



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 #  |
|---------------------------|---------|-------------|---------|
| Jordan Chodorow, Chairman | Q498482 | Julie Smith | J494848 |
| Ira Chorush               | J278924 |             |         |
| Rick Rowland              | J372734 |             |         |
| Karen Walker              | K090945 |             |         |

**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 | Franco Baseggio | P589670 | web conf.  | Witness    |
| Brian Platnick | N755387 | web conf. | Adv-Charging P | Paul Cuneo      | M499891 | web conf.  | Observer   |
| Kit Woolsey    | K842084 | web conf. | Adv-Charged P  |                 |         | Select One | Select One |
| Ray Yuenger    | P913494 | web conf. | Advisor        |                 |         | 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 through 22 of attached narrative report.

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

See pages 22 through 36 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).

3.20 Cheating and other Ethical Violations. CDR effective January 1, 2020

**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 checked="" type="checkbox"/> PROBATION  | see comments to the right |          | Probation: Bill - 10 yrs (1/28/28 - 1/27/38); Ann 10 yrs (1/28/27 - 1/27/37) Prohibited from playing together while on probation. |
| <input checked="" type="checkbox"/> SUSPENSION | see comments to the right |          | Bill - 5 years (1/28/2023 - 1/27/2028); Ann - 4 years (1/28/2023 - 1/27/2027)   |

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 10% the total Masterpoints

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

E19 of applicable CDR, Appendix B, Chart 2

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.

RESPECTFULLY SUBMITTED (CHAIR)

/s/ Jordan Chodorow

Date: 1/20/23

Electronic Signature (type name above)

Wet Signature (sign above)

## I. Summary of Evidence and Arguments

### A. Procedural Overview

On August 1, 2022, the Charging Party, the Executive Director<sup>1</sup> of the American Contract Bridge League (“ACBL”), filed a Charge Letter alleging that Bill Nutting (“whn111” on Bridge Base Online (“BBO”)) and his wife, Ann Nutting (“AnnDN”) had violated former section 3.20<sup>2</sup> of the Code of Disciplinary Regulations by engaging in “collusive cheating in ACBL-sanctioned games.” (P. 4.)<sup>3</sup> This Charge Letter was based on a Recorder Complaint submitted by Jeffrey Edelstein, the National Recorder, on July 26, 2022. The Complaint elaborated that: “A thorough investigation including statistical analysis was conducted and finds sufficient evidence to support the filing of a complaint against the aforementioned subjects for collusive cheating through the sharing of unauthorized information during calendar year 2020.” (Pp. 1-2.)

The procedural history of this case is more complicated than some, due partly to multiple submissions of some documents and objections by each side to the other side’s submissions. For example, a scheduling letter sent from the Panel Chair on August 25, 2022 requested that the Charging Party file pre-hearing disclosure by September 8. (P. 7.) Disclosure was submitted on that date, but on September 14, the Panel Chair requested redaction of information about the performance of OEOC members. (P. 8.) Revised disclosure was submitted on September 21, to which the Charged Parties objected. The Chair sustained the objections. The Charging Party’s twice-revised disclosure was finally accepted on September 23.

After the Charged Parties’ disclosure was submitted on September 27, the Charging Party asked the next day to file a “clarifying” response, to which the Charged Parties objected. This disagreement led to a pre-hearing conference on September 30 attended by the Advocates, Ryan Connors for the Charging Party and Kit Woolsey for the Charged Parties, the Panel Chair on behalf of the Panel, and the neutral Advisor. A

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<sup>1</sup> Then Joseph Jones, now Paul Cuneo, as interim Executive Director.

<sup>2</sup> Former section 3.20, effective on January 1, 2020, listed “Cheating and other Ethical Violations” as a ground for discipline of members of the ACBL.

<sup>3</sup> Unspecified page references are to the 222-page hearing packet distributed to the Online Ethical Oversight Committee (“OEOC”) Panel and to the Parties in advance of the disciplinary hearing. A hearing packet was distributed on December 16. A revised, redacted hearing packet was distributed on December 18, two days before the disciplinary hearing.

While the hearing packet is nominally 222 pages, in fact it is significantly longer. As will be explained, it includes hyperlinks to: 6,335 boards played by the Charged Parties; spreadsheet workbooks with multiple worksheets embedded in them; and other multi-page documents.

pre-hearing conference ruling, issued on October 1, granted the request to file a response limited to three pages and three specific topics. (P. 173.)

On October 4, the Charging Party submitted a document titled “Clarifying Response” and also a document titled “Augmented Nuttings Spreadsheet.” The Charged Parties objected to the response, though not the spreadsheet. The response was not accepted for filing, as explained by an additional pre-hearing conference ruling filed on October 6. (P. 174.)

The disciplinary hearing was originally scheduled for October 18. (P. 6.) But on October 10, the OEOC Chair indefinitely postponed all pending cases. (P. 175.)

The Charging Party strongly objected to the rejection of its “clarifying” response, leading to a further pre-hearing ruling of November 4. (P. 178-180.) Eventually, the response was reduced to a series of stipulations among the Parties proposed on November 7 (p. 186), corrected by a fourth pre-hearing conference ruling on November 10 (p. 191), further corrected by a December 16 email from the Panel Chair (p. 222), and partially redacted by orders of the Chair on December 15 and December 17.<sup>4</sup>

On November 6, Ryan Connors withdrew as Co-Advocate of the Charging Party, leaving Jeff Edelstein as Co-Advocate. On November 7, Brian Platnick was appointed as Co-Advocate for the Charging Party.

On November 8, the Charged Parties asked to submit supplemental disclosure, which request was opposed by the Charging Party on the same day. The fourth pre-hearing ruling of November 10 partly granted the Charged Parties’ request, noting that about half of the information appeared to have already been included in the Charged Parties’ disclosure. On November 9, the disciplinary hearing was rescheduled for December 20. Karen Walker was added as a replacement panelist.<sup>5</sup>

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<sup>4</sup> The December 17 redactions eliminated references to the augmented spreadsheet, which was initially accepted for filing on October 4, though never made part of the hearing packet. It was initially admitted on the understanding that it would be helpful to the Hearing Panel because it simply added worksheets that included the Charged Parties’ disclosure to a worksheet listing all boards they played. (P. 174.) The cover message to the spreadsheet said, “We did not perform any new analysis in the spreadsheet.” The augmented spreadsheet was ultimately disallowed because, on close examination, it did appear to include some new analysis, such as purporting to correct errors made by Kit Woolsey. The corrections, even if accurate, belied the Charging Party’s quoted representation.

Emails from the Advisor to the Advocates in the early morning and the afternoon of December 18 explained that the Chair had ruled on the redactions in a phone conversation with the Advisor the previous afternoon. The hearing packet was revised to reflect this ruling, but the explanatory emails were not included in the packet.

<sup>5</sup> The email notice to all Parties rescheduling the hearing was inadvertently omitted from the hearing packet.

## 1. Overview of the Charging Party's Disclosure

Taking all the sustained objections and redactions into account, the pre-hearing disclosure by the Charging Party consisted of five documents covering 64 pages (not counting the pages in three hyperlinked workbooks). The first of those documents is a 14-page, five-part overview of the case presumably by Co-Advocate Edelstein. Section I described the Charged Parties and provided a copy of their convention card. Section II introduced the Charging Party's Co-Advocates and its expert witnesses, Brian Platnick and Franco Baseggio. Section III referred to a hyperlinked appendix titled "Appendix 1. All Deals" (sometimes "Appendix 1" hereafter) that provided BBO movie hyperlinks and more in a 37-column spreadsheet describing 6,335 boards played by the Charged Parties. Appendix 1 was said to contain "all boards they played on BBO in ACBL events until September 25, 2020, when they were initially notified of the cheating allegations against them."<sup>6</sup> (P. 15.) The 37th column in this spreadsheet is labeled "KOM Score."<sup>7</sup> Section IV described two reports by Platnick of his investigations of the Nuttings.

Section V said, "Baseggio and Platnick worked together to develop the Electronic Data Gathering and Anti-cheating Radar ('EDGAR') computer models for looking at bridge plays. For example, the computer can calculate a player's declarer or defensive accuracy by looking at how many errors they made." (P. 19.) Section V described Baseggio's two tables charting the performance of the Charged Parties and others as measured by two computerized cheating detectors.

### *(A). Brian Platnick's first report*

Brian Platnick's first report, also included in the Charging Party's disclosure, was an 18-page explanation of his investigation of the opening leads by Bill Nutting. (We will refer to the Charged Parties hereafter as "husband" and "wife" for clarity and to avoid any confusion arising from their shared surname.) Platnick assembled 161 opening leads that fit one of three criteria: (1) the declaring side bid only NT and no suits; (2) the declaring side bid only one suit and not NT; or (3) the declaring side ended up in a NT contract after opening a minor and bidding only that suit or NT.

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<sup>6</sup> This description of Appendix 1 is inaccurate. In fact, Appendix 1 lists 6,335 deals, numbered 2 through 6,336, played from March 19, 2020 through February 27, 2021.

This misdescription was probably induced by the hyperlinked document not presenting the boards in chronological order. Board 2 was played on March 30. Boards predating board 2 played from March 19 through 29 are numbered 5,194 through 5,390. Boards played after September 24, namely from October 9, 2020 through February 27, 2021, are numbered 4,945 through 5,193. The board listed 6,336 was played on August 30, 2020.

<sup>7</sup> The "KOM" acronym is explained in part I.A.1.(C).(1) below (on p. 6).

The 161 boards were divided into two spreadsheets. One expert investigator was asked to make an opening lead for half the boards based on the auction and the expert's hand. After Platnick subtracted all leads identical to the husband's, a second expert investigator was asked to compare the likely trick-taking consequences of the husband's lead against the investigator's after looking at partner's hand and without being told who had made which lead. If neither lead was obviously better, the leads should be rated a tie. The anonymous ratings were designed to eliminate possible confirmation bias. This comparative rating process was repeated for the other half of the leads by another pair of expert investigators. (Pp. 24-40.) The report included a one-page appendix of 41 deals in the first category, involving only NT bids. (P. 41.) There does not appear to be a spreadsheet or appendix listing the other 120 deals employed in this part of the investigation.<sup>8</sup>

*(B). Brian Platnick's second report*

Platnick's second report, also part of the Charging Party's disclosure, was a 13-page investigation of other aspects of the Charged Parties' actions and it employed a different methodology. (Pp. 42-54.) This report included a hyperlinked workbook titled "4. The Nuttings Spreadsheet OEOC Sept 2022" (hereafter "The Nuttings Spreadsheet") that included a worksheet titled "anndn\_wn111 all 6335 deals" (hereafter "all 6335 deals"). Unlike Appendix 1 with its 37-column spreadsheet, this worksheet has 40 columns. 36 of them appear to be the same as in Appendix 1, but the "all 6335 deals" worksheet included columns labeled "Dec Errs," "Dum Errs," "OLer Errs," and "Third Errs" and omitted the "KOM Score" column.

Section A of this second report focused on three aspects of the Charged Parties' bidding, including: 48 boards meeting their criteria for opening a strong NT in third seat vulnerable; 37 boards in which they bid at the two level over opponents' interference with a 1NT opening; and 56 boards in which their opponents overcalled a forcing NT response to a major opening. All these boards were listed in separate worksheets.<sup>9</sup> Section A included hand and auction diagrams showing: two boards from the first group in which the Charged Parties appeared to have forgotten their agreement to open a strong NT in third seat when vulnerable (board [13](#) played on May 14 and [7](#) on August 25); six boards from the second group in which they competed over a 2 ♣ overall of

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<sup>8</sup> Platnick's first report was illustrated by diagrams of six boards that triggered his investigation because he considered them suspicious, contrasting one to a diagram of a normal board. Only the final two boards of the six fit the criteria for inclusion in the 161 boards examined by the four experts, but what they illustrated was their ratings by Platnick and not by the other four experts. (P. 29.)

<sup>9</sup> The strong NT openings were listed in worksheet 4 of the Nuttings Spreadsheet; the interference over a NT opening was in worksheet 5, and the interference over a forcing NT response was in worksheet 6. That workbook also contains a worksheet 2 labeled "Risky OLs" listing 968 leads from March 19, 2020 through February 27, 2021. This last worksheet is not discussed in Platnick's report.

their one NT opening ([18](#) on August 30, [2](#) on June 20, [8](#) on September 11, [2](#) on March 27, [1](#) on September 18, and [9](#) on April 5); and two boards from the third group in which they competed over an overall of their forcing NT response ([7](#) on April 22 and [7](#) on June 27).<sup>10</sup>

Section B of this second report summarized Platnick's separate ratings of the bids, opening leads, and defense by each of the Charged Parties for many of 358 boards they played in three online regionals on May 2 and 3, June 25 through 28, and August 27 through 30.<sup>11</sup> Platnick used a seven-category rating system, using the numbers 1 through 5, with "1" being an action contraindicated by partner's hand and "5" being an otherwise unreasonable choice indicated by partner's hand, with "?" meaning a hard-to-rate hand and "L" being a "lazy" play which didn't have the poor result it could have. (P. 47.) His ratings appear in a hyperlinked workbook titled "5. The Regional Spreadsheet" on a worksheet labeled "BP Analysis." Section B included hand and auction diagrams of eight examples of suspicious boards from the regionals: board [16](#) played on May 3, [8](#) from a later session on May 3, [9](#) and [11](#) from the same session on August 27, [9](#) on June 27, [4](#) and [18](#) from the same session on May 3, and [11](#) on May 2.<sup>12</sup> Platnick rated the wife's bidding as 5 on boards 16 and 18, 4.5 on board 9 on August 27, and 4 on board 11. He rated the husband's bidding as 5 on boards 16, 9 on June 27, 4, and 18.

