

## **DISTRICT 17 NATIONAL DIRECTORS REPORT** **DECEMBER 2020**

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### **APPEALS AND CHARGES (CONTINUED)**

**SOURCE: MINUTES -- ACBL BOARD OF DIRECTORS ONLINE MEETING VIA ZOOM NOVEMBER 18-20, 2020. *These minutes are not final. They will be approved by the Board of Directors at the next scheduled meeting.***

#### **Item 203-01: Report on Hearings**

In the matter of Kenneth Hirshon and Jerry Ruther, the Appeals & Charges Committee approved a Negotiated Resolution entered into by the parties and ACBL management in which they admitted a violation of CDR § 301(A)(2), Collusive Cheating: Other. They each agreed to a suspension of 180 days followed by a probation of two years and a forfeiture of all masterpoints® won from April 1, 2020 until the effective date of the discipline. They will not be members in good standing during the length of their probationary periods.

In the matter of Allan Rosenblum and Martin Singer, the committee approved a Negotiated Resolution entered into by the parties and ACBL management in which they admitted a violation of CDR § 301(A)(2), Collusive Cheating: Other. They each agreed to a suspension of 180 days followed by a probation of two years and a forfeiture of all masterpoints won from April 1, 2020 until the effective date of the discipline. They will not be members in good standing during the length of their probationary periods.

In the matter of Lorna Davis, the committee approved a Negotiated Resolution entered into by the party and ACBL management in which she admitted a violation of CDR § 301(A)(2), Collusive Cheating: Other. She agreed to a suspension of 180 days followed by a probation of two years and a forfeiture of all masterpoints won from June 1, 2020 until the date of approval by the Appeals & Charges Committee. She will not be a member in good standing during the length of her probationary period. A&C Chair A.J. Stephani recused himself in the consideration of the matter of Lorna Davis.

#### **Item 203-02: CDR Revisions**

The following revisions is made to ACBL Codification, CHAPTER I – MEMBERSHIP A. MEMBERSHIP Section 2 – Definitions and Rights of ACBL Membership:

## 2.3 Definition of Member in Good Standing

2.3.1 An ACBL member shall be deemed to be in “good standing” when such member's dues, if dues are required, are current and such member is not currently:

Expelled;

Serving a term of suspension;

Serving an indefinite probation;

Serving a probation, the initial term of which was 24 or more months; or

Serving a term of probation following a suspension, the initial term of which was more than 90 days.

2.3.2 A member who is not in good standing (as defined herein) shall not be entitled to:

Serve in any elected or appointed position in the ACBL;

Receive any subsidy or remuneration from the ACBL;

Participate in and receive recognition for achievement in masterpoint races;

Receive recognition for achievement in masterpoint rank promotion;

Have an article published on the ACBL website or in any ACBL publication;

Vote in any election in which the general membership is the electorate;

Serve as a club manager or director;

Participate in events where such participation is prohibited by the conditions of contest;

Vote in a Hall of Fame election; and/or

Membership on the Goodwill Committee,

The following revisions be made to ACBL Codification, CHAPTER I – MEMBERSHIP D. GOODWILL, ETHICS AND ZERO TOLERANCE, Section 1 – Goodwill Committee:

1.3 Suspension or Removal from the Goodwill Committee. Membership in the Goodwill Committee is a lifetime appointment so long as the member is in “good standing”. See ACBL Codification, CHAPTER I – MEMBERSHIP D. MEMBERSHIP, sec. 2.3.1 and ACBL CDR Definitions. If a member loses “good standing” status, the Goodwill Committee appointment shall be removed. Upon regaining “good standing” status, a member shall not automatically be re-instated to the Goodwill Committee but is eligible for re-nomination to the committee. ACBL expulsion, suspension for one year or longer, or probation for two years or longer will result in permanent removal from the Goodwill Committee.

The following revisions be made to the CDR:

Definitions:

Hearing: a location where a disciplinary procedure under this CDR is held, which may be a physical location, virtual location via telephone or other electronic means, or a combination of these

Electronic Presence: participation in a hearing by means of a conference telephone or similar communications equipment or by electronic video screen communication; participation by such means shall constitute presence in person at a hearing as long as all persons participating in the hearing can hear each other at the same time and each person can participate

Member in Good Standing

An ACBL member shall be deemed to be in “good standing” when such member’s dues, if dues are required, are current and such member is not currently:

Expelled;

Serving a term of Suspension;

Serving an indefinite Probation;

Serving a Probation, the initial term of which was 24 or more months; or

Serving a term of Probation following a Suspension, the initial term of which was more than 90 days.

A member who is not in good standing (as defined herein) shall not be entitled to:

Serve in any elected or appointed position in ACBL;

Receive any subsidy or remuneration from ACBL;

Participate in Masterpoint races;

Receive recognition for Masterpoint rank promotion;

Publish an article in any ACBL publication;

Vote in any election in which general membership is electorate;

Serve as a club manager or director;

Participate in events where such participation is prohibited by Conditions of Contest; Vote in a Hall of Fame election; and/or

Membership on the Goodwill Committee.

(Reprinted in ACBL Codification, CHAPTER I – MEMBERSHIP A. MEMBERSHIP, § 2.3.1-2.3.2)

§ 201(D) Jurisdiction of Cases by a District Appellate Committee. A District Appellate Committee has jurisdiction over:

(1) An Appeal of the decision of that District's District Disciplinary Committee, except a decision against or for a Unit as an entity that had been brought as set out in CDR § 801.

(2) When otherwise expressly stated in this CDR.

§ 202(B) Jurisdiction of Cases by ACBL Disciplinary Committee. The ACBL Disciplinary Committee has jurisdiction over:

(4) Cases in which:

(i) Circumstances make it impractical or unfair for a matter to be handled by the District, or

(ii) The issues involved are of paramount importance to the ACBL.

