	S			P	2NT	P	3♥	P	3♠	P	4♠	P	P	P			
	W	N	E	S																		
		P	2NT																			
P	3♥	P	3♠																			
P	4♠	P	P																			
P																						
W bitemephil ♠ 97 ♥ 964 ♦ 8742 ♣ AQJ4	E Ulder ♠ 1086 ♥ J105 ♦ AK103 ♣ 1075																					
	S frm9 ♠ AK3 ♥ AKQ8 ♦ J9 ♣ K982																					
		4♠ S NS: 0 EW: 0																				

On board [10](#) on June 28, Fennell explained that with 5 HCP and a doubleton he bid the ♠ game.¹⁴

D. Argument

The Co-Advocate asked for differing disciplines of three years' suspension for Eva Fann and five years' suspension for Ronald Fennell due to his position as a certified director, an ACBL accredited teacher, a former ACBL Associate Tournament Director, and his current rank of Diamond Life Master. As to both, the Co-Advocate asked for five years' probation with a condition prohibiting them from playing together and forfeiture of 50% of their total Masterpoints.

Fann asserted that there was a legitimate reason for every auction, except for the hand when she opened 1NT with an 8 count. Fennell said that if he got a five-year suspension he would probably be done with bridge because he is 68 years old and the Panama City Bridge Club would probably close. Fennell said he would accept the Panel's decision. Fann denied cheating. She said she enjoyed playing bridge online. She will accept the Panel's decision.

¹⁴ While 4 ♠s on board 10 can be set, the opponents led a trump and Fann was able to pitch a ♣ loser on a ♥.

II. The Panel's Findings of Fact and Conclusions

A. Factual Conclusions

In part I.C above, the Panel has reviewed the evidence presented at the disciplinary hearing without indicating the Panel's factual findings, although the review includes views of individual Panelists as stated during the hearing. Because both sides focused on the 39 different diagrammed boards presented by the Charging Party at the hearing, the above review has summarized the statements of all Parties about those boards, without indicating the Panel's views as to their credibility. It is notable that the Charged Parties sought to explain each of their questioned actions, whether during bidding or on defense.

While the Charging Party diagrammed 22 boards in its disclosure as involving questionable defenses (pp. 107-129), none of those boards was among the 39 diagrammed for the disciplinary hearing. Three of those 22 involved underleads of Aces and those did appear in the list of underleads in Appendix A.

This Panel has reviewed all the pre-hearing disclosure by both sides and all the evidence at the hearing. We do not feel the need to comment on every board presented to justify our conclusions.

As to the evidence that the Charged Parties' underled Aces six times against suit contracts and found partner's King every time, we note that on one board ([4](#) on July 1), partner had raised the suit and on another ([12](#) on July 3), partner had bid the suit.¹⁵ But that leaves four occasions on which a blind lead found partner's King ([5](#) on May 24, [12](#) on June 12, [8](#) on July 20, and [11](#) on July 21). We consider boards 12 and 8 to be particularly remarkable, as on 12, the opponent had bid the suit led, and on 8, it was not the suit partner had bid twice.

Looking into underleads of Kings that found Aces, which they did 26 times, 15 of those times the lead was guided by the suit having either been bid or raised or indicated by a lead-directing double or a takeout double, but the other 11 were blind leads. When King underleads didn't find Aces, they found Queens 15 times and a void once. The Charged Parties ended up with an unbelievable perfect percentage on successfully underleading Aces and Kings.¹⁶

We next discuss the questionable bidding illustrated by the 39 boards diagrammed above under six themes: the seven jumps to slam, successful every time; the two times they maneuvered out of a doomed 3NT contract to find a successful minor game; the three times they passed forcing bids (apart from their three nonforcing

¹⁵ This report will provide hyperlinks for every board on which the Panel has relied and diagrams for most of them.

¹⁶ We note that it would have made a stronger case had the ACBL produced evidence of boards when an Ace or King wasn't underled and partner didn't have either the Ace, King, Queen, or a void.

responses to preempts, all of which improved the contract); the two times a preemptive jump shift with a bad five-card suit found three card support; the six times they found major fits by ignoring the opportunity for negative doubles and support doubles and even partner's bypassing of a four-card suit; the three times the responder insisted on playing a major game in a five-card suit after an opening of 1 or 2NT, finding at least 3-card support every time; and the contrasting styles of bidding similar hands.

