

**TENNIS SOUTH AFRICA NPC
DISCIPLINARY POLICY**

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TENNIS SOUTH AFRICA DISCIPLINARY POLICY

1. DEFINITIONS AND INTERPRETATION

1.1 In this Policy, unless the context indicates the contrary:

1.1.1 **Appeals Committee** means the appeals committee established in terms of clause 20.2;

1.1.2 **Appeals Committee Member** means a member of the Appeals Committee;

1.1.3 **Appellant** means the party who institutes an appeal;

1.1.4 **Appointed Official** means an official appointed by TSA to receipt and assess Complaints;

1.1.5 **Baseless Complaint** means a Complaint that TSA considers, on reasonable grounds, to be without merit and/or substance and/or without sufficient evidence to be substantiated, or which TSA considers to be in respect of an act or omission which does not constitute Prohibited Conduct;

1.1.6 **Board** means the board of directors of TSA;

1.1.7 **Chairman** means the Chairman of the Disciplinary Committee, the Disciplinary Tribunal or the Appeals Committee as required by the context;

1.1.8 **Child** shall mean any person under the age of eighteen (18) years and **Children** shall have the corresponding meaning;

1.1.9 **Complainant** means:

1.1.9.1 in relation to a Complaint, the person who submits the Complaint to TSA;
and

1.1.9.2 in relation to a Default, TSA;

1.1.10 **Complaint** means a complaint submitted to TSA in relation to Prohibited Conduct;

1.1.11 **Council of Members** means TSA's Council of Members as defined in TSA's MOI;

1.1.12 **Default** means a default as defined in TSA's In Competition Code of Conduct;

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- 1.1.13 **Disciplinary Committee** means the disciplinary committee established by the Board;
- 1.1.14 **Disciplinary Tribunal** means the disciplinary tribunal established in terms of clause 10;
- 1.1.15 **Disciplinary Tribunal Members** means the members of the Disciplinary Tribunal from time to time as set out in clause 11.4;
- 1.1.16 **Investigating Officer** means the person appointed by the Disciplinary Committee to assist in dealing with a Complaint referred to the Disciplinary Committee.
- 1.1.17 **Member** means a registered member of TSA as defined in TSA's MOI;
- 1.1.18 **Policy** means this Disciplinary Policy, as amended or replaced from time to time;
- 1.1.19 **Prohibited Conduct** means any conduct prohibited by TSA under any TSA Policy, including any conduct relating to a Default;
- 1.1.20 **Respondent** means:
- 1.1.20.1 in relation to a Complaint, a person against whom a Complaint is made; or
- 1.1.20.2 in relation to a Default, a person to whom a Default is given by TSA in relation to alleged Prohibited Conduct;
- 1.1.20.3 in relation to an appeal, the counter-party to the Appellant;
- 1.1.21 **Trivial Complaint** means a Complaint that TSA considers, on reasonable grounds, to hold little weight, consequence or importance;
- 1.1.22 **TSA** means Tennis South Africa NPC, a non-profit company registered in South Africa under registration number 2000/018796/08, with its principal place of business situated at 269 Von Willich Ave, Corporate Park 66, Block D, round floor, Centurion, Gauteng;
- 1.1.23 **TSA's MOI** means TSA's Memorandum of Incorporation;
- 1.1.24 **TSA's Policies** means all of TSA's policies and/or codes of conduct of any description, in effect from time to time and **TSA Policy** means any one of them as required by the context;