Section C of this second report involved Platnick's ratings of each Charged Party's bidding in many of 181 auctions in which they voluntarily bid to 5M or higher. These ratings were compiled in worksheet 3 of the Nutting Spreadsheet labeled "Slam Bidding." Platnick compared their slam bidding success to that of Mark Lair and Mike Passell, apparently not on the same boards. Section C included examples of five suspicious slam auctions: board [8](#) on May 4, [3](#) on June 12, [2](#) from a later session on May 4, [1](#) from August 20, and [15](#) from September 21. Board [11](#) on September 5 was

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<sup>10</sup> Dates of cited boards are from 2020 if not otherwise specified.

This hearing report includes hyperlinks to all boards cited in the order they were presented. While Platnick's report did not provide urls or dates of these boards with the diagrams, the BBO hyperlinks provided in the hearing report were listed in the worksheets for each group of boards.

<sup>11</sup> According to a worksheet in the hyperlinked Regional Spreadsheet titled "ACBL Live," in the first regional, they played two two-session pair games, obtaining results of 55.19%, 77.7%, 64.31%, and 62.45%, and earning 40.88 masterpoints. In the second regional, they played four two-session pair games, with results of 56.43%, 53.82%, 59.97%, 70.26%, 38.25%, 60.69%, 71.1%, and 59.61%, earning 75.02 masterpoints. In the third regional, they again played in four two-session pair games, with results of 75.21%, 56.98%, 66.5%, 50.38%, 60.71%, 59.87%, 68.6%, and 59.38%, earning 74.53 masterpoints.

<sup>12</sup> Again the hyperlinks to the boards can be found in the worksheet devoted to the regionals and not with the diagrams in the second report.

displayed to contrast with board 3, as the wife's 2NT rebids on each hand showed 18-19 high card points. Platnick rated as 5 the wife's bids on 8 and 2 and the husband's bids on 3, 1, and 15.

*(C), Franco Baseggio's report*

Also included in the Charging Party's disclosure was a 17-page report by Franco Baseggio explaining two tables representing the computerized analyses of each Charged Party's performance applying two cheating detector algorithms, one focused on opening leads and the other focused on later leads on defense.

*(1). KOM*

Baseggio's report explained: "KOM' stands for 'Kit-O-Matic.'" "It is applied to opening leads against suit contracts (excluding trump leads and, rarely, auctions deemed too complex for EDGAR to parse)." (P. 56.) "It looks at each non-trump suit in two ways. First, single-dummy (SD), which only considers Opening Leader's cards (and the auction). Second, evaluating the attractiveness of the lead looking at the cards held by both defenders in that suit. We call that 'partner-dummy' (PD), as it is neither single-dummy nor double-dummy." (Pp. 56-57.) The single-dummy leads are categorized as either "easy," such as suits with consecutive honors or suits bid by partner, "normal," such as five-card suits or leads of doubleton honors, or "stabs," everything else, such as leading or underleading unsupported Aces or Kings. The partner-dummy leads are then categorized as a "hit," finding partner's strength or setting up a ruff, "neutral," or a "miss," likely giving up a trick. Hits score points, misses lose points. "The final score is the sum of all negative points divided by total points scored. [¶] For example, if a pair's negative points totaled -250 and their positive points totaled 200, their score would be  $(250)/(450) = 55.55\%$ ." (P. 57.)

Appendix 1 of Baseggio's report provided three examples of how the KOM rating is calculated for a board. (Pp. 62-64.)

*(2). Def2+*

Def2+ "looks at just leads by the defense after dummy comes down (thus trick '2+'), and evaluates them based on double-dummy accuracy. [¶] After the opening lead, a defender can make an error when following suit, discarding, or leading to a trick. Analyzing a large data set, we noticed that approximately 60% of defender's DD errors occurred when the player was leading to a trick . . ." "The actual measurement is the number of such errors divided by the total number of opportunities." (P. 56.)

*(D.) The stipulations*

The final disclosure by the Charging Party was reflected in the following stipulations. "1. There are two spreadsheets for the Def2+ and KOM analyses in the Charging Party's disclosure Baseggio Report section. The KOM section includes an 'Odds vs 40%' column, which is repeated in Def2+ (as 'KOM Odds'). Regrettably, there

was an error in calculating those odds, so we ask the panel to not rely on that column (the Def2+ 'Odds vs 3xDec' column is not affected)." (Pp. 186, 191.)

"2. The Charging Party accepts as essentially accurate the following sections of the Charged Parties' initial disclosure: (1) standard deviation percentages (pages 3- 4); (2) DECWER, DDOLAR, and DEFWER description and ratings (pages 6, 8-10, 23); and (3) Greg [Lawler]'s conclusion that for the problem posed to him, scores were four standard deviations from expected (page 91). There is not necessarily agreement about the conclusions from these figures."<sup>13</sup> (Pp. 186, 222.)

## 2. Overview of the Charged Parties' Disclosure

The Charged Parties' initial disclosure covered 95 pages. (Pp. 72-167.) Their supplemental disclosure covered 30 more pages. (Pp. 192-221.) The last 30 pages documented Advocate Kit Woolsey's disagreements with Platnick's ratings of 30 boards. 17 boards that Platnick rated as "4" and one "5" Woolsey rated as "3." Woolsey also rated every other board a full point lower ("2" instead of "3"), except one "3" he saw as a "1" and one "2.5" he saw as a "2."

The focus of the defense was really on whether there was evidence of the wife's cheating. Part of the Charged Parties' initial disclosure was dedicated to rating their performance under different standards that are sometimes applied to detecting cheating. "DECWER" is said to measure a declarer's double-dummy skill. (P. 78.) "DDOLAR" measures the double-dummy opening lead accuracy. (P. 80.) Studies have shown that the average expert's DDOLAR is "about 81%." (P. 80.) Considering the wife to be an expert, Woolsey calculated her DDOLAR results as 2.54 standard deviations above expected. (P. 82.)

"DEFWER" measures the double-dummy accuracy of defensive plays after the opening lead.<sup>14</sup> (P. 95.) Regarding the husband's DEFWER, Woolsey acknowledged that he "was not only in the top 1% of top experts, he was the best of all of them by a fair margin. This is a strong indication that he had knowledge of the hand." (P. 95.) The husband's DEFWER was .85%; the wife's was 1.44%. (P. 95.)

"Risky Leads" are defined as "as a lead away from an unsupported king or queen in a side suit against a suit contract, or a lead of king or queen doubleton, again unsupported. If the honor has a connecting card, the lead of the honor is not a risky lead." (P. 84.) "A good risky lead is defined as a risky lead which connects with some useful honor in partner's suit." (P. 84.) "Bad" risky leads strike mud. Studies have shown that about 25% of risky leads are bad. (P. 85.) Hyperlinked was a "Nuttings Risky Leads" analysis (p. 112) that concluded that out of 176 risky leads, the husband

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<sup>13</sup> The page numbers quoted in the stipulation are from the original pages in the Charged Parties' disclosure and not from the pages in the hearing packet.

<sup>14</sup> Coinage of these three acronyms is attributed to Nicolas Hammond.

made 168 good ones and 6 bad ones.<sup>15</sup> Out of 168 risky leads, the wife made 142 good ones and 26 bad ones. (P. 86.) The wife's risky leads were 2.85 standard deviations above expected. (P. 86.)

Applying the "Kit method" and having Steve Robinson compare Woolsey's opening leads on 250 randomly selected boards to the wife's, on 72 boards they made the same lead, their different leads tied on 11 boards, the wife's leads were better on 40 boards, and Woolsey's leads were better on 21. (P. 90.) Woolsey acknowledged, "This is 2.43 standard deviations away from the mean, with a probability of about 1 in 150 of getting this result by chance if there is no illicit knowledge." (P. 91.)

Also hyperlinked in the Charged Parties' disclosure was a document labeled "70 hands" that listed 73 hands on which Woolsey asserted that the wife would have made a different lead with knowledge of the husband's hand. (P. 112.) That 37-page document includes diagrams of the boards, auctions, and leads. The disclosure also included a 48-page critique of Platnick's two reports (pp. 113-159) and a four-page critique of Baseggio's report (pp. 160-163). There was also a two-page problem posed to expert statistician Greg Lawler and his two-page response. (Pp. 164-167.)

### 3. The Hearing

The disciplinary hearing was held via Zoom on December 20. Including two breaks, it lasted for five hours. Expert witness Franco Baseggio was allowed to attend the entire hearing. Each side was given about 80 minutes to present its evidence, with liberal time for cross-examination allowed.<sup>16</sup> Co-Advocate Brian Platnick made a six-minute opening statement. Advocate Kit Woolsey waived the opportunity.

Co-Advocate Edelstein examined his two experts, Platnick and Baseggio. Platnick testified for almost 57 minutes including about 12 minutes of cross-examination by Woolsey. The Panel had no questions for Platnick. After a 10-minute break, Baseggio testified for a little over 86 minutes, including 52.5 minutes of cross-examination. Two Panelists had a few questions for Baseggio. There was a half-hour break before Woolsey's testimony.

Kit Woolsey testified for one hour 45 minutes including 33 minutes of cross-examination by Platnick. One Panelist had a couple of questions for Woolsey. The hearing was video- and audio-recorded.

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<sup>15</sup> These numbers are as reported, though 168 and 6 don't add up to 176.

<sup>16</sup> Because disciplinary proceedings don't observe the same formalities as judicial proceedings, some leeway was given to blending argument with cross-examination, although the Chair curtailed some cross-examination that lacked questions. We note that in these disciplinary cases Advocates often wear two hats, as advocates and as expert witnesses.

Due to the length of the evidentiary presentations, the Parties were allowed to submit closing statements in writing a day after the hearing.<sup>17</sup> Each side submitted a written closing statement, and the Panel took the matter under submission at the end of the work day on December 21.

## **B. The Evidence at Trial**

The Charging Party's disclosure included the following evidence in its description of the Charged Parties in section I. "Ann and Bill Nutting live together in Stockton, California. Ann joined the ACBL in 1950 and became a Life Master in 1975. She has approximately 8,790 Masterpoints, including 51 platinum points and 1,020 gold points. She won the Keohane North American Swiss Teams in 1981 and placed second in the 1986 Machlin Women's Swiss Teams. . . . [¶] Bill joined the ACBL in 1950 and became a Life Master in 1974. He has approximately 8,800 Master Points, including 51 platinum points and 852 gold points. In 1982 he won the Baldwin Flight A North American Pairs." (P. 11.)

The Co-Advocate's introduction explained: "On September 25, 2020, the ACBL filed a charge letter alleging the Nuttings colluded to improperly exchange information during online bridge play. The ACBL suspended the Nuttings pending an OEOC hearing. On October 9, 2020, the parties agreed to a negotiated resolution; there was no determination on the facts of the case, and the ACBL withdrew the charge without prejudice should the league wish to refile a charge in the future<sup>[18]</sup>. Except for one event, the Nuttings voluntarily stopped playing in ACBL events since the resolution.

"On July 26, 2022, the ACBL again filed a charge alleging that the Nuttings violated the Code of Disciplinary Regulations by exchanging illicit information ('I/I'). The charge involves the Nuttings' online play in March to September 2020. The ACBL's theory is that Bill Nutting routinely and blatantly took advantage of I/I. Ann Nutting cheated less frequently but still took advantage of I/I." (P. 10.)

### **1. Brian Platnick's Testimony**

The Charging Party's disclosure recited that Platnick "is a World Grand Master, with gold and bronze medals in the Rosenblum Teams and a victory in the 1991 World Juniors. He has six NABC victories, including the Spingold (twice), Roth Open Swiss (twice), Jacoby Open Swiss, and Blue Ribbon Pairs. He has five second-place NABC finishes." (P. 14.)

In testimony, Platnick described his experience in investigating cheating in online bridge. He initially worked with the Credentials Advisory Team, which investigated

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<sup>17</sup> On the day of the hearing, which began at 11 AM PST, some Panelists were unavailable after 4 PM PST.

<sup>18</sup> A footnote at this point of the disclosure explained that the Parties had stipulated that this background information might be helpful to the Panel.

cheating in private events. He then worked on several ACBL investigations, though he hasn't testified before.

Platnick was appointed to the ACBL's Ethical Oversight Committee for a three-year term beginning with the end of the Spring 2018 NABC. In December 2020 he was appointed to be an OEOC member. Approximately a year later he got involved in developing EDGAR and accordingly resigned from the OEOC to avoid any conflict of interest.<sup>19</sup>

In cases other than this one, Platnick testified that has seen "asymmetrical" cheating, where one partner appeared to be more willing or able to use unauthorized information.