While a few of the slam jumps may be arguably reasonable in the context of the auctions, the 100% success rate in seven slam jumps cannot be reasonably attributed to skill or even the good luck of someone who occasionally takes flyers. We will focus on two of the jumps to slam and repeat their diagrams for emphasis.

<div style="border: 1px solid black; padding: 2px;"> 12 </div>	N margiebroo ♠ 10 ♥ 954 ♦ KQ10963 ♣ 1043	W N E S P 2♦ X P 2♠ P 6♣ P P P
	W frmng ♠ 8652 ♥ Q3 ♦ AJ4 ♣ A762	E ronfen9 ♠ AKQ3 ♥ AKJ8 ♦ 72 ♣ KQ9
	S tinygal ♠ J974 ♥ 10762 ♦ 85 ♣ J85	6♠ W NS: 0 EW: 0
	Bridge Base	

<div style="border: 1px solid black; padding: 2px;"> 3 </div>	N kooncejf ♠ J108 ♥ 1098732 ♦ J ♣ K102	W N E S P 2♥ X P 2♠ P 6♣ P P P
	W frmng ♠ A754 ♥ KQ ♦ 985 ♣ Q863	E ronfen9 ♠ KQ632 ♥ AJ6 ♦ AQ104 ♣ A
	S SKempner ♠ 9 ♥ 54 ♦ K7632 ♣ J9754	6♠ W NS: 0 EW: 0
	Bridge Base	

On these two occasions, Fann gave minimum responses to a takeout double despite holding 11-counts. Nevertheless, both times Fennell barreled into a 6♠ contract, finding Fann with all the high cards needed to make slam, without asking by way of a keycard auction. It certainly appears that Fennell knew what he needed to know by other means.

Another pair of boards presents a striking contrast.

<div style="border: 1px solid black; padding: 2px;"> 9 </div>	N ronfen9 ♠ J854 ♥ AQ7632 ♦ 64 ♣ A	W N E S P 1♥ P 4♥ P P P
	W weidarien ♠ AQ6 ♥ J ♦ Q10932 ♣ K1093	E Bridge1724 ♠ K10972 ♥ 109 ♦ A75 ♣ J72
	S frmng ♠ 3 ♥ K854 ♦ KJ8 ♣ Q8654	4♥ N NS: 0 EW: 0
	Bridge Base	

<div style="border: 1px solid black; padding: 2px;"> 8 </div>	N ronfen9 ♠ AKQJ83 ♥ A ♦ A1095 ♣ 64	W N E S P 1♠ P 2NT P 6♣ P P P
	W lvsrn ♠ ♥ J852 ♦ K8642 ♣ 9532	E drowzee ♠ 1076 ♥ Q943 ♦ QJ7 ♣ KJ8
	S frmng ♠ 9542 ♥ K1076 ♦ 3 ♣ AQ107	6♠ N NS: 0 EW: 0
	Bridge Base	

Twice Fann held four-card support for a major with a singleton and nine HCP. Once, when Fennell had a minimal opener, Fann simply jumped to game. The other time,

when Fennell held a much better hand, Fann gave a Jacoby 2NT response. The ostensibly stronger raise propelled a leap to slam by a hand with a small doubleton.

Another pair of boards further illustrates an awareness of the strength of partner's hand.

<div style="border: 1px solid black; padding: 2px; display: inline-block; background-color: #f0f0f0;"> D 4 </div>	N ronfen9 ♠ 6 ♥ AK4 ♦ AKQ86 ♣ 9863	W N E S P 1♦ P 1NT P 2♦ P P P	<div style="border: 1px solid black; padding: 2px; display: inline-block; background-color: #f0f0f0;"> D 7 </div>	N ronfen9 ♠ 9 ♥ A532 ♦ AKQJ5 ♣ Q82	W N E S P 1♦ P P P 3NT P P P
	W kfcatt ♠ KQJ43 ♥ Q10752 ♦ 5 ♣ J5	E clyphy ♠ 109752 ♥ J9 ♦ 432 ♣ AK10		W Jambynet ♠ K53 ♥ Q10976 ♦ 3 ♣ K1094	E patsy15 ♠ 10874 ♥ J4 ♦ 986 ♣ A765
	S frmng ♠ A8 ♥ 863 ♦ J1097 ♣ Q742	S frmng ♠ AQJ62 ♥ K8 ♦ 10742 ♣ J3		2♦ N NS: 0 EW: 0	3NT N NS: 0 EW: 0