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- 1.1.25 **Vexatious Complaint** means a Complaint that TSA considers, on reasonable grounds, to have been made for or motivated by an improper purpose or with the intention of causing inconvenience, harm, harassment or expense to the Respondent.
- 1.2 In this Policy, unless the context requires otherwise:
- 1.2.1 headings are for convenience only and do not affect the interpretation of this Policy;
- 1.2.2 words denoting any one gender include all other genders and words denoting the singular shall include the plural and *vice versa*;
- 1.2.3 a reference to:
- 1.2.3.1 a **business day** means any day other than a Saturday, Sunday or statutory public holiday in the Republic of South Africa;
- 1.2.3.2 a **calendar month** is a reference to one of the 12 (twelve) months of the year from the first to the last day of such month;
- 1.2.3.3 a **clause** is a reference to a clause of this Policy;
- 1.2.3.4 a **person** includes an individual, firm, company, partnership, body corporate, organisation, trust, an unincorporated association and any governmental authority, in each case whether or not having separate legal personality;
- 1.2.4 when any number of days is prescribed in this Policy, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day.
- 1.3 Specifying anything in this Policy after the words ‘including’, ‘includes’ or ‘for example’ or similar expressions shall not limit what else is included unless there is express wording to the contrary.
- 1.4 Any reference in this Policy to an enactment is to that enactment as at the date on which this Policy is approved and as amended or re-enacted from time to time.

2. STATUS AND PURPOSE OF THIS POLICY

- 2.1 TSA is in terms of the National Sports and Recreation Act, 110 of 1998, designated as a national federation and as such, is responsible for the administration and control of the sport of tennis in South Africa.
- 2.2 To carry out this mandate, TSA has introduced and implements TSA's Policies.
- 2.3 The Board is mandated in terms of TSA's MOI, to deal with disciplinary matters and impose sanctions on Members for the infringement of TSA's Policies, in its discretion and as it deems fit.
- 2.4 This Policy is issued by resolution of the Board and approved by the Council of Members for the purpose of addressing Complaints and Defaults in relation to Prohibited Conduct in a fair and consistent manner.
- 2.5 For the sake of clarity, this Policy is without prejudice to TSA's rights and/or obligations in law or otherwise, to:
 - 2.5.1 report any alleged Prohibited Conduct which it believes to be of a criminal nature to the South African Police Services;
 - 2.5.2 suspend its consideration of a Complaint or Default pending any criminal investigation and/or prosecution relating to alleged Prohibited Conduct which forms all or any part of a Complaint or Default; and/or
 - 2.5.3 pursue a civil claim against any person who is not subject to this Policy or who refuses to acknowledge that it is binding on him/her/it, refuses to submit to TSA's procedures and/or to comply with any provisions set out herein.

3. APPLICATION OF THIS POLICY

- 3.1 This Policy is binding on, and must be complied with by:
 - 3.1.1 all Members; and
 - 3.1.2 those persons who are not Members but who through their direct or indirect participation in TSA-sanctioned tournaments, events, activities and the like, are bound by TSA's Policies.
- 3.2 This Policy does not apply to a Member whilst participating in any tennis event held outside of South Africa.

- 3.3 This Policy is binding on a Member whilst participating in any international tennis event held in South Africa. TSA may in relation to the Member's participation in such event, receive Complaints and/or investigate any alleged Prohibited Conduct of a Member, conduct disciplinary proceedings against the Member concerned in relation to any alleged Prohibited Conduct and impose sanctions in relation to any alleged Prohibited Conduct in terms of any of TSA's Policies, regardless of whether the alleged Prohibited Conduct is simultaneously subject to, or addressed by, any sporting code or policy of any other tennis federation or body and regardless of the outcome of any proceedings against the Member under such other sporting code or policy.
- 3.4 Any sanction imposed by TSA in South Africa in relation to a Member's participation in any international tennis event held in South Africa applies only within South Africa and takes precedence over any sanction imposed by any international tennis federation or body, which will only apply to the Member's participation in tennis events held outside of South Africa.
- 3.5 This Policy applies to all Prohibited Conduct except to the extent that the Prohibited Conduct in question is otherwise addressed and/or dealt with under TSA's In-Competition Code of Conduct, Anti-Doping Policy or Child Safeguarding Policy.
- 3.6 Where there is any inconsistency between this Policy and the provisions of the TSA Policies listed in clause 3.5, the provisions of the TSA Policies listed in clause 3.5 shall have precedence.