Recognizing that disciplinary panels like to review boards, Platnick said he felt "obligated to . . . put on a sort of dog-and-pony show." He presented 11 boards that he said were illustrative of the Charged Parties' misconduct.

|   |  |   |  |  |   |
|---|--|---|--|--|---|
| D<br>1                                      | N whn111<br>♠ 864<br>♥ K43<br>♦ KJ1065<br>♣ Q3     | W N E S<br>P P 1NT<br>2♣ 2♦ P P<br>2♣ P P P | D<br>9   | N rucole<br>♠ 3<br>♥ 9865<br>♦ Q852<br>♣ AQJ4    | W N E S<br>P 1NT 2♣<br>2♦ P 2♥ 2♣<br>X P 3♥ 3♣<br>P P P |
| W Garry<br>♠ AKQ953<br>♥<br>♦ Q872<br>♣ 985 | E cheeseman<br>♠ 107<br>♥ AQ1076<br>♦ 3<br>♣ K7642 |   | W AnnDN<br>♠ J5<br>♥ AQ1042<br>♦ K76<br>♣ 1052 | E whn111<br>♠ A62<br>♥ K73<br>♦ A10943<br>♣ 73   |   |
|   | S AnnDN<br>♠ J2<br>♥ J9852<br>♦ A94<br>♣ AJ10      | 2♣ W NS: 0 EW: 0                            |  | S sbszanto<br>♠ KQ109874<br>♥ J<br>♦ J<br>♣ K986 | 3♣ S NS: 0 EW: 0  |

In both of the auctions above, 1NT was alerted as 12 to 14 and the opponent's 2 ♣ overcall was alerted as single-suited. On board [1](#), played on September 18, the husband's 2 ♦ response was intended and understood as natural.<sup>20</sup> On board [9](#), played on April 5, the wife's 2 ♦ response was alerted and understood as a transfer to ♥s.

<sup>19</sup> This paragraph is based on matters of public record, though the details were not elicited in Platnick's testimony.

<sup>20</sup> The display of these boards at the hearing did not include the dates they were played, but the dates appear in the "Appendix 1. All Deals" spreadsheet provided by the Charging Party.

|   |   |   |   |   |  |  |  |
|---|---|---|---|---|--|--|--|
| <b>9</b><br>D   |   | <b>N Game1980</b><br>♠ 64<br>♥ Q10863<br>♦ 2<br>♣ J8643 | <b>W N E S</b><br>P 1♣ P<br>2♣ P 2♦ P<br>2♣ P 5♥ P<br>5NT P 6♣ P<br>6NT P P | <b>2</b><br>D   |  | <b>N jalutz2</b><br>♠ 854<br>♥ KJ96<br>♦ K105<br>♣ Q64 | <b>W N E S</b><br>1♣ P 1♣ P<br>3♣ P 3♦ P<br>5♥ P 6♦ P<br>6♣ P 7♠ P |
| <b>W whn111</b><br>♠ A92<br>♥ AK92<br>♦ K103<br>♣ K92 |   | <b>E AnnDN</b><br>♠ KQ10753<br>♥<br>♦ AQ654<br>♣ Q5     |   | <b>W whn111</b><br>♠ AK1063<br>♥ 10875<br>♦ A2<br>♣ 83  |  | <b>E AnnDN</b><br>♠ QJ72<br>♥ AQ3<br>♦<br>♣ AKJ752     |  |
|   | <b>S jmpshift</b><br>♠ J8<br>♥ J754<br>♦ J987<br>♣ A107 |   | 6NT W NS: 0 EW: 0   | <b>S MauiKing</b><br>♠ 9<br>♥ 42<br>♦ QJ987643<br>♣ 109 |  | 7♣ W NS: 0 EW: 0                                       |  |

Platnick described both of the above auctions as using exclusion Blackwood.<sup>21</sup> The 3♦ bid on 2 was explained as a splinter. On board 9, according to Platnick, the 5 NT response showed 1 keycard in ♠s and the husband reasonably converted 6♠ to 6 NT. However, on board 2, the husband's response of 5♥ showed either 0 or 3 keycards per their convention card, not two, and the wife drove to a grand slam anyway.

|   |  |   |  |
|---|--|---|--|
| <b>2</b><br>D   |  | <b>N Smansell</b><br>♠ 9763<br>♥ A1065<br>♦ K85<br>♣ Q7 | <b>W N E S</b><br>P P P<br>1NT P 2♣ P<br>2♦ P 2♥ P<br>3♣ P P P |
| <b>W whn111</b><br>♠ A5<br>♥ Q9<br>♦ AJ943<br>♣ J1064 |  | <b>E AnnDN</b><br>♠ 10842<br>♥ KJ87<br>♦ 2<br>♣ A953    |  |
|   | <b>S mpmbriage</b><br>♠ KQJ<br>♥ 432<br>♦ Q1076<br>♣ K82 |   | 3♣ E NS: 0 EW: 0   |

On board 2 on August 10, after a weak NT opening, the wife deployed crawling Stayman and announced 2♥s as weak with four or more ♥ and ♠s. The husband then found their best fit in the ♣ suit the wife's bid had not shown.<sup>22</sup>

<sup>21</sup> On cross-examination, Woolsey pointed out that neither the 5♥ bid on board 9 on May 15 nor the 5♦ bid on board 2 on May 4 was alerted or explained as exclusion.

<sup>22</sup> As evident here, aligning board displays in this hearing report with comments on the board sometimes yields unused white space.

|             |   |             |                   |
|-------------|---|-------------|-------------------|
| D           | 1 | N whn111    | W N E S           |
|             |   | ♠ J98       | 1♥ P 2♣           |
|             |   | ♥ AJ9763    | P 2♥ P 2NT        |
|             |   | ♦ 53        | P 3♥ P 4♥         |
|             |   | ♣ AK        | P 5♣ P 5♦         |
|             |   |             | P 6♣ P 7NT        |
| W Sansen115 |   | E daledavid |                   |
| ♠ 10632     |   | ♠ KQ7       |                   |
| ♥ 4         |   | ♥ 10852     |                   |
| ♦ KJ82      |   | ♦ Q1094     |                   |
| ♣ 7652      |   | ♣ 43        |                   |
|             |   | S AnnDN     |                   |
|             |   | ♠ A54       |                   |
|             |   | ♥ KQ        |                   |
|             |   | ♦ A76       |                   |
|             |   | ♣ QJ1098    |                   |
|             |   |             | 7NT S NS: 0 EW: 0 |

There was a prolonged grand slam auction on board 1 on August 20. Platnick observed that the husband made two cuebids of ♣s even though the wife declined to show a control over his 3♥ bid. After the husband seemingly show the top two ♣s, the wife bid the grand slam. In Platnick's opinion, each of the last two boards showed the wife that her husband was aware of her hand.

|           |   |              |                   |
|-----------|---|--------------|-------------------|
| D         | 8 | N ranen57    | W N E S           |
|           |   | ♠ Q8643      | 1♦ P 1♥ P         |
|           |   | ♥ Q73        | 3♦ P 3♥ P         |
|           |   | ♦ 102        | 3♠ P 4NT P        |
|           |   | ♣ 963        | 6NT P P P         |
| W whn111  |   | E AnnDN      |                   |
| ♠ AK5     |   | ♠ J9         |                   |
| ♥ A       |   | ♥ KJ1098     |                   |
| ♦ AQJ7653 |   | ♦ 94         |                   |
| ♣ 102     |   | ♣ AQ85       |                   |
|           |   | S cameron103 |                   |
|           |   | ♠ 1072       |                   |
|           |   | ♥ 6542       |                   |
|           |   | ♦ K8         |                   |
|           |   | ♣ KJ74       |                   |
|           |   |              | 6NT E NS: 0 EW: 0 |

|            |   |            |                  |
|------------|---|------------|------------------|
| D          | 8 | N AnnDN    | W N E S          |
|            |   | ♠ KQ       | P 1♣ 3♥ 3♠       |
|            |   | ♥ K1073    | P 3NT P 4♠       |
|            |   | ♦ A42      | P P P            |
|            |   | ♣ KQJ8     |                  |
| W bobbybak |   | E jbakovic |                  |
| ♠ A853     |   | ♠ 2        |                  |
| ♥ 94       |   | ♥ AQJ862   |                  |
| ♦ Q5       |   | ♦ J8763    |                  |
| ♣ 109642   |   | ♣ 7        |                  |
|            |   | S whn111   |                  |
|            |   | ♠ J109764  |                  |
|            |   | ♥ 5        |                  |
|            |   | ♦ K109     |                  |
|            |   | ♣ A53      |                  |
|            |   |            | 4♠ S NS: 0 EW: 0 |

On board 8 on May 4, the 3♠ bid was announced as a stopper or a suit and forcing. According to Platnick, the 3♦ jump raise was an underbid and the 4NT response to 3♠ was a gross overbid with an 11 count, leading to a small slam. In contrast, on board 8 just the day before, May 3, the wife held a much stronger hand, and didn't explore for slam after the husband bid 3♠ in competition over the 3♥ preempt. Platnick conceded that the husband was under some pressure to bid after the preempt.

|          |              |         |   |             |   |
|----------|--------------|---------|---|-------------|---|
| D<br>1   | N Lanatate10 | W       | N | E           | S |
|          | ♠ A109       |         | P | 1♠          | P |
|          | ♥ 32         | 1NT     | P | 2♠          | P |
|          | ♦ J9         |         | P | P           |   |
|          | ♣ J108542    |         |   |             |   |
| W whn111 |              | E AnnDN |   |             |   |
| ♠ 865    |              | ♠ QJ743 |   |             |   |
| ♥ K765   |              | ♥ A104  |   |             |   |
| ♦ 654    |              | ♦ AQ10  |   |             |   |
| ♣ K97    |              | ♣ A3    |   |             |   |
|          | S kaepark    |         |   |             |   |
|          | ♠ K2         |         |   |             |   |
|          | ♥ QJ98       |         |   |             |   |
|          | ♦ K8732      |         |   |             |   |
|          | ♣ Q6         |         |   |             |   |
|          |              | 2♠ E    |   | NS: 0 EW: 0 |   |

On board 1 on July 15, 1NT was announced to be forcing. Platnick considered it “strange” for the wife to rebid ♠s with a strong hand but a weak five-card suit, but she found three-card support when she did.

|          |          |           |    |             |    |
|----------|----------|-----------|----|-------------|----|
| D<br>5   | N dgoldb | W         | N  | E           | S  |
|          | ♠ K73    |           | P  | P           | 1♥ |
|          | ♥ 10532  | 2♦        | 2♥ | X           | P  |
|          | ♦ 9653   | 3♣        | P  | P           | 3♥ |
|          | ♣ K9     | X         | P  | P           | P  |
| W whn111 |          | E AnnDN   |    |             |    |
| ♠ A      |          | ♠ QJ9642  |    |             |    |
| ♥ Q76    |          | ♥ 4       |    |             |    |
| ♦ AK1084 |          | ♦         |    |             |    |
| ♣ 7543   |          | ♣ QJ10862 |    |             |    |
|          | S topgn  |           |    |             |    |
|          | ♠ 1085   |           |    |             |    |
|          | ♥ AKJ98  |           |    |             |    |
|          | ♦ QJ72   |           |    |             |    |
|          | ♣ A      |           |    |             |    |
|          |          | 3♥x S     |    | NS: 0 EW: 0 |    |

On board 5 on April 29, the wife chose a responsive double with a 6-6 hand of limited strength. While this might well require partner to pass with some holdings, the husband in fact bid ♣s. The wife was content to pass 3 ♣s with her extreme shape. The husband doubled the balancing 3 ♥ bid and the wife again passed with her extreme shape. Platnick believed that no good player would choose to defend with the wife’s hand unless the player knew their partner was looking at both their hands.<sup>23</sup>

<sup>23</sup> The defense on board 5 began with the husband cashing the top two ♦s and the ♠ Ace and leading the ♦ 4 to give the wife a ruff. The wife returned the ♣ Queen, and the husband eventually collected his ♥ Queen.

|                                    |                                    |  |
|------------------------------------|------------------------------------|--|
| D 16                               | N wlamont                          | W N E S  |
|                                    | ♠ KQJ<br>♥ AK842<br>♦ 1063<br>♣ Q2 | P 1NT P 4♣<br>P 4♥ P 5♣<br>P 5♠ P 7NT<br>P P P |
| W whn111                           |                                    | E AnnDN  |
| ♠ 75<br>♥ J1076<br>♦ AJ72<br>♣ 976 | ♦ J     ♦ 4<br><br>♦ 8             | ♠ 93<br>♥ 95<br>♦ Q954<br>♣ J10843             |
|                                    | S 1kemosabe                        |  |
|                                    | ♠ A108642<br>♥ Q3<br>♦ K8<br>♣ AK5 | 7NT N NS: 0 EW: 0                              |

Board 16 from September 16 was the final board displayed during Platnick’s testimony. In his view, all leads against a grand slam were risky, but a ♦ lead was the most risky. For the husband to play the ♦ Jack instead of the Ace was clear evidence to everyone at the table that he knew his wife’s ♦ holding.