Fennell's hands are virtually identical on the two boards above, but with the first hand he tamely rebid 2♦ and with the second he jumped to 3NT. When he jumped, he caught a much better dummy that was not indicated by the bidding.

While other auctions diagrammed above in part I are equally egregious, we will close our review of the evidence with a final pair of boards.

<div style="border: 1px solid black; padding: 2px; display: inline-block; background-color: #f0f0f0;"> D 5 </div>	N ronfen9 ♠ 7652 ♥ A8 ♦ A863 ♣ A108	W N E S 1♦ P 1♥ 3♣ 3♣ P P P	<div style="border: 1px solid black; padding: 2px; display: inline-block; background-color: #f0f0f0;"> D 8 </div>	N rbd115 ♠ J1073 ♥ 6 ♦ 10876 ♣ K1087	W N E S P P 1♦ 1NT P P 2♥ P P P
	W oreps ♠ 10 ♥ Q10 ♦ KQ105 ♣ KQ9653	E zxtu12 ♠ AJ94 ♥ J7653 ♦ J97 ♣ 4		W frmng ♠ 986 ♥ KJ985 ♦ 2 ♣ J954	E ronfen9 ♠ AK4 ♥ Q432 ♦ QJ953 ♣ Q
	S frmng ♠ KQ83 ♥ K942 ♦ 42 ♣ J72	S jJoAnn S ♠ Q52 ♥ A107 ♦ AK4 ♣ A632		3♣ N NS: 0 EW: 0	2♥ E NS: 0 EW: 0

In a competitive auction with a minimal opening hand, Fennell trotted out a 3♠ bid holding the 7652 of ♠s. And Fann knew his bid was passable. In another competitive auction, Fennell reversed into 2♥ opposite a passed hand after a 1NT overcall. Fann again knew his bid was passable.

It is true that some beginner pairs don't play reverses as showing extra strength, but we find it incredible that a Diamond Life Master doesn't play that way. During the hearing, Fennell explained that Fann, on board 4 from April 24, may have bypassed a

four-card ♥ suit to bid 2NT after the uncontested auction 1 ♦ - 2 ♣ - ? because she wasn't strong enough to reverse into 2 ♥s.¹⁷

The Charged Parties dutifully attempted to explain each of their questioned auctions, accounting for four of them as involving misclicks (which always worked to their benefit), but they didn't always appear to understand the points made by the contrasting boards. With virtually identical hands, Fann either jumped to game or bid Jacoby 2NT. With virtually identical hands Fennell either tamely rebid 2 ♦ or jumped to 3NT. The Panel does not find their explanations of these auctions credible. Instead, the difference in aggressiveness is more readily explained by the concealed strength of partner's hand.

We note that Fennell, the mentor, was the primary operator in jumping to slam and making bids to become declarer, but he was abetted by Fann's bidding several times, and we cannot imagine how Fennell knew to make some bids without having knowledge of Fann's hand from outside the auction that could only have come from her. The Panel is unanimously comfortably satisfied that the Charged Parties have violated section 301(A)(2) as charged.

B. Imposing Discipline

1. The Jurisdictional Issue

As will appear below, in an abundance of caution this Panel has elected to impose alternative disciplines in parts 2A or 2B due to the jurisdictional issue raised during the hearing. As noted above, the jurisdictional issue arises from CDR changes that became effective on February 1, 2022. One change was addition of a definition of the Institute for Bridge Arbitration ("IBA") 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)."