ACBL Management may use the Executive Committee of the ACBL Board of Directors to make a determination under subrule (d).

In these disputes or cases, the ACBL Board of Directors delegates its duties as Charging Party to the Executive Director to act on its behalf. Any dispute or case that results in a Charge shall be heard by the ACBL Disciplinary Committee.

§ 202(C) Jurisdiction of Cases by ACBL Management. ACBL Management has jurisdiction over:

(1) Persons disciplined twice (other than Reprimand) within a 24 months period by a Disciplinary Body listed in CDR §§ 101-110 as set out in CDR § 305(A).

(2) Persons that violate Automatic Probation as set out in CDR § 305(A).

(3) Cases involving allegations of sexual harassment of a full-time or part-time ACBL employee or a Unit or District tournament employee.

(4) Administrative Violations as set out in CDR § 303.

(5) When otherwise expressly stated in this CDR.

§ 202(D) Jurisdiction of Cases by Appeals and Charges Committee. The A&C Committee has jurisdiction over:

- (8) Automatic review of all cases in which discipline imposed by a Disciplinary Body results in:
  - (a) a Suspension of one (1) year or longer;
  - (b) a finding of responsibility for a First Degree Ethical Violation; or
  - (c) in Expulsion.

§ 202(E) Jurisdiction of Cases by Ethical Oversight Committee. The EOC has jurisdiction over:

- (3) Cases involving ACBL members who have been found responsible by any other bridge organization for an Ethical Violation when referred by the ACBL Executive Director for re-sentencing purposes. (See CDR § 403 for procedure.)

**§ 502. SPECIFIC PROCEDURES FOR THE CONDUCT OF HEARINGS BY A DISTRICT DISCIPLINARY COMMITTEE, THE ETHICAL OVERSIGHT COMMITTEE, THE ONLINE ETHICAL OVERSIGHT COMMITTEE AND THE ACBL DISCIPLINARY COMMITTEE (See also CDR § 5.1.)**

(C) Charged Party's Rights. A person charged with one of the grounds for discipline set forth in CDR §§ 301-305 shall be entitled to:

- (1) Receive written notice of the date, time, and place of the hearing. Even if a person admits to a Charge, unless pursuant to a Negotiated Resolution (as set forth in CDR § 502(L)), a hearing shall nevertheless be held to determine and impose appropriate discipline.
- (2) Be furnished with a written statement of the Charges, the Complaint upon which the Charges are based (or a summary of the facts of such Complaint), and the name of the Complainant.
- (3) Be present at the hearing, which presence may be electronic and/or in person.
- (4) Be represented at the hearing by another person who shall not be a member of the ACBL Board of Directors.
- (5) Produce evidence and make statements on his/her own behalf.
- (6) Be present during the entire hearing, except during procedural determinations and deliberation on verdicts and imposition of discipline.
- (7) Question persons testifying. The chairperson may restrict this right if abused.

§ 603(A) Right to Appeal a Disciplinary Body’s Decision. Except for cases subject to Automatic Review under § 603(E)(1), the Disciplined Person and/or the Charging Party may file a written request to appeal with the chairperson of the Appeals and Charges Committee from

- (1) A decision of the Ethical Oversight Committee;
- (2) A decision of the District Appellate Committee;
- (3) A decision of the ACBL Disciplinary Committee; or
- (4) A decision of the Online Ethical Oversight Committee.

§ 603(E)(1) All disciplinary cases in which

- (i) a Suspension of one (1) year or longer is imposed;
- (ii) Expulsion is imposed; or
- (iii) a discipline for a First Degree Ethical Violation is imposed,

shall be automatically reviewed by the Appeals and Charges Committee within six (6) months of receipt of the decision or Hearing Report, whichever is earlier, by the ACBL (an “Automatic Review”). On such Automatic Review, the Appeals and Charges Committee may increase or reduce discipline imposed as well as affirm, reverse or modify the disciplinary determination or remand the case for further proceedings. In conducting such Automatic Review, the Appeals and Charges Committee shall not conduct a new hearing but shall review the previous hearing to ensure that: (1) procedures were followed in accordance with the CDR; (2) the decision and discipline imposed was supported by the evidence; (3) a fair hearing was conducted; or (4) no person on the hearing panel had a bias affecting the decisions of the panel, when such objection was raised at the hearing.

§ 605(B) Procedures on Automatic Review or When Permission to Appeal is Granted

- (1) Standard of Appellate Body Review. Once permission to appeal has been granted, other than appeals as set out in CDR §§ 601 and 603(E), the appellate body’s considerations shall address only the allegation(s) raised in the written statement that accompanied the request to ensure that: (1) the decision was supported by the weight of the evidence presented at the hearing; (2) the procedures were followed in accordance with this CDR; (3) the discipline imposed was supported by the evidence; and/or (4) no person on the hearing panel had a bias which affected the decisions of the panel, when objection to such bias was raised at the hearing, as the case

may be. In general, appeals will be considered on the record made in prior hearings. Other than as provided in CDR § 601, no new evidence shall be allowed and the appellate body may not conduct a new hearing. A person's past disciplinary record, should one exist, may not be considered in review of the merits of the issues being appealed but may be considered as to the severity of the discipline under review.

**§ 605(C) Status of Disciplinary Body Whose Decision is Appealed or on Automatic Review**

**§ 903(C) Timing.** All disciplines will be published on the ACBL website for the length of time of the discipline levied. Hearing reports made available under § 903(A) will be published on the ACBL website upon issuance. Expulsions shall also be reported in the ACBL Bridge Bulletin. (See also CDR § 401.)

Effective immediately