Moving past the board diagrams, Platnick explained the anonymous objective analysis of the husband’s opening leads by four experts contained in his first report (described above beginning on p. 3).<sup>24</sup> Out of 80 leads on one spreadsheet, the husband made the same lead as Ralph Katz 31 times and the same lead as David Berkowitz 31 times.<sup>25</sup> According to Steve Robinson, the husband’s leads bested Katz’s leads 36 times, Katz’s leads were better on 5 boards, and the remaining 8 were ties. According to Chris Williken, the husband’s leads bested Berkowitz’s 36 times, Berkowitz’s leads were better on 6 boards, and the remaining 7 were ties. Looking at the other spreadsheet of 81 leads, the husband made the same lead as Chris Williken 42 times, and according to Berkowitz, the husband’s leads were better on 25 boards, Williken’s leads were better on 6, and the remaining 8 were ties. On those same boards, the husband made the same lead as Steve Robinson 48 times. According to Katz, the husband’s leads were better on 23 boards, Robinson’s leads were better on 5 boards, and the remaining 5 were a tie.<sup>26</sup> (P. 36.) By averaging these results, Platnick concluded that the husband beat the experts on 60 leads to 11, way over the expected

<sup>24</sup> This paragraph is taken partly from Platnick’s testimony and partly from his first report. At disciplinary hearings, a Party’s pre-hearing disclosure is assumed to be admitted in evidence at the hearing without a formal offer of proof unless it has been excluded by a Panel ruling.

<sup>25</sup> Platnick’s report didn’t say if it was the same 31 leads out of 80.

<sup>26</sup> As noted above, the disclosure did not identify which boards were listed on either of the two spreadsheets, except for 41 leads by the husband against NT. (P. 41.) The disclosure did not list the experts’ leads on any of those 41 boards or on any other boards.

50% of the time. Platnick calculated the odds against 60 wins out of 71 to be one in 750 million.

Platnick acknowledged that his second report (described above on pp. 4-5) was more subjective, reflecting his ratings of different actions by the Charged Parties, including many boards played in three regionals. His conclusion based on reviewing these boards was that the Charged Parties were exchanging and using unauthorized information. Platnick acknowledged on cross-examination that, if he didn't provide a rating for a board, it could be assumed to be neutral. In rating boards, he tried to follow the Charged Parties' style of bidding rather than imposing his own ideas of what to bid.

Platnick's response to Woolsey's critique of his second report was that Woolsey focused exclusively on boards that Woolsey rated to be less incriminating than Platnick did. An unbiased expert would probably have disagreed with Platnick's ratings in both directions, rather than cherry-picking boards. Platnick asserted that some of Woolsey's criticisms reflected a misunderstanding of the Charged Parties' convention card.<sup>27</sup> Looking at the regional boards, the wife seemed to defer to the husband's decisions, despite having a hand that warranted a different call. Platnick did not see evidence supporting the Charged Parties' assertion that many of the wife's actions were indicated by the husband "building a fence" through his bidding or card play.<sup>28</sup> While some of his bids and plays did suggest her actions, they also reflected that they had unauthorized information about each other's hands.

## 2. Franco Baseggio's Testimony

The Charging Party's disclosure stated that Baseggio "is a Diamond Life Master and a frequent tournament player since the 1980s. He won the Platinum Pairs, was runner up in the JFall online event, and was a semi-finalist in the U.S. team trials." (P. 14.)

He also "has extensive experience applying statistics and computer programming" from his 28-year career in quantitative finance. (P. 14.) He is one of the creators of the EDGAR system.

Baseggio testified that EDGAR employs automated detectors for analyzing bridge deals. It operates like an enhanced DDOLAR, enhanced by bridge logic.

In Baseggio's opinion, it is not likely that the husband was able to guide the wife's bidding and defensive plays by building fences through his bids and plays. That would require a parlay of unlikely events, including (a) an opportunity for partner to help (b) that wouldn't be present from authorized information when (c) an expert defender would have gone wrong without the help. To avoid one error by an expert defender, the

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<sup>27</sup> Platnick described examples establishing this point, but he neither displayed the board diagram nor cited the board numbers.

<sup>28</sup> Platnick cited board [15](#) played on August 27 as showing where the wife led the ♦ K from K2 when the husband had bid ♦s.

partner would have to build 14 fences, 13 of which would not matter. He did not see several striking examples of fence-building in the Charged Parties' disclosure.

(A). *The Def2+ table*

Baseggio described how Def2+ operates as stated in part I.A.1.(C).(2) above (on page 6). It focuses on defensive leads only after the first trick and compares them to double-dummy accuracy. It focuses on leads because there is greater room for error in leading than simply following suit. Def2+ is comparable to DEFWER, but DEFWER considers all defensive plays and Def2+ uses a research-based benchmark.

Included in the disclosure was a four-page Def2+ table that included 219 rows. (Pp. 65-68.) Following is an excerpt from the top 11 rows.<sup>29</sup> Baseggio explained the structure of this table while it was displayed onscreen.

| Row | Player             | Partner    | Dec   | Def2+ | Chances | Odds vs 3xDec             | Category    | # Deals |
|-----|--------------------|------------|-------|-------|---------|---------------------------|-------------|---------|
| 1   | Suspect_1a         | Suspect_1b | 1.79% | 2.63% | 1713    | 48,214,391                | Suspect     | 1853    |
| 2   | whn111 (Mid 2020)  | anndn      | 1.93% | 2.78% | 3817    | 1,159,655,449,781,190,000 | Suspect     | 4081    |
| 3   | whn111             | anndn      | 1.84% | 3.12% | 5744    | 197,973,409,926,275,000   | Suspect     | 6335    |
| 4   | Suspect_7a         | Suspect_7b | 1.90% | 3.74% | 1713    | 8,264                     | Suspect     | 1928    |
| 5   | rkk                | ln         | 2.01% | 3.93% | 2060    | 76,993                    | Responsible | 2218    |
| 6   | whn111 (< 4/13/20) | anndn      | 1.17% | 4.15% | 410     | 1.2                       | Suspect     | 481     |
| 7   | anndn (Mid 2020)   | whn111     | 2.06% | 4.17% | 3739    | 18,968,285                | Suspect     | 4081    |
| 8   | jmunday            | L Sealy    | 1.80% | 4.40% | 932     | 10                        | Control     | 1221    |
| 9   | Suspect_4a         | Suspect_4b | 1.84% | 4.57% | 7129    | 5,529                     | Suspect     | 8813    |
| 10  | ln                 | rkk        | 2.18% | 4.59% | 2135    | 13,038                    | Responsible | 2218    |
| 11  | anndn              | whn111     | 2.04% | 4.62% | 5713    | 1,897,338                 | Suspect     | 6335    |

In the table, the husband and the wife are each listed in three rows: the earliest rows based on boards they played prior to April 13, 2020; the "Mid 2020" row said to include boards from April 13 through August 2020 because the Charged Parties learned of charges against them that September; and rows 3 and 11 incorporating all 6,335 boards they played. Because players are thus named in multiple rows, the table does not survey 219 distinct players.

The "category" column classifies players as "controls," who are believed to be honest, "suspects," "responsible," and "semi-responsible."<sup>30</sup> Names of players who are subjects of pending investigations were omitted.

<sup>29</sup> This excerpt has intentionally omitted a final column labeled "(KOM Odds)" because the Charging Party stipulated that those numbers were miscalculated. This excerpt has also omitted row 102, which showed the wife, anndb, leading with the husband, whn111, as her partner on dates before April 13, 2020. In row 102, her "Dec" was 2.16%, her Def2+ was 7.51%, she had 453 chances in 481 deals, and the "Odds vs 3X Dec" were 0. (P. 66.)

<sup>30</sup> "Responsible" refers to players who either have been found by the OEOC to have cheated (such as Robert ("rkk") and Ellen ("ln") Kent in rows 5 and 10), players who have admitted responsibility in a negotiated resolution (such as Sharon Anderson ("sharonroe") in row 17 of the table), or who have resigned from the ACBL with cheating (Cont.)

Baseggio explained that “Dec” is a measure of double-dummy accuracy as a declarer. What it shows for purposes of detecting cheating is a player’s skill level, which can be compared to other aspects of the player’s game. Def2+ is a measure of the player’s defensive error rate. For the wife’s error rate to be 4.17% means she got the defensive leads right after trick one 95.83% of the time.

Even without looking at the odds, the table shows that husband and wife both outperformed all controls.

The “Odds vs 3XDec” column includes a conservative benchmark of three times the declarer’s skill. Only three of the controls in the table exceed the benchmark. Using the benchmark, the wife’s Def2+ rate should be 6.18%, but in fact it was 4.17%. The odds part of the column used math to determine the likelihood that over 3,739 plays, a 2.06% declarer would achieve a defensive error rate of 4.17%. The conclusion was that the odds are 18,968,285 to 1, which is over five standard deviations. A larger sample size has a substantial effect on the bottom-line odds.

*(B). The KOM table*

Baseggio described how a player’s “KOM” is calculated (as described above on p. 6). It involves rating the player’s opening lead compared to other possible leads on the deal, both in isolation and then looking at partner’s hand. On cross-examination, Baseggio acknowledged that leads are rated on a scale from -8 to +8, with most leads being between -2 and +2. The higher the positive number, the more incriminating is the lead.

A four-page KOM table was in the Charging Party’s disclosure. (Pp. 69-72.) Like the Def2+ table, it had columns for the row number, the player, the partner, “Dec,” the chances, the number of deals, and a column classifying players as suspects, responsible, semi-responsible, and controls. The table also had a column for KOM (another column calculating odds was withdrawn by stipulation as erroneous). The following table reproduces the relevant data, omitting rows about other players. The original table in evidence has 184 rows.

| Row | Player            | Partner | Dec   | KOM    | Chances | Deals |
|-----|-------------------|---------|-------|--------|---------|-------|
| 15  | whn111 (Mid 2020) | *       | 1.93% | 13.62% | 749     | 4081  |
| 16  | whn111            | *       | 1.84% | 13.94% | 1083    | 6327  |
| 19  | Whn111 (<4/13)    | *       | 1.17% | 14.77% | 88      | 481   |
| 29  | anndn (Mid 2020)  | *       | 2.06% | 28.21% | 507     | 4081  |
| 31  | anndn             | *       | 2.04% | 32.24% | 763     | 6335  |
| 69  | Anndn (<4/13/20)  | *       | 2.16% | 41.27% | 63      | 481   |

allegations pending (such as Tobi Sokolow (“tobiness”) in row 16 of the table). “Semi-responsible” refers to partners of players in the “responsible” class.

Baseggio noted that, looking at the entire table, most experts have a KOM or loss rate of about 40%. Some controls beat this benchmark, but usually due to smaller sample sizes.

When asked about calculating the odds against the wife's results, Baseggio noted that Woolsey had posed a question to his expert, Greg Lawler, and Lawler had concluded that the wife's KOM rating of 28.21% was about four standard deviations from expected. (P. 167.) That is about 31,000 to 1. Based upon other assumptions, Baseggio believes it is between four and five standard deviations, with the numbers being smaller because the sample size for KOM is inherently smaller than for Def2+.

Baseggio explained there was not necessarily much difference between the KOM results and Woolsey's calculations about the wife's leads, which were a standard deviation of 2.54 according to DDOLAR (p. 82), 2.85 per the risky leads analysis (p. 86), and 2.43 per the Kit method (p. 91). He said the standard deviations are lower with each of these calculations due to the smaller sample size. KOM looked at about four times as many leads as any of Woolsey's tests. Even these lower standard deviation calculations show that the wife was using unauthorized information.

Baseggio acknowledged on direct examination that there is no expert agreement about how many standard deviations are enough to establish that charges of cheating have been proved to a comfortable satisfaction.

*(C). Cross-examination of Baseggio*

Woolsey showed Baseggio 14 of the wife's opening leads and asked which, if any, were evidence that she was cheating.<sup>31</sup> Baseggio's opinion was that the first three boards and the sixth and seventh could be evidence of unauthorized information. He had no opinion on the fourth or fifth. The remaining hands all appeared absolving.

Woolsey then began to compare some of those boards, pointing out that the Charging Party's opinion appeared to vary depending on whether the lead hit gold or mud in the husband's hand. His rhetorical point was that the Charging Party could always discount bad leads by saying that the wife wasn't cheating on that board.<sup>32</sup> Baseggio's response to this point was that the wife had access to unauthorized information and used it enough to have results that cannot be explained as honest play.

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<sup>31</sup> The 14 boards in order of presentation were: [16](#) played on September 16, [2](#) on May 27, [4](#) and [15](#) on August 27, [9](#) and [16](#) and a later [16](#) all played August 28, [3](#) on December 26, [18](#) on August 6, [15](#) on May 20, [14](#) on May 11, [16](#) on May 16, [17](#) on June 22, and [15](#) on July 11.

<sup>32</sup> As Woolsey had established his rhetorical point, he was not allowed to compare all 14 boards.

Woolsey asked Baseggio to explain his comment that the three methods employed by Woolsey could be combined to derive a higher standard deviation than resulted from any single one of the methods. Assuming that the methods were truly independent of each other, Baseggio agreed that combining the results would yield a standard deviation of 4.52.