Section 502(C) was also added to the CDR, which states in part, "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."¹⁸

Section 403(C) was also added to the CDR, which limits the discipline the OEOC can impose to a six-month suspension, two years of probation, and forfeiture of 10% of total masterpoints. The text of this subdivision is quoted above in footnote 7.

¹⁷ Incidentally on that board 4, Fann's bypassing of her AKJ7 of ♥s allowed Fennell to bid ♥s first holding T983.

¹⁸ We note that the IBA was not operational in February 2022 and is only now, nine months later, enlisting arbitrators, so removal to the IBA was not an option when the Charge Letter in this case was filed on September 6.

We have also quoted above from section 403(A) that the “[d]iscipline 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.”

Pursuant to 403(A), we look to the allegations of the Recorder Complaint to determine which CDR version applies. The Recorder Complaint in this case did not specify which CDR version is considered applicable, nor did it attempt to specify the first incident, but it did allege, “A thorough examination of Mr. Fennel's [*sic*] and Ms. Fann's online sessions from May 2022 through September 2022 has found overwhelming evidence of flagrant and pervasive exchange of illicit information in order to gain a competitive advantage in ACBL sanctioned games.” (Pp. 1-2.) In contrast to the Recorder's Complaint, the Charge Letter did allege that the applicable CDR is the one effective on August 1, 2021.

Considering that this Panel could expel Charged Parties for violating section 301(A)(2) in effect on August 1, 2021, while being limited to a six-month suspension for the same violation after February 1, 2022, the Panel concludes that “the time of the first Incident” is virtually jurisdictional. What we mean is that the Panel lacks jurisdiction to impose lengthy discipline for misconduct that occurred only after February 1.

Looking for evidence on this point, as noted above, when asked about the Panel's disciplinary authority, the Co-Advocate assured the Panel that there was indeed misconduct by the Charged Parties before February 1, 2022, and he explained that earlier misconduct wasn't a basis of the Charges to be fair to the Charged Parties, as Charged Parties have a limited ability to obtain exculpatory boards from BBO older than about six months. When asked for their input on this technical jurisdictional question, the Charged Parties did not seem to have heard or understood the question. They did acknowledge that they've had at least a ten-year partnership. While generally denying that they had committed misconduct, they did not specifically contend that they did nothing wrong before February 1, 2022.

This Panel unanimously concludes that in order to impose discipline under the August 2021 CDR, it must be comfortably satisfied of the existence of misconduct by the Charged Parties predating February 1, 2022. A majority of this Panel is comfortably satisfied about this necessary factual predicate for the following reasons.¹⁹ (1) The Charged Parties admitted to having a long-term, ten-year partnership. The various kinds of repeated misconduct evident in boards they played between May 2 and September 3, 2022 strongly suggest that this misconduct is characteristic of the partnership and began before February 1, 2022. (2) In addition, the Charging Party alleged that the August 1, 2021 CDR is the applicable one and, when questioned at the hearing, assured the Panel that they had evidence of misconduct predating February 1 that they elected not to present in order to make it easier for the Charged Parties to defend themselves. (3) In addition, when the Charging Party asserted that there was evidence of misconduct predating February 1, neither Charged Party specifically denied it.

¹⁹ Part V.G. of former Appendix A to the CDR, the “Guidelines for Conducting Disciplinary Hearings,” stated, “A simple majority decision prevails.” Appendix A was omitted from the CDR effective August 1, 2021, but we still adhere to it.

However, the Panel Chair is not comfortably satisfied that the factual predicate for discipline under the August 1, 2021 CDR exists. He is troubled by the following facts, which point toward application of the February 1, 2022 CDR. (1) The first incident specified in the Recorder Complaint and made available to the Charged Parties occurred in May 2022. By the language of 403(A), this is dispositive. (2) No evidence of specific hands played prior to May 2022 was introduced at the hearing or presented to the Charged Parties or the Panel at any time. Disciplinary panels should not be placed in the position of relying on the Charging Party's attestation that such evidence exists. It is not for the Charging Party to 'protect' the Charged Parties from having to defend themselves as to hands played earlier in the year or in a previous year. Rather, the evidence should be included in the Charging Party's disclosure and subject to the same explaining and questioning (by the Charged Parties, any Advocate, and the Panelists) as all other evidence. (3) The Charged Parties did not appear knowledgeable enough about the CDR to appreciate or address the jurisdictional issue when it was raised at the hearing.

