

# DECISION

of the

## EUROPEAN BRIDGE LEAGUE DISCIPLINARY COMMISSION

on 10 February 2017

President: Mr. Gabor **Winkler** (HUN)

Members: Mr. Peter **Schaltz** (DEN)  
Mr. Rex **Anderson** (IRL)

In the case of

**Mr. Cezary Balicki**  
**Mr. Adam Zmudzinski**

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## **I. Facts and procedure**

1. The President of the European Bridge League (EBL) appointed an Investigation Committee – consisting of Messrs Eric Laurant, Jan Kamras and Jean-Paul Meyer – in order to conduct investigations into allegations that Messrs Balicki and Zmudzinski cheated at the 2014 EBL European Championships in Opatija, Croatia (the “Competition”).
2. The Investigation Committee conducted an investigation into ~~on~~ the allegations of cheating, and obtained experts opinions of bridge and statistics/mathematics experts, as well as the opinion of 13 “observers” about placement of calls on the bidding tray on the second round of bidding. The Investigation Committee reached the conclusion that disciplinary proceedings should be commenced against the Players for using illicit prearranged methods and made such a recommendation to the EBL Executive Committee.
3. Based on the recommendation of the Investigation Committee, the EBL Executive Committee decided to constitute a Disciplinary Commission to hear and determine the cheating allegations made against the Players.
4. The Disciplinary Commission was ultimately composed as follows: Mr. Gabor Winkler (President), Mr. Peter Schaltz and Mr. Rex Anderson (the “Commission”). The Commission was assisted by Me Serge Vittoz – attorney-at-law in Lausanne, Switzerland – as counsel.
5. After the exchange of written submissions, a hearing was held on 2 February 2017, at the EBL Headquarters in Lausanne, Switzerland.

## **II. The Position of the Parties**

6. The EBL’s position is, in substance, the following:
  - a) The standard of proof in disciplinary matters is “comfortable satisfaction” of the Disciplinary Commission;
  - b) The expert opinions sought by the Investigation Committee categorically demonstrate that the Players exchanged information through prearranged methods of communication;
  - c) The evidence proves that the Players have infringed Article 3 of the EBL Disciplinary Code and Law 73 of the Laws of Duplicate Bridge;

7. The Players' position is, in substance, the following:
- a) The assessment of the call placements by the observers was subjective and not precise; it should have been made by technical means;
  - b) The bridge experts' assessments of hand strength filed by the EBL is contradicted by the Players' own experts, who are world class bridge players, playing the same bridge system as the Players (the "Polish Club");
  - c) Therefore, in any circumstances, the EBL has failed to demonstrate any correlation between cards placement and the strength of the Players' hands;
  - d) No cheating, and therefore no breach of the applicable regulations, was therefore demonstrated.

### **III. Merits**

#### **A. Jurisdiction**

8. According to article 33.8 of the EBL Statutes, the Executive Committee has the competence to *"prescribe a disciplinary code of conduct with rules of procedures and sanctions and to delegate the enforcement of the code of conduct to a Disciplinary Commission"*.
9. The Executive is also competent to appoint the Commission (art. 33.11).
10. The Commission therefore concludes that it is competent to decide on the present matter, which is not contested, in principle, by the Parties.

#### **B. The applicable standard of proof**

11. In accordance with the EBL's position, which is not contested by the Players, the Commission considers that the applicable standard of proof in sports disciplinary proceedings is the "comfortable satisfaction", which is higher than a balance of probabilities but lower than the criminal standard of beyond reasonable doubt (see, for example, CAS 2009/A/1920).

#### **C. The applicable rules**

12. The EBL Disciplinary Code sets out certain types of reprehensible conduct, which may give rise to a sanction. Examples of reprehensible conduct, in particular (i) "illicit actions or behaviour affecting the proper running of a competition or its result" are considered as reprehensible (Article 3, para. 3) and "serious infringement of the EBL Statutes or Regulations" (Article 3, para. 1).