Woolsey displayed another eight boards and asked Baseggio to estimate the KOM ratings for the husband's leads.<sup>33</sup> Baseggio explained that the KOM formula has a lot of detail that he doesn't have in his head, but he did offer estimates.

|  |  |   |                  |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
|--|--|---|------------------|----------|----------|----------|---------|---|--------|------|---|-------|----------|----|------|---|-----------------------|---|
| <b>D</b><br><span style="border: 1px solid black; padding: 2px;">5</span>  | <b>N</b> whn111<br>♠ 876<br>♥ J93<br>♦ J84<br>♣ Q975 | <table border="1"> <tr> <td><b>W</b></td> <td><b>N</b></td> <td><b>E</b></td> <td><b>S</b></td> </tr> <tr> <td></td> <td>P</td> <td>1NT</td> <td>X</td> </tr> <tr> <td>P</td> <td>2♣</td> <td>P</td> <td>2♦</td> </tr> <tr> <td>2♥</td> <td>P</td> <td>P</td> <td>P</td> </tr> </table> | <b>W</b>         | <b>N</b> | <b>E</b> | <b>S</b> |         | P | 1NT    | X    | P | 2♣    | P        | 2♦ | 2♥   | P   | P                     | P |
|  | <b>W</b>   | <b>N</b>  | <b>E</b>         | <b>S</b> |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
|  | P  | 1NT   | X                |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
| P  | 2♣   | P   | 2♦               |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
| 2♥   | P  | P   | P                |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
| <table border="1"> <tr> <td><b>W</b> 22taffy</td> <td><b>♠</b> 8</td> <td><b>E</b> camumma</td> </tr> <tr> <td>♠ 92</td> <td></td> <td>♠ AKJ4</td> </tr> <tr> <td>♥ AK106</td> <td></td> <td>♥ Q542</td> </tr> <tr> <td>♦ 65</td> <td></td> <td>♦ KQ2</td> </tr> <tr> <td>♣ A10843</td> <td></td> <td>♣ J6</td> </tr> </table> | <b>W</b> 22taffy                                     | <b>♠</b> 8  | <b>E</b> camumma | ♠ 92     |          | ♠ AKJ4   | ♥ AK106 |   | ♥ Q542 | ♦ 65 |   | ♦ KQ2 | ♣ A10843 |    | ♣ J6 | <b>S</b> AnnDN<br>♠ Q1053<br>♥ 87<br>♦ A10973<br>♣ K2 | 2♥ W      NS: 0 EW: 0 |   |
| <b>W</b> 22taffy   | <b>♠</b> 8   | <b>E</b> camumma  |                  |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
| ♠ 92   |  | ♠ AKJ4  |                  |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
| ♥ AK106  |  | ♥ Q542  |                  |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
| ♦ 65   |  | ♦ KQ2   |                  |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |
| ♣ A10843   |  | ♣ J6  |                  |          |          |          |         |   |        |      |   |       |          |    |      |   |                       |   |

The wife's double on board [5](#) played on June 21 was alerted as at least a four-card major and a five-card minor. The husband's 2♣ was alerted as pass or correct. Baseggio said that EDGAR would interpret the 2♦ bid as natural. He estimated that the ♠ lead would rate -1 or -2. For the remaining boards, he estimated that four of them would be ties, with the others rated -2, -3, and -4.

After Baseggio provided his eight estimates, Woolsey pointed out that these eight leads were the husband's most absolving leads according to the KOM algorithm. Board 5 above was rated -6. The fourth through sixth and eighth leads were all rated -4. Woolsey's rhetorical point was that the actual KOM ratings do not accurately reflect how absolving different leads are. Baseggio responded that any approach to analyzing hands is going to have imperfections, and the ultimate question is whether the approach generates meaningful conclusions.

Baseggio acknowledged that he had refused Woolsey's requests for the KOM formula for two reasons. First, it is implemented in software which can be hard to interpret and, second, the EDGAR creators do not want the complete algorithm publicly available, though they have publicized aspects of how it works.

<sup>33</sup> In order of presentation, those boards were: [5](#) played on June 21, [13](#) on June 12, [15](#) on July 17, [18](#) on June 5, [5](#) on July 16, [10](#) on August 24, [12](#) on September 4, and [4](#) on September 21.

Woolsey asked Baseggio to clarify some aspects of the Def2+ table. A low number in the “Odds” column is not a strong indication that a player is not using unauthorized information. It does disprove repeated, aggressive use of unauthorized information.

### 3. Kit Woolsey’s Testimony

Woolsey called attention to his supplemental disclosure, which showed that he often disagreed with Platnick’s ratings of boards and invariably found the boards less incriminating and more absolving or exculpatory than Platnick did.

Woolsey said that to combine the results of his own three standard deviation calculations as Baseggio had suggested might well artificially inflate the sample size if the standard deviation calculations are all based on the same boards, rather than different boards. He gave several examples to make this point.<sup>34</sup> Woolsey acknowledged that smaller sample sizes may have a significant effect on calculating standard deviations.

Woolsey explained and examined the application of binomial distribution. He said the application was appropriate for tests that only have two answers, such as DDOLAR, risky leads, the Kit Method, and Def2+. However, as the KOM method allows for degrees of “yes” or “no,” binomial distribution should not be applied to it.

Woolsey asserted that the wife’s Def2+ results should be considered as though her husband was comparable to a magician tossing a coin, with the wife being the coin. A magician who can deftly toss a coin to land heads up 80 times out of a 100 will exceed the standard deviation for an honest coin, but the unusual result does not establish the coin was dishonest due to the magician’s skill. Similarly, the husband gave the wife enough defensive signals to lower her Def2+ score. It does not take many incriminatory hands to affect the outcome. If the husband just helped the wife on one hand out of 20 or 25, it would have lowered her Def2+ score to what it was from what otherwise might have been expected.

Woolsey asserted that out of the first 250 deals beginning on April 15, with about half being defensive hands, the husband made plays on about 25 that might not have been made by a player unaware of both hands and that might have influenced the wife’s defense. For about 25 minutes, Woolsey had the Advisor display on the screen nine of those 25 boards that he described as evidence of the husband directing the wife’s defense through his defensive signals, namely board [9](#) played on April 30, [12](#) on April 27, [7](#) on April 29, [5](#) on April 26, [3](#) on April 24, [12](#) on April 23, [4](#) on April 28, [10](#) on April

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<sup>34</sup> Woolsey spent about 12 minutes on this topic of how it can be misleading to combine standard deviations based on different approaches to data that is not independent.

As the Panel’s conclusions do not depend on calculating standard deviations, this report will not elaborate on this aspect of Woolsey’s testimony.

22, and [3](#) on April 18.<sup>35</sup> On these boards, Woolsey walked through the individual cards played until he identified a play by the husband that he said was intended to prevent an error by the wife. It was often on the first trick, but on the first board, it wasn't until the fourth trick, on the eighth board, it was at trick five, and on the final board, it was at trick eight. He noted that the wife missed the signaling on the final board and played the wrong card at trick ten.

At the outset of Platnick's cross-examination, Woolsey admitted, as a bridge expert and not an advocate, his opinion based on all the data was that the husband was cheating. There was no evidence that he wasn't cheating on every deal.

One explanation for why a noncheating expert's leads were occasionally rated by a second expert to be better than the husband's leads could be the variability of subjective expert opinions. Woolsey agreed that KOM ratings could exhibit similar discrepancies.

Woolsey did not look at all of the KOM ratings of the husband's opening leads, just the leads that were rated the most exonerating. Woolsey acknowledged having said in disclosure that it is a reasonable approach to examine subsequent defensive leads, as Def2+ does, rather than all defensive plays.

Platnick questioned Woolsey's explanations of a couple of the boards cited as directed defenses. Woolsey acknowledged that, on one board, the husband's defensive signals began earlier than he had stated. He also acknowledged that it was very infrequent that the husband was able to influence the wife's opening leads by bids and doubles.

Platnick agreed to close his cross-examination with 15 minutes left in the hearing to allow Panelists to ask questions.

### **C. Argument**

As noted above, the Parties were allowed to submit closing statements in writing due to the length of the evidentiary presentation.

We recognize that some of the expert's testimony incorporated arguments more than evidence, considering that two of the Advocates were also expert witnesses.

Each side's closing statement attempted, among other things, to point out deficiencies in the other side's showing.

#### **1. The Charging Party**

The Charging Party in its three-page closing statement included some rebuttal evidence, offering its own opinions about each the eight boards cited by Woolsey as evidence of defensive fence-building. The Charging Party asserted that none of them actually showed the husband preventing a Def2+ type of error.

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<sup>35</sup> Again, the boards are listed in the order presented.

The Charging Party asserted that Woolsey had mischaracterized some of their testimony.

The Charging Party summarized: “We showed in the bidding that [the wife] used I/I [illicit information] to make and field ‘chameleon bids’, a hallmark of collusive cheating. Also that she participated in deferring high-level decisions to the superior analyst. And that she saw ample evidence of partner having I/I.

“We showed with KOM that her opening leads were outlandishly good. This was supported by the regional deal analysis, and by several elements of their defense, including their expert’s opinion that the odds were 31,000-to-1.

“And we showed that she defended better than world-class, measured over nearly 4000 defensive leads.”

“Based on the flagrancy of the Charged Parties’ ethical violations, premeditation in their implementation, harm to bridge due to their status as high-level players (with both parties being previous national champions), prolific play in online regional events,” the Charging Party requested 10-year suspensions and 10 years of probation for both Charged Parties, with a probation condition barring them from playing together.

## 2. The Charged Parties

The thrust of the Charged Parties’ written closing statement was that “there is no real evidence that [the wife] had illicit knowledge of [the husband’s] hand, only a conjecture that [her] results were consistent with her cheating some of the time.”

Platnick’s analysis of the regionals was biased. The husband’s suspicious leads do not show that the wife had illicit knowledge. The details of the KOM formula are hidden, but its results on at least some boards are questionable. “[I]t is not accurate to apply the binomial distribution to the KOM values . . . .” “The Charging Party consistently attempted to manipulate statistics by artificially inflating the sample size beyond what it actually is.”

In testimony, Woolsey argued that evidence merely “consistent” with the wife cheating falls short of establishing that she was cheating. On the other hand, evidence of the 73 leads she would not have made had she known her husband’s hand establishes that she was not cheating. Comparing the wife’s Def2+ score before April 13, 2020 of 7.51% with her 4.17% for later boards in 2020 is exactly what would be predicted on the assumption that her husband began cheating on April 13.

## **II. The Panel’s Findings of Fact and Conclusions**

Beginning with the pre-trial disclosure, these charges as against the wife have been hard fought by skillful and knowledgeable Advocates on both sides. To our knowledge, this is the first case where the Charging Party has explicitly relied on EDGAR cheating detectors such as KOM and Def2+ and it is the Panel’s first exposure to the kind of statistical evidence apparently inherent in applying in those detectors.

## **A. The EDGAR Evidence**

Ultimately, after a thorough study of the hearing packet, the hearing testimony, and the closing statements, the Panel has concluded that the EDGAR evidence is not persuasive or comfortably satisfying. We will explain this conclusion for the guidance of future proceedings.

We understand that the KOM method or algorithm rates the likely success of a player's opening leads against suit contracts by comparing them to other possible opening leads (excluding trump leads and some rare boards too complex to analyze) on the same board both with and without knowledge of partner's hand and with the auction in mind. While it was not part of Franco Baseggio's written report, cross-examination elicited that the highest KOM rating is 8, a lead that is relatively the most probative of the use of unauthorized information, and the lowest KOM rating is -8, the strongest evidence that the leader is unaware of partner's hand. This 17-point range is a significant expansion from the traditional five-point rating range of 1 through 5.<sup>36</sup>

One might think that with such a powerful computerized tool for rooting out the strongest evidence of use of unauthorized (what the Charging Party prefers to call "illicit") information, the Charging Party would be eager to provide a disciplinary panel with a list, if not diagrams, of all or some of the most incriminating opening leads by a Charged Party. Instead, the only place where individual KOM ratings for boards appeared in the Charging Party's disclosure was in the 37<sup>th</sup> and final column of a hyperlinked spreadsheet that listed all 6,335 deals played by the Charged Parties from March 19, 2020 through February 27, 2021. And that column was not limited to the KOM scores of the Charged Parties. Instead, the Charged Parties' KOM scores are buried amidst KOM ratings of leads by their opponents. A Panelist interested in seeing, for example, what are regarded as the wife's most suspicious opening leads is required to manipulate a massive spreadsheet to isolate the wife's leads and their ratings.

We understand that the KOM ratings of individual opening leads are deployed in a different way than merely identifying the most probative boards. After a set of leads is collected and rated, the absolute values of the negative and positive ratings are added up. This total becomes the denominator in a fraction in which the numerator is the absolute value of the sum of the negative ratings. This fraction becomes the player's KOM percentage for that set of boards. This fraction is then compared to what has been designated the "expert number" of a 40% miss rate. (P. 60.) This number was said to be chosen because "the collection of controls clearly averages above 40%." (P. 61.) We note that about a dozen controls in the KOM table are lower than 40% and about 100 are above it, including seven over 50%. (Pp. 69-72.) It would be interesting to know their exact average, although it must be a constantly changing number.

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<sup>36</sup> While calling a five-point range traditional, we note that this range is sometimes expanded to nine points in practice, with Platnick having rated boards as 1, 1.5, 2, 2.5, 3, 3.5, 4, 4.5, and 5. Platnick also rated some boards as L and ?.