2A. The Discipline Imposed

Section 301(A)(7) stated on August 1, 2021 (as it does now), "The recommended discipline for a finding that a person has committed a First Degree Ethical Violation is 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."

This Panel has taken into account both the mandatory and the discretionary sentencing factors set out in section 402.²⁰

²⁰ Section 402 states in part: "In making the determination of an appropriate discipline within the range of disciplines recommended for a CDR violation as set out in CDR §§ 301(A)(7) et. seq., the Disciplinary Body should balance the following factors:

"(A) **Primary Considerations.** The following factors must be taken into account in determining the appropriate discipline and should be weighed more heavily in the decision:

- (1) Prior Record of Discipline;
- (2) Experience of Player (measured by MPs, eligibility points, or other indicia of experience);
- (3) Level and Prestige of Event (measured by event rating);
- (4) Duration of Time Over Which the Proved Violation Occurred;
- (5) Flagrancy of the violation;
- (6) Whether the violation was premeditated.

(B) **Secondary Considerations.** The following factors may be taken into account in determining the appropriate discipline, but should be weighed less heavily than Primary Considerations:

- (1) Other Harm to Reputation of ACBL or the Game of Bridge;
- (2) Whether the Player Holds (or at any point in the past has held) an

(Cont.)

As to Eva Fann, the Panel imposes a 30-month suspension followed by five years of probation during which she cannot play with Fennell and forfeiture of 50% of her Masterpoints.

As to Ronald Fennell, the Panel imposes a five-year suspension followed by five years of probation during which he cannot play with Fann and a forfeiture of 50% of his Masterpoints.²¹ Fennell is a player with much greater experience than Fann and misconduct by a certified teacher, a club director, and a former Associate Tournament Director is damaging to the ACBL's reputation.²² It is not clear from the CDR or the ACBL's Codification that the Panel is empowered to decertify a certified teacher or remove accreditation, but the Panel recommends that ACBL Management do so if it can.

A majority of the Panel believes that imposing any lesser discipline would frustrate justice.

2B. Alternative Discipline

While a Panel majority is comfortably satisfied that the evidence supports imposition of the greater discipline available under the August 1, 2022 CDR, if the Appeals and Charges Committee concludes that the imposition of discipline in part II.B.2A under the August 2021 CDR "is not supported by the weight of the evidence" (section 603(B)(1)) of misconduct occurring before February 1, 2022, so that the CDR effective on the later date is controlling, then this Panel unanimously imposes on each Charged Party the maximum discipline available under section 403(C), namely six months' suspension, two years' probation during which they cannot play together, and a 10% reduction in total Masterpoints.

ACBL (or affiliated organizational) Office or Leadership Position (discipline enhancement);

(3) Whether the Player Is Currently an ACBL (or affiliated organizational) Employee (discipline enhancement)."

²¹ We note that a person who is serving a term of probation following a suspension of more than 90 days is not a "member in good standing" and, according to the CDR, one of the ten consequences of this status is that the person cannot serve as a club manager or director."

We note that a member not in good standing also may not serve in an "appointed position in ACBL." We wonder if ACBL teacher certification is regarded as an "appointed position."

²² The Panel notes that Fennell did have a disciplinary record involving nonpayment of a dishonored check in June 1999 and a reprimand in August 1996 in part "for accusing his opponents of having prior knowledge on a played board." The Panel relies more heavily on the evidence of recent violations than this old record of discipline.