4. PROCEDURAL OBLIGATIONS OF MEMBERS

Every Member (excluding natural persons) must:

- 4.1 publish, promote and make this Policy available to its members;
- 4.2 ensure as far as possible that its members comply with this Policy;
- 4.3 refer all Complaints received by it to TSA in accordance with the processes specified in this Policy; and
- 4.4 do what TSA may require of it to enforce any sanction imposed under this Policy against any of its members.

5. POLICY REVIEW AND DISTRIBUTION

- 5.1 This Policy is available at www.tennissa.co.za or on written request to TSA at info@tennissa.co.za.

- 5.2 The Board may review and amend this Policy as it sees fit from time to time. Any amendments shall come into full force and effect upon the date on which they are approved by resolution of the Council of Members as required by TSA's MOI.
- 5.3 TSA welcomes recommendations for amendments to this Policy which can be sent to TSA in writing.
- 5.4 Any queries relating to this Policy can be directed to TSA at info@tennissa.co.za.

6. NATURAL JUSTICE

- 6.1 The Disciplinary Committee, Disciplinary Tribunal and Appeals Committee are not courts of law but are domestic in nature as they are constituted by TSA.
- 6.2 TSA subscribes to, and applies the principles of, natural justice in all of its disciplinary proceedings and processes.
- 6.3 The principles of natural justice mean that, in the event of a Complaint or a Default:
- 6.3.1 a Respondent must be fully informed of the Complaint or Default against him;
 - 6.3.2 a Respondent should not be judged without a fair hearing in which he is given the opportunity to respond to the Complaint or Default and the evidence against him;
 - 6.3.3 the authority making a finding in respect of a Complaint or Default must be, and appear to be, impartial and without bias; and
 - 6.3.4 a Respondent is entitled to receive reasons for any decisions made in relation to a Complaint or Default against him.

7. COMPLAINTS

Submission and Assessment

- 7.1 All Complaints must be submitted to TSA:
- 7.1.1 within ten (10) business days after the date on which the alleged Prohibited Conduct occurred, or such extended period granted by TSA if in TSA's discretion, the circumstances warrant such extension;
- 7.1.2 in the form of a written sworn affidavit, in which the Complainant must (i) identify the Respondent; (ii) set out in detail the alleged Prohibited Conduct; (iii) set out the date, time and place at which the alleged Prohibited Conduct occurred; (iv) set out any other relevant information relating to the Complaint; and (v) include relevant documentary evidence (if any) relating to the Complaint.
- 7.2 The Appointed Official will receipt and assess all Complaints to ensure they meet the form and content requirements in clause 7.1.
- 7.3 The Appointed Official may in his sole discretion, reject any Complaint that does not satisfy the requirements of clause 7.1. If a Complaint is rejected for this reason, the Appointed Official must notify the Complainant in writing that the Complaint has been rejected and the reasons therefor.
- 7.4 TSA shall not consider the Complaint any further unless and until the Complainant resubmits the Complaint to TSA and the Appointed Official is satisfied that the Complaint meets the requirements of clause 7.1.

Referral to the Disciplinary Committee

- 7.5 A Complaint that, in the opinion of the Appointed Official, meets the requirements of clause 7.1 will be referred to the Disciplinary Committee for investigation.
- 7.6 The Appointed Official must give notice of such referral to the Complainant.

Investigation by the Investigating Officer

- 7.7 The Disciplinary Committee is constituted by the Board and comprises members of the Board.
- 7.8 After receipt of the Complaint from the Appointed Official, the Disciplinary Committee shall refer the Complaint to an Investigating Officer for further consideration.

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- 7.9 The Investigating Officer must:
- 7.9.1 notify the Complainant in writing that he is considering the Complaint;
 - 7.9.2 notify the Respondent in writing of the details of the Complaint against him, the Prohibited Conduct he is alleged to have committed, and the possible sanctions that may be imposed under this Policy; and
 - 7.9.3 advise the Respondent that he may at his election, provide TSA with a written statement, witness statements and other evidence in response to the Complaint against