Why this fraction yields a meaningful number for detecting cheating may not be immediately obvious. It may help to consider KOM ratings of boards as placed on a balance scale, where the incriminatory, plus scores go on one side of the balance and the exculpatory, minus scores go on the other side of the balance. If there are more or bigger plus scores, the scale will tilt toward suspicion of cheating. The minus scores may be regarded as misses or defensive errors.<sup>37</sup> While simply adding up the number of incriminatory leads compared to all chances for leads may say something about a player's propensity to cheat, looking at the other end of the balance and adding up the number of defensive misses may point in the same direction. A low percentage derived from this fraction is intended to signify that a player has a lower percentage of opening lead misses than should be expected of an honest player.

It is not clear to the Panel why 40% has been selected as the "expert number" threshold. Is there something about the limited information available in bridge auctions that prevents experts from being better at opening leads against suit contracts or did this dividing line emerge after plotting on a graph the KOM numbers of known cheaters against a number of presumed honest players? If so, is the KOM percentage merely evidence of guilt by association? Is the Panel being asked to conclude that because the Charged Parties seem to live on the same side of the 40% tracks as other players whose cheating has been established in other ways, that the Charged Parties have engaged in similar cheating behavior? We think there is more going on with this formula, but the derivation of the 40% figure raises some questions.

We understand why all the components of a KOM rating should not be publicized, as it might make it easier for some clever players to manipulate their ratings.<sup>38</sup> However, the limited information provided to the Panel about the derivation and meaning of the KOM table seems to us to amount to a request from experts saying, in essence, "trust us, we have a sophisticated method for identifying cheaters, and the Charged Parties look to us like cheaters when compared to other cheaters and to non-cheaters." It would be very helpful to the Panel if the KOM proponents showed us a selection of highly rated KOM leads by the Charged Parties, not just a black box conclusion that equates a low percentage with sharing unauthorized information.

The Panel has similar problems with the Def2+ calculations. This detector does not appear to use a 17-point range for rating subsequent defensive leads like KOM

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<sup>37</sup> We recognize a flaw in our balance scale analogy. What we are calling "exculpatory" boards do not necessarily negate the evidence of incriminating boards, because the kinds of errors involved in exculpatory boards may be unrelated to the kinds of cheating being deployed. Also, evidence that a player doesn't cheat on every board may not undermine evidence that they still cheat often.

<sup>38</sup> Of course, a player's KOM rating would presumably be in the unsuspecting range if the player stopped using unauthorized information. But, for example, if KOM rates as very suspicious the lead of an unsupported Ace that finds partner's singleton, a cheating player could simply drop that practice and still employ other cheating techniques.

does. Instead, it conducts a double-dummy analysis of a player's defensive leads after the first trick. We are told, "The actual measurement is the number of such errors divided by the total number of opportunities." (P. 56.) This implies that later leads are simply regarded as hits, misses (errors), or neutral, possibly employing a three point scale (ranging from -1 to 1). But depending on the board, it would seem that a defender would have a varying number of later lead opportunities. Is it possible that a defender with three later lead opportunities could have three hits and thus a 3 rating on a board? It isn't clear from the presentation what a maximum Def2+ rating has been calculated to be on a board. Unlike the KOM scores, which were buried in a column on a massive spreadsheet, there does not appear to be a single Def2+ rating for any individual board in evidence, instead just the player's total Def2+ percentage based on the total number of chances in a set of boards. The underlying presumption of this detector seems to be that the closer a defender is to double-dummy perfection, the stronger is the inference that that defender may be using unauthorized information. As with the KOM ratings of boards, the Charging Party did not present the Panel with a list of the top 10 or 25 most suspicious Def2+ defenses, though presumably such a list could readily be generated by computer.

There is also an expert number associated with Def2+ ratings. We are told that, from experience with many controls, the Def2+ error rate is 3 times "Dec," which stands for double-dummy declarer accuracy. (P. 59.) The Def2+ table in evidence burdens Panelists with multiplying a player's Dec rating times three to compare to the player's actual Def2+ rating, though presumably that product could have easily been calculated in the spreadsheet, more easily than the included column listing odds vs 3Dec. And the precision of the odds calculations seems incredible. For example, the odds of the wife's Def2+ plays in mid-2020 is said to be 18,968,285 to 1. How much stronger evidence is this in reality than if the odds were only 18 million to 1 or 10 million to 1?

As with the KOM detector, the Panel feels that the experts are essentially asking us to trust them, because they have a technique called Def2+ that reliably identifies bridge players who are using unauthorized information.

To this Panel, it appears that EDGAR has a lot of promise for initial detection of suspected cheating players. It may screen a large number of boards and the results may be the catalyst for an investigation, but a future disciplinary panel is likely to be more comfortably satisfied by the production in evidence of enough boards that are the most probative of cheating than by calculations of the odds against a player's results. Baseggio acknowledged on direct examination that there is no expert agreement about what odds or how many standard deviations equate to a comfortable satisfaction.

We turn now to the other evidence against the Charged Parties.

## **B. Other Evidence against the Husband**

While Kit Woolsey was ostensibly the Advocate for both of the Charged Parties, the thrust of his defense was to establish that the wife was not cheating and was not a party to her husband's cheating. When asked his opinion as an expert in detecting

cheating and not as an advocate, he admitted that he was not aware of any evidence that the husband was not cheating on every hand. In fact, his defense of the wife in part was that the husband was a “magician” who manipulated the wife’s defenses by signaling based on his knowledge of both partners’ hands.

Woolsey’s expert opinion may be relied on by the Panel as evidence, but it remained the Charging Party’s burden to establish that the husband “cheated” within the meaning of former CDR section 3.20.<sup>39</sup>

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<sup>39</sup> Exactly what “cheating” was prohibited by former section 3.20 has puzzled earlier OEOC Panels.

Subsequent developments highlight the definitional problem. After a major overhaul of the CDR effective August 15, 2020, the CDR described five kinds of conduct as “First Degree Ethical Violations,” including two kinds of cheating. Section 301(A) stated: “(1) *Collusive Cheating: Signaling*. ‘Collusive Signaling’ is an agreement, whether implicit or explicit, made between two or more people, at least one of whom is a contestant, to exchange or pass information in any manner not expressly permitted by Law 73. This section includes agreements made by persons who are not partners or contestants, including, but not limited to kibitzers or teammates.” Thus, passing information in any unauthorized manner was deemed to be signaling. This section was amended effective August 1, 2021, to add the language in bold: “‘Collusive Signaling’ is the exchange or transmission of information, **through encoded signals or otherwise . . . .**”

The new section 301(A) also prohibited: “(2) *Collusive Cheating: Other*. ‘Collusive Cheating’ is an agreement, whether implicit or explicit, made between two or more people, other than Collusive Signaling, to affect the outcome of a competition in any manner not expressly permitted by Law 73. Neither person need be a contestant to be charged under this section.”

Effective August 1, 2021, the CDR added a new section 301(A)(2) that specifically defines “Online Collusive Cheating,” thereby moving former subsection (A) (2) to (A) (3). It prohibits the exchange or transmission of unauthorized information “in any manner” between two or more people, one of whom is participating in an online bridge competition.

In contrast, the January 1, 2020 CDR applicable to our charges did not include similar explicit definitions of cheating. 3.20 simply prohibited “cheating,” though the CDR did provide the following definition of “collusive cheating.” “An agreement made between two or more people, at least one of whom is a contestant, to exchange or pass information illicitly. This section includes agreements made by persons who are not partners or contestants, including, but not limited to kibitzers or teammates.”

It isn’t clear whether this definition, effective July 19, 2019, was intended to define the cheating that had been prohibited for many years by former section 3.20 or (Cont.)

While many examples might be cited, we consider two boards to be particularly egregious and will display them again for emphasis.

|          |             |                   |
|----------|-------------|-------------------|
| D 16     | N wlamont   | W N E S           |
|          | ♠ KQJ       | P 1NT P 4♣        |
|          | ♥ AK842     | P 4♥ P 5♣         |
|          | ♦ 1063      | P 5♠ P 7NT        |
|          | ♣ Q2        | P P P             |
| W whn111 |             | E AnnDN           |
| ♠ 75     | ♦ J         | ♠ 93              |
| ♥ J1076  | ♦ 4         | ♥ 95              |
| ♦ AJ72   | ♦ 8         | ♦ Q954            |
| ♣ 976    |             | ♣ J10843          |
|          | S 1kemosabe |                   |
|          | ♠ A108642   |                   |
|          | ♥ Q3        |                   |
|          | ♦ K8        |                   |
|          | ♣ AK5       |                   |
|          |             | 7NT N NS: 0 EW: 0 |

On board [16](#) from September 16, there is no player who would risk playing the ♦ J to defeat a grand slam without knowing that partner held the ♦ Q. By this play the husband was thumbing his nose at his opponents and at honest bridge.

|          |             |                  |
|----------|-------------|------------------|
| D 2      | N Smansell  | W N E S          |
|          | ♠ 9763      | P P P            |
|          | ♥ A1065     | 1NT P 2♣ P       |
|          | ♦ K85       | 2♦ P 2♥ P        |
|          | ♣ Q7        | 3♣ P P P         |
| W whn111 |             | E AnnDN          |
| ♠ A5     |             | ♠ 10842          |
| ♥ Q9     |             | ♥ KJ87           |
| ♦ AJ943  |             | ♦ 2              |
| ♣ J1064  |             | ♣ A953           |
|          | S mpmbridge |                  |
|          | ♠ KQJ       |                  |
|          | ♥ 432       |                  |
|          | ♦ Q1076     |                  |
|          | ♣ K82       |                  |
|          |             | 3♣ E NS: 0 EW: 0 |

On board [2](#) on August 10, the husband opened an off-shape weak NT. The wife deployed crawling Stayman to find a major fit holding two four-card majors. The

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instead the “collusive cheating” that was prohibited for even more years by former section 4.1.8(A) or both.

Whatever else “cheating” may have meant in former section 3.20, we believe it included providing your partner with information about your hand other than through bidding and card play and it certainly included using such unauthorized information from your partner in your own bidding and defensive play.

husband avoided the danger of playing in a possible 4-2 fit by bidding the wife's longest minor, a suit not revealed by the auction.

Other boards that we cite below as evidence of the wife's misconduct also implicate the husband as at least sharing the contents of his hands. However, we see no need to prolong this report by multiplying diagrams establishing the husband's undisputed use of unauthorized information.<sup>40</sup>

### **C. Other Evidence against the Wife**

On cross-examination, Platnick acknowledged that his first report analyzing the husband's opening leads did not establish that the wife had illicit knowledge of his hands. However, he asserted that it was evidence that the wife was involved with providing the husband with information about her hands. The question for the Panel is what evidence, if any, is probative of the wife using unauthorized information about her husband's hands and what evidence is probative that she provided him with unauthorized information about her hands, since either type of conduct amounts to cheating in this Panel's opinion.

In defense, Woolsey tried to amass evidence to establish two points. In a document titled "70 Hands," he presented diagrams of 73 leads that the wife arguably would not have made with knowledge of her husband's hands.<sup>41</sup> At the hearing, he also presented nine boards that he asserted showed the husband guiding the wife's defense through his defensive carding based on his knowledge of both their hands.

Assuming for the sake of discussion that Woolsey has established that the wife did not cheat on any of these 82 boards, to show that a player is unlikely to have cheated on board 1 in a session does not disprove that the player cheated on board 2. The Charging Party has not alleged and is not required to prove that the wife cheated on every board or even on almost every board. The only proof required is that the wife

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<sup>40</sup> We have not relied on Platnick's first report in determining the husband's culpability. We note this report, which involved using the Kit method to have expert investigators anonymously compare leads by other experts to those by the suspect, was essentially a "trust my opinion" or "trust our opinions" type of presentation to the Panel much like the KOM and Def2+ rankings.

While it is dramatic to claim that the odds are approximately 750 million to 1 that the husband won 60 of 71 opening lead problems against a group of experts, Platnick did not show which leads his experts considered winning, whether by the husband or the expert, to allow the Panel to determine independently how reliable the expert ratings are. Presumably at least some of the husband's winning leads might appear to have been based on unauthorized information about the wife's hands, but the Panel has not been allowed to confirm that inference by reviewing the boards that were analyzed by the four experts.

<sup>41</sup> It is not known whether he derived these boards from the negative KOM ratings in the Appendix 1. All Deals spreadsheet.

took too many successful actions not based on the bidding or play to be explainable as skill or even luck. The Charging Party has alleged that the wife cheated some of the time.

Woolsey has argued that it is virtually impossible to disprove a claim that a player is cheating only some of the time, because all evidence of not cheating can be dismissed as simply occasions when the player wasn't cheating. One way to refute evidence of cheating, apart from simply proclaiming one's innocence, is to provide a credible alternative explanation of an action that has been characterized as cheating. For example, if the Charging Party relies on evidence that a pair's underleads of Aces often find partner's Kings, a demonstration that the pair's Ace underleads just as often find the opponents' Kings would tend to dispel an inference that the leader knew partner held a King on a given hand.

### 1. Flexible Agreements

There is evidence in this case that the same bid had different meanings in similar auctions, and the Charged Parties always both understood which meaning was intended.

There were four boards ([2](#) on March 27, [2](#) on June 20, [8](#) on September 11, and [1](#) on September 18) on which an opponent overcalled 2 ♣ over a weak NT opening, and the Charged Party's 2 ♦ response was natural. The first two overcalls showed ♣s and a higher suit, the third was natural, and the fourth showed a single-suited hand. The husband bid 2 ♦ on the first board 2, 8, and 1, and the wife understood these bids as natural, raising to 3 on the first two boards. On the second board 2, the wife bid 2 ♦ as natural and the husband raised to 3.