Appendix A

Underleads of Aces and Kings

Date	Lead	From	To	BBO Movie link
5/2	♦2	♦KJ8642	♦A753	https://tinyurl.com/4s5e9xdv
5/8	♥6	♥KT876	♥A93	https://tinyurl.com/yc6z8w9j
5/10	♠2	♠KJ72	♠AT3	https://tinyurl.com/y2sv3zva
5/12	♥2	♥K9732	♥Q84	https://tinyurl.com/2mkcduz7
5/17	♦3	♦K8643	♦QJ5	https://tinyurl.com/ms3a357p
5/21	♥3	♥KT93	♥AQ2	https://tinyurl.com/2p8j948n
5/24	♣2	♣A72	♣KJT95	https://tinyurl.com/58sf5zw6
5/24	♠6	♠K96	♠AJ842	https://tinyurl.com/yzn43hri
5/28	♥J	♥KJ7	♥AT2	https://tinyurl.com/in7f7eys
5/29	♠2	♠K432	♠Q875	https://tinyurl.com/p99zns8
5/30	♥6	♥KT6	♥QJ72	https://tinyurl.com/w8k63mee
6/1	♣2	♣K832	♣QT754	https://tinyurl.com/5n6u374z
6/4	♦2	♦KJ32	♦Q764	https://tinyurl.com/4hrfkv7e
6/4	♠7	♠KJ7	♠Q9542	https://tinyurl.com/pbjdyhn3
6/5	♥4	♥K54	♥AJ62	https://tinyurl.com/345xhdn6
6/12	♥2	♥AT2	♥K74	https://tinyurl.com/4ddxb7bc
6/13	♦3	♦K9743	♦Q62	https://tinyurl.com/bfn9hrmf
6/14	♥2	♥K742	♥AQ95	https://tinyurl.com/2p8nhbpz
6/22	♥3	♥KT3	♥Q87652	https://tinyurl.com/44j6f43d
6/24	♣6	♣K86	♣AQJT95	https://tinyurl.com/3j8ah92t
6/25	♦2	♦K98752	♦AQ3	https://tinyurl.com/23mse2uv
6/30	♦4	♦KJ864	♦Q3	https://tinyurl.com/54hzthf8
7/1	♦4	♦AJ974	♦KT6	https://tinyurl.com/2umy3nww
7/1	♠3	♠KJ3	♠AT652	https://tinyurl.com/nhav37sv
7/3	♥3	♥AJ73	♥KT842	https://tinyurl.com/2bk7kvns
7/8	♥3	♥K743	♥AQJ8	https://tinyurl.com/2p8wsrhf
7/8	♥3	♥KQ9843	♥A	https://tinyurl.com/mvh44zdf
7/15	♠T	♠KT9872	♠QJ64	https://tinyurl.com/mrau8h8a
7/19	♠2	♠KT32	♠Q986	https://tinyurl.com/53br9j7c
7/20	♦2	♦KT832	♦AQJ9764	https://tinyurl.com/6fb93wv4
7/20	♦3	♦AT963	♦KQ	https://tinyurl.com/2p85tvwp
7/21	♣7	♣AJ7	♣KT9	https://tinyurl.com/2p9dah7u
7/26	♥5	♥KT75	♥AQ963	https://tinyurl.com/4nad2pd5
7/27	♥4	♥KJT94	♥A8632	https://tinyurl.com/bnu9xzp
8/2	♠3	♠K98543	void	https://tinyurl.com/2p8tkc7e
8/7	♠J	♠KJT642	♠A75	https://tinyurl.com/34d76ckm
8/8	♣2	♣K542	♣AJ6	https://tinyurl.com/4dce572b
8/10	♥5	♥K85	♥A9764	https://tinyurl.com/y3thuvv2

8/10	♦2	♦KJ742	♦A965	https://tinyurl.com/8r54bvmk
8/23	♣5	♣KJ5	♣A932	https://tinyurl.com/ywkjnkau
8/25	♠5	♠KJT5	♠A43	https://tinyurl.com/mvvm69z3
8/26	♦2	♦K6532	♦A984	https://tinyurl.com/9twwa8cp
8/26	♦3	♦KT9743	♦Q65	https://tinyurl.com/559xpa52
8/27	♦4	♦KJ94	♦AT763	https://tinyurl.com/npymsff8
8/30	♦3	♦K53	♦QJT97	https://tinyurl.com/5aa38ve7
9/2	♦3	♦KT53	♦AQ987	https://tinyurl.com/mu5cz8uk
9/3	♦3	♦K763	♦QT542	https://tinyurl.com/2p87f2dc
9/3	♠3	♠K9763	♠AQ8	https://tinyurl.com/3bcs2exy