13. The EBL General Conditions of Contest which applied to the matches in the Competition incorporated the EBL Bidding Box, Bridgemate and Screen Regulations made April 2013 (“the Regulations”). Rule 3 of the Regulations states: “A player’s first call should touch the extreme left of his own segment of the bidding tray, with subsequent calls overlapping neatly and evenly to the right”.

14. Law 73, chapter B (“inappropriate communication between partners”) of the Laws of Duplicate Contract Bridge, which have been adopted by the EBL, reads as follows:

1. *Partners shall not communicate by means such as the manner in which calls or plays are made, extraneous remarks or gestures, questions asked or not asked of the opponents or alerts and explanations given or not given to them.*
2. *The gravest possible offense is for a partnership to exchange information through prearranged methods of communication other than those sanctioned by these laws.*

15. As to the applicable sanctions which can be applied, Article 4 of the EBL Disciplinary Code reads as follows:

*Article 33.8 of the Statutes makes provision for a certain number of sanctions liable to be imposed on NBOs persons. Depending on the gravity of the case, sanctions can take the following form:*

1. *warning, possibly published on the EBL website;*
2. *suspension of the NBO or the person concerned from one or several official events;*
3. *exclusion from participating in EBL activities;*
4. *banning from participating in EBL events;*
5. *monetary fine.*

#### **D. The alleged violation of the applicable rules**

16. The Commission considers that the EBL has not established to the standard of comfortable satisfaction that the Players have breached Article 3 of the EBL Disciplinary Code through the use of the exchange of information by a prearranged method of communication, which is forbidden by Law 73 of the Laws of Duplicate Bridge.

17. To reach this conclusion, the Commission studied the video footage of the relevant 14 matches of the Competition and assessed all other evidence provided by the Parties.
18. The Commission notes that the placement of many of the calls was unusual, which necessarily raises questions as to the reasons for such departures from the Regulations. The Commission considers however that, in the case at hand, this should not be considered as a “*serious infringement of the EBL Statutes or Regulations*” (art. 3 para. 1 of the EBL Code of Discipline), and that therefore the Players should not be disciplinary sanctioned on that basis.
19. Furthermore, the Commission is of the opinion that the EBL has failed to demonstrate any correlation between the – unusual – call placements and the strength of the Players’ hands. In this regard, the Commission first notes that two of the experts refused to give evidence. The Disciplinary Commission did not give any weight to the disputed evidence of an expert witness who did not give evidence at the hearing. Furthermore, in the course of the hearing it appeared that at least three of the bridge experts called by the EBL were not top class specialists of the Polish Club system, which necessarily raised questions about the accuracy of their opinions. Therefore, the EBL position on the strength of the hands, which was based on an average of all seven bridge experts’ assessment, cannot be taken into consideration.
20. In view of the above, the Commission considers that the EBL has failed to demonstrate, to its comfortable satisfaction, that any correlation existed between the call placements and the strength of the Players’ hands during the Competition, and, therefore, that the Players did not infringe Article 3 of the EBL Disciplinary Code and Law 73 of the Laws of Duplicate Bridge.
21. The Commission therefore confirms the Players cannot be sanctioned.

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## ON THESE GROUNDS

### The Disciplinary Commission hereby rules:

1. Messrs Cezary Balicki and Adam Zmudzinski have infringed Rule 3 of the Regulations during the 2014 EBL European Championships in Opatija, Croatia.
2. The evidence does not sustain a conviction of Messrs Cezary Balicki and Adam Zmudzinski for illicit exchange of information through prearranged methods of communication during the Competition.
3. No sanction shall be imposed on the Messrs Cezary Balicki and Adam Zmudzinski.
4. There shall be no order as to costs.
5. All other motions or prayers for relief are dismissed.

Date of the decision: 10 February 2017

## THE DISCIPLINARY COMMISSION



**Gabor Winkler**  
President



**Peter Schaltz**



**Rex Anderson**