In contrast, on two other boards in the same time frame, when an opponent overcalled a NT opening with 2 ♣, on board [9](#) on April 5 meaning a single-suited hand and on [18](#) on August 30 meaning either a long minor or a major/minor hand, the Charged Party's 2 ♦ bids, by the wife on 9 and the husband on 18, were intended and understood to be transfers to ♥s.<sup>42</sup>

On two other boards, opponents competed by bidding 2 ♦ over a forcing 1NT response to a major opening.

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<sup>42</sup> Two of these six boards were displayed above (on p. 10).

|        |   |  |        |   |   |
|--------|---|--|--------|---|---|
| 7<br>D | N AnnDN<br>♠ K6<br>♥ J972<br>♦ 87<br>♣ A10732     | W N E S<br>P 1NT 2♦ X<br>P P P                 | 7<br>D | N AnnDN<br>♠ K5<br>♥ KJ5<br>♦ KJ852<br>♣ 1087     | W N E S<br>P 1NT 2♦ X<br>P P P                  |
|        | W priyank4<br>♠ 1095<br>♥ Q863<br>♦ 105<br>♣ Q964 | E mccaig<br>♠ AJ8<br>♥ 1054<br>♦ K642<br>♣ KJ8 |        | W PaulRyan<br>♠ J2<br>♥ 10842<br>♦ 1063<br>♣ Q643 | E patomike<br>♠ A943<br>♥ 97<br>♦ AQ974<br>♣ A5 |
|        | S whn111<br>♠ Q7432<br>♥ AK<br>♦ AQJ93<br>♣ 5     | S whn111<br>♠ Q10876<br>♥ AQ63<br>♦<br>♣ KJ92  |        | S whn111<br>♠ Q10876<br>♥ AQ63<br>♦<br>♣ KJ92     | S whn111<br>♠ Q10876<br>♥ AQ63<br>♦<br>♣ KJ92   |
|        | 2♦x E NS: 0 EW: 0                                 | 2♦x E NS: 0 EW: 0                              |        | 2♦x E NS: 0 EW: 0                                 | 2♦x E NS: 0 EW: 0                               |

On board [7](#) on April 22, the husband's double was intended and understood to be penalty. On board [7](#) on June 27, the husband's reopening double with a ♦ void was converted to penalty by the wife. From the wife's ♦ holding on the later board 7, it was easy to infer that the husband's double showed ♦ shortness, but it is less clear from her holding on the earlier board 7 that the husband's double was penalty. She appears to have accurately understood her husband's different meanings of double in identical auctions.

When the same bids in similar auctions have different meanings and a partnership is always on the same page about those meanings, it strongly suggests the use of unauthorized information about each other's hands.

## 2. Bidding Partner's Hand

Some pairs seem to know when to push and when to be conservative.

|        |  |  |        |  |  |
|--------|--|--|--------|--|--|
| 8<br>D | N AnnDN<br>♠ KQ<br>♥ K1073<br>♦ A42<br>♣ KQJ8    | W N E S<br>P 1♣ 3♥ 3♠<br>P 3NT P 4♣<br>P P P       | 8<br>D | N ranen57<br>♠ Q8643<br>♥ Q73<br>♦ 102<br>♣ 963    | W N E S<br>1♦ P 1♥ P<br>3♦ P 3♥ P<br>3♠ P 4NT P<br>6NT P P P |
|        | W bobbybak<br>♠ A853<br>♥ 94<br>♦ Q5<br>♣ 109642 | E jbakovic<br>♠ 2<br>♥ AQJ862<br>♦ J8763<br>♣ 7    |        | W whn111<br>♠ AK5<br>♥ A<br>♦ AQJ7653<br>♣ 102     | E AnnDN<br>♠ J9<br>♥ KJ1098<br>♦ 94<br>♣ AQ85                |
|        | S whn111<br>♠ J109764<br>♥ 5<br>♦ K109<br>♣ A53  | S cameron103<br>♠ 1072<br>♥ 6542<br>♦ K8<br>♣ KJ74 |        | S cameron103<br>♠ 1072<br>♥ 6542<br>♦ K8<br>♣ KJ74 | S cameron103<br>♠ 1072<br>♥ 6542<br>♦ K8<br>♣ KJ74           |
|        | 4♠ S NS: 0 EW: 0                                 | 6NT E NS: 0 EW: 0                                  |        | 6NT E NS: 0 EW: 0                                  | 6NT E NS: 0 EW: 0  |

On board [8](#) (on the left) from May 3, the wife held an 18 count that was short on Aces. The husband, an unpassed hand, bid 3 ♠ over a preempt. Both her 3NT bid and her pass of the husband's continuation to 4 ♠ showed a much weaker hand than she held, but in fact her husband's 3 ♠ bid was somewhat lighter than might have been expected and they didn't miss a slam. On board [8](#) on the next day, May 4, the husband's jump rebid of 3 ♦ arguably didn't do justice to his four-loser hand. The wife's 3 ♥ rebid was a descriptive, forward-going bid and his stopper showing 3 ♠ bid (as alerted) was a logical

continuation, but her 4NT slam invitation customarily shows more than an 11-count. In fact, her husband's hand was somewhat stronger than described and he was easily able to accept her invitation. It appears that in both of these auctions, the wife's bidding was based on her husband's hands rather than his bids.

As the Charging Party pointed out, the Charged Parties routinely varied their otherwise weak (12-14 HCP) NT opening by opening a strong (15-17) NT in third seat when vulnerable. A list of 48 boards showed that they deviated from this practice 14 times. On eight of those occasions, they opened a five-card major instead. The following board was among the remaining six occasions.

|   |             |             |
|---|-------------|-------------|
| <div style="border: 2px solid red; padding: 5px; display: inline-block;">7</div><br><span style="color: red; font-weight: bold;">D</span> | N whn111    | W N E S     |
|   | ♠ KJ72      | P 1♣ 1♠ X   |
|   | ♥ A9        | P 1NT P 2♣  |
|   | ♦ K10       | P 2♦ P 2NT  |
| ♣ KQJ52   | P 3NT P D   |             |
| W irvshar   | E lovsbrdge |             |
| ♠ Q   | ♠ 96543     |             |
| ♥ 10765   | ♥ KQ3       |             |
| ♦ J6542   | ♦ AQ83      |             |
| ♣ 1093  | ♣ 4         |             |
| S AnnDN   |             |             |
| ♠ A108  |             |             |
| ♥ J842  |             |             |
| ♦ 97  |             |             |
| ♣ A876  |             |             |
|   | 3NT N       | NS: 0 EW: 0 |

After a minor opening on board [7](#) on August 25, the husband alerted his vulnerable 1NT rebid as showing 15 to 17. The wife's 2♣ bid was alerted as forcing a 2♦ bid to show either ♦s or an invitational hand, and then she continued over the forced bid to invite with 2NT. If she hadn't known her husband's NT rebid showed a strong NT hand on this one occasion instead of a weak NT, it is extremely doubtful she would have invited game.

### 3. Singleton-finding leads

Though the KOM ratings of opening leads against suit contracts were buried by the Charging Party in the 37<sup>th</sup> column of a massive spreadsheet, close examination reveals that the spreadsheet did rate five of the wife's leads as 6, which should be very incriminating.

|        |   |   |         |  |  |
|--------|---|---|---------|--|--|
| D<br>8 | N mar513<br>♠ J874<br>♥ 63<br>♦ KQ73<br>♣ Q64   | W N E S<br>P P 1♥ X<br>P 1♠ 2♥ 3♠<br>P P P    | D<br>13 | N AnnDN<br>♠ K<br>♥ KJ7<br>♦ AQJ10642<br>♣ 62      | W N E S<br>1♦ P 1♥<br>2♠ X 3♠ P<br>P P           |
|        | W whn111<br>♠ 1052<br>♥ 5<br>♦ J862<br>♣ A10753 | E AnnDN<br>♠ Q63<br>♥ AQJ1072<br>♦ 54<br>♣ 82 |         | W cal251917<br>♠ AQJ10875<br>♥ 3<br>♦ 83<br>♣ 1074 | E Big+Bryan<br>♠ 943<br>♥ A85<br>♦ K97<br>♣ AK98 |
|        | S RSHO<br>♠ AK9<br>♥ K984<br>♦ A109<br>♣ KJ9    | 3♠ N NS: 0 EW: 0                              |         | S whn111<br>♠ 62<br>♥ Q109642<br>♦ 5<br>♣ QJ53     | 3♠ W NS: 0 EW: 0                                 |

On two of those boards, [8](#) on May 23 and [13](#) on June 19, the wife was inspired to lead an Ace from a long suit and then continue with the Queen, giving the husband a ruff.<sup>43</sup>

|         |   |   |        |   |   |
|---------|---|---|--------|---|---|
| D<br>10 | N JoJo2413<br>♠ J<br>♥ A1087654<br>♦ K<br>♣ A1032 | W N E S<br>P 2♥ P 2♦<br>P 4♥ P P<br>P         | D<br>5 | N b+english<br>♠ KQ93<br>♥ J6<br>♦ Q3<br>♣ Q10953 | W N E S<br>P P P 1♥<br>3♣ P P P 3♥<br>P P P     |
|         | W whn111<br>♠ 10<br>♥ KJ932<br>♦ 7432<br>♣ 754    | E AnnDN<br>♠ AQ7632<br>♥ Q<br>♦ J109<br>♣ K96 |        | W AnnDN<br>♠ 65<br>♥ 972<br>♦ 95<br>♣ AJ8764      | E whn111<br>♠ J10874<br>♥ 43<br>♦ KJ1064<br>♣ 2 |
|         | S marymimi<br>♠ K9854<br>♥<br>♦ AQ865<br>♣ QJ8    | 4♥ N NS: 0 EW: 0                              |        | S anbianchi<br>♠ A2<br>♥ AKQ1085<br>♦ A872<br>♣ K | 3♥ S NS: 0 EW: 0                                |

On two other boards, the wife began the same Ace-leading maneuver, finding her husband with singletons, once on board [10](#), also on May 23 and just two boards after [8](#) above, but she abandoned the continuation when the dummy showed up with all the remaining ♠s. Again on board [5](#) on August 6, she led an Ace, dropping her husband's singleton, and abandoned the suit when she discovered all the remaining ♣s in the dummy. KOM rated both these leads 4.

<sup>43</sup> The other three boards where the wife's leads had a KOM rating of 6 were [3](#) on May 8, [10](#) on June 27, and [3](#) on August 20. We express no opinion about whether these other leads appear to us to be among the most incriminatory.

|        |  |   |         |   |   |
|--------|--|---|---------|---|---|
| 7<br>D | N kooncejf<br>♠ KQ10653<br>♥ J97<br>♦ AKQJ<br>♣  | W N E S<br>P 1♠ 2♣ 2♠ P<br>5♣ 5♠ P P<br>P     | 14<br>D | N pstedy2<br>♠ K87632<br>♥ 1084<br>♦ AJ85<br>♣  | W N E S<br>P 3♥ P 3♠<br>X 4♥ X P<br>P P       |
|        | W whn111<br>♠ 9<br>♥ K<br>♦ 109542<br>♣ J98432   | E AnnDN<br>♠ J72<br>♥ AQ53<br>♦ 3<br>♣ KQ1065 |         | W whn111<br>♠ AK103<br>♥ 94<br>♦ K<br>♣ K109764 | E AnnDN<br>♠ Q95<br>♥ AJ105<br>♦ AJ63<br>♣ 32 |
|        | S SKempner<br>♠ A84<br>♥ 108642<br>♦ 876<br>♣ A7 | 5♠ N NS: 0 EW: 0                              |         | S linb<br>♠ J87642<br>♥ Q<br>♦ Q9752<br>♣ Q     | 4♥x N NS: 0 EW: 0                             |

On two other boards, the wife led an Ace although her suit was not nearly as long. On board [7](#) on June 24, she was able to cash her Ace, dropping her husband's stiff King, then cash her Queen and give him a ruff. On board [14](#) on September 15, the wife's Ace lead again dropped her husband's stiff King, followed by giving him a ruff. KOM rated these leads as 4.<sup>44</sup> The wife's ability to find her husband's singletons is remarkable.<sup>45</sup>

#### **D. The Panel's Conclusions**

Advocate Woolsey acknowledged that he was faced with virtually irrefutable evidence that the husband's bidding and defending was frequently, if not always, based on unauthorized information about the wife's hands. Given this evidence, Woolsey sought to portray the wife as an unwitting tool in the hands of an expert "magician" who was able to improve her defensive plays beyond what could be reasonably expected of even an expert player like the wife by giving her authorized information through his defensive signals that allowed her to consistently make successful choices. Woolsey acknowledged that the husband had little opportunity to influence the wife's opening leads.

The defense theory was that the husband was somehow learning about the wife's hands without her knowledge and acting in a way to insulate her from unauthorized information about his own hands, so that she was innocent of cheating. It has been suggested that this could be accomplished by the husband and wife playing in the same room with the husband sitting in such a position as to observe the wife's

<sup>44</sup> We wonder what the KOM rating on 14 would have been if the wife had underled her ♦ Ace to partner's stiff King and then he returned to her hand with the trump Ace so she could cash the ♦ Ace and give him a ruff. We realize KOM doesn't account for later plays.

<sup>45</sup> This kind of behavior is not something a Hearing Panel should need to ferret out of massive spreadsheets.

hands displayed on her computer's monitor.<sup>46</sup> However, even if this was the way the cheating began, it isn't believable that an expert player such as the wife would not have noticed her husband playing the ♦ Jack rather than the Ace to defeat a grand slam on September 16 or the husband correcting her crawling Stayman auction to find their best fit in 3 ♣s on August 10, a suit her bidding didn't show. Even if the wife did not initially agree to her husband viewing her hands when they began playing ACBL tournaments online, we cannot conclude other than at some point the wife accepted that he was doing this and she allowed him to continue to do so to benefit their partnership. They both earned masterpoints attributable to his cheating and in this way she took advantage of his use of unauthorized information about her hands. She was complicit in providing him with information about her hands, whether by merely displaying her monitor in his field of view or by otherwise communicating what cards she was holding. This Panel is not required to determine exactly how she provided her husband with information about her hands.

However, the Panel does not believe that Ann Nutting was merely a passive participant in her husband's cheating, although we recognize that he was much more active about employing unauthorized information. From the evidence reviewed above and other evidence, it appears that Ann Nutting also gained access to unauthorized information about her husband's hands and used it occasionally in bidding and on defense. If he was looking at her hands on her monitor, she was, at least sometimes, looking at his hands on his monitor. It is the Panel's opinion that Ann was not merely a transmitter of unauthorized information, but a receiver, violating section 3.20 in both ways. This finding obviates the need to address Mr. Woolsey's argument that Bill Nutting must be found not guilty of collusive cheating because there was no collusion.

This Panel is unanimously comfortably satisfied that Bill Nutting violated former section 3.20 by repeatedly obtaining and using unauthorized information about his wife's hands during online ACBL competitions. The Panel is also unanimously comfortably satisfied that Ann Nutting violated former section 3.20 by repeatedly obtaining and using unauthorized information about her husband's hands during online ACBL competitions.

### **E. The Discipline Imposed**

Because the discipline for a CDR violation must arise from the CDR in effect at the time of the violation (former CDR section 10.6), we look to the CDR in effect on January 1, 2020. Unlike the CDR that took effect on August 15, 2020, the earlier CDR

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<sup>46</sup> One of the questions the Panel asked the Advocates to be prepared to answer at the hearing was, "If [the husband] had illicit information about [the wife's] hand, from where is it likely that he got it?" While the Advocates were informed that written responses were not requested, Woolsey elected to answer some of the questions in writing, including this one. He suggested that the husband might have been sitting in a position to see the hands displayed on his wife's computer screen without her knowing about it.

did not list recommended discipline in the same section that defined the offenses. Instead, the former CDR set out disciplinary recommendations in former Appendix B.

Appendix B distinguished conduct violations (in Chart 1) from ethical violations (in Chart 2). There were two ethical violations potentially applicable to cheating. “Prearranged partnership collusion by means of signaling to exchange information (CDR 3.1, 3.2 and 3.7)” was listed as an “E16” violation. “Cheating and other Ethical Violations not specifically cited by other sections of this Appendix (CDR 3.20)” was listed as an “E19” violation. By its February 7, 2021 [decision](#) about the Kents, the ACBL’s Appeals and Charges Committee implicitly determined that E16 had a narrow scope. With that in mind and noting that E19 referred to violations of former CDR section 3.20, we accordingly conclude that E19 was violated in this case.

Chart 2 recommended a wide range of possible discipline for an E19 violation, namely “90 days Suspension up to Expulsion” and forfeiture of from none to all of a player’s masterpoints. We note that section 402, effective on August 1, 2021, sets out a list of six “primary” and three “secondary” items to be considered by a Panel in imposing discipline, as well as deeming irrelevant 13 other factors. But it would be unfair to literally apply these considerations retroactively to conduct that predated section 402.

In imposing discipline, the Panel notes that the Charged Parties repeatedly and flagrantly shared and used unauthorized information over a period of about six months in 2020. As ACBL members since 1950 who have succeeded at some of the highest levels of ACBL competition, they must have been aware that the Laws of Duplicate Bridge have prohibited taking advantage of unauthorized information made available by partner.<sup>47</sup>

Even noting that the Charged Parties have no prior record of discipline, the Panel has concluded that serious discipline is warranted. Accordingly, Bill Nutting is suspended from the ACBL for five years, to be followed by 10 years of probation. Ann Nutting is suspended from the ACBL for four years, to be followed by 10 years of probation. A condition of their probation is that they not play together during probation. The husband’s suspension is longer because he appears to have been the more dominant, spectacular, and shameless violator.

While the Panel would prefer to order forfeiture of all masterpoints that the Charged Parties have earned while playing together online, we have learned from past

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<sup>47</sup> Law 73C1 states, “When a player has available to him unauthorized information from his partner, such as from a remark, question, explanation, gesture, mannerism, undue emphasis, inflection, haste or hesitation, an unexpected alert or failure to alert, he must carefully avoid taking any advantage from that unauthorized information [see Law 16B1(a)].” Law 16B1(a) states, “A player may not choose a call or play that is demonstrably suggested over another by unauthorized information if the other call or play is a logical alternative.”

cases that ACBL Management finds such an order difficult to execute, so the Panel instead orders forfeiture of 10% of the masterpoints of each of the Charged Parties.

### **Concurring Opinion**

By Jordan Chodorow, Panel Chair, with whom Ira Chorush, Julie Smith, and Karen Walker join, and Rick Rowland joins reluctantly.

For decades, bad line calls were the scourge of professional tennis. Even as chair umpiring and, later, to a significant extent, line umpiring became standardized and professionalized, clearly erroneous calls in important matches were replayed in slow motion and engendered anger and frustration in victimized players and shoulder-shrugging bemusement in their opponents.

Today, virtually all professional tennis matches employ the Hawk-Eye electronic line calling system, eliminating the vast majority of these injustices. It is understood to have a margin of error of between 3 and 4 millimeters, translating to an error rate in its line calls of approximately 0.1%. This means some inaccurate calls continue to be made, but not egregious ones.

The process of getting to this point took decades, from the famous “Mac Cam” of the 1990's through a number of increasingly more accurate systems to Hawk-Eye as currently deployed. Along the way, all parties involved had the opportunity to provide feedback: both professional tours, the Grand Slams, respective players' councils, officials, and fans. (A similar but shorter process produced the net cord sensor now used to call lets.) The result is a system understood to be less than perfect but still acceptable to almost all.

In point of fact, a tennis ball either fell within or outside the relevant line(s) or did or did not graze the net cord. We know that we cannot know what actually happened with absolute certainty. Similarly, a bridge pair accused of collusive cheating online either did or did not engage in the alleged conduct. We cannot know what actually happened with absolute certainty. All we can do in each case is to create a system that, to the maximum extent possible, eliminates bias and engenders confidence by revealing the methods and reasoning by which it arrives at its conclusions.

Since the early days of the pandemic, the Online Ethical Oversight Committee has been that system. We consist of fifteen expert players, each disinterested in the outcome of any case he or she hears, who apply their judgment to the facts presented by both sides, render just decisions, and produce (with the help of two very hard-working advisors) hearing reports that set forth their reasoning in exquisite detail. The members of OEOC give their time to bridge in this and many other ways, and we stand ready to hear as many cases as are brought before us.

Potential panelists frequently recuse themselves from cases if they see even the slightest possibility of an appearance of bias. Parties always have the ability to challenge any panelist for bias or other good cause. I am aware of one such challenge in the history of the OEOC, as a result of which the potential panelist voluntarily recused.

The reasoning set forth in our hearing reports is intended to engender confidence in our verdicts, to explain our thought processes, and to assist the Appeals and Charges Committee with their quasi-appellate role.

Effective February 1, 2022, the ACBL hastily amended its CDR to create a two-track system whereby any case (involving conduct after the effective date) in which the League seeks a suspension of longer than six months, a probation of longer than two years, or a forfeiture of more than 10% of a player's masterpoints is automatically removed to a new entity called the Institute for Bridge Arbitration (the "IBA") that only now, a year later, is beginning the process of training potential arbitrators. (Note: Nothing in this opinion is intended as a criticism of any person or entity referenced. It is entirely possible that some or all of the panelists in this case may become arbitrators for the IBA, and those involved in its formation are known to share our passion for protecting the integrity of the game we love.)

Based on public statements from parties involved, it is widely understood that the primary analogy used to garner support for this CDR change was that EDGAR would serve as a sort of "red light camera" generating six-month "speeding tickets," while more serious violations would be routed to an entity empowered to impose more significant discipline.

This turn of events is problematic on a wide number of fronts.

First of all is the haste and quiet with which this enormous CDR change was enacted. Unlike the process by which Hawk-Eye came to be the accepted electronic line calling system for professional tennis, this change was made opaquely rather than transparently, and without time for or solicitation of meaningful input by EOC or OEOC members, other interested parties, or the membership of the ACBL generally. (Many members of the OEOC were not even aware of the potential change until it had been enacted.)

Second is the opportunity this two-tier structure creates for rampant bias in the selection and routing of cases. Under the pre-change CDR, the Recorder receives abuse reports, investigates them and, if enough evidence is found, submits them to the Executive Director for the bringing of charges. Under the new system, only certain cases will be brought to a full hearing (private estimates have ranged as low as one per year), allowing overly broad leeway to the League to, for example, make an example of an unfavored player, or to route a favored player to a "speeding ticket." (Again, none of this is to impute any bias or improper motive to any person in the Recorder's Office. They too are victims of the appearance of impropriety this structure creates.)

It is understandable on a financial level why the League might prefer this structure. Of course, fewer cases brought to hearing or even investigated by humans means lower financial costs; the "red light camera" can generate "speeding tickets" for almost nothing. But, more fundamentally, it is understood to be a liability protection play. The membership of the League was ill served by its former in-house counsel, who had no appetite for cases in which discipline decisions, however meritorious and devoid of bias, were subjected to the threat of litigation. Now, the idea is to avoid such lawsuits by turning decisions over to an entity unrelated to ACBL.

The third problematic front is the notion of online collusive cheating as, for the most part, a minor traffic violation meriting only a six-month suspension (“ticket”). This is a wholesale dismantling of the view of online collusive cheating that has developed over the years, to the point where the expected range of discipline for a finding of violation is “no less than two years Suspension to Expulsion.” (CDR 301(A)(7)). While this guideline may remain on the books, if in practice the vast majority of cases involving these violations are given six-month “speeding tickets,” then the guideline becomes “honored only in the breach.” Reducing the stigma of a cheating conviction to that of a “red light camera speeding ticket” is a fundamental violation of the League’s compact with its members that when they pay their card fees, they can have confidence in the integrity of the game because it matters as much to the League as it does to them.

The fourth problem with this structure is that evidenced by this case, which is that, simply and unequivocally, EDGAR, as presented here, is Not Ready for Prime Time for the purposes to which it is being shoehorned. The members of this panel represent a wide range of statistical backgrounds, from little or no special training to a doctorate in statistical genetics whose career involved frequent appearances in litigation cases as an expert witness on statistical matters. To a person, we do not find EDGAR, as presented here, persuasive or comfortably satisfying.

EDGAR is more opaque than we were led to believe it would be, putting charged parties in a position of defending themselves against a computer program to which they are not made privy. The KOM data is flawed in the ways and for the reasons set forth above. Choices and assumptions made about such matters as the “expert threshold” and the ratio of DEF+2 to DEC are unexplained or unsatisfactorily explained and do not appear to comport with our understanding. Statistical values for factors are assumed to be invariant with respect to the caliber of the players and the caliber of the opponents; this not only conflicts with our bridge experience, but, if false, obviates the probabilities that are calculated therefrom. Also, fairly astronomical (or infinitesimal) odds are often presented to many significant digits or with absurd precision in a way that strains credulity and casts doubt on them. In short, we would not reach a finding of comfortable satisfaction as to Ann Nutting solely on the basis of the EDGAR evidence presented here -- and we are very comfortably satisfied of Ann Nutting’s culpability.

In plain English, the boards speak. Showing bridge hands to disinterested bridge experts is not, as Mr. Platnick called it, “putting on a dog-and-pony show.” Bridge, unlike most of its fellow mind sports, has not been “solved,” meaning that a computer can always perform the optimal action. (Those of us who play with the BBO robots know this well!) It is a game in which the value of expert judgment, at least as of the date of this hearing report, exceeds the value of computer data. Nothing provides more comfortable satisfaction of a charged party’s guilt than seeing boards on which they take unusual actions that always hit partner’s actual hand. (Similarly, nothing could be more exculpatory than boards with unusual actions that miss partner’s hand.)

EDGAR may have value as a tool for investigators in conducting an initial review of a flagged pair or (perhaps more problematically) even flagging pairs for review to begin with. But we are afraid it has been asked to do too much. And, most of all, we are deeply troubled by the rushed backroom creation of a two-tier structure that creates vast opportunities (whether or not realized) for bias in the selection and routing of

cases, minimizes the significance of online collusive cheating in a way repugnant to the League's compact with its members, and is based on the use of a technology in its infancy which has not been subject to adequate external review or comment and which, in its debut, we find less than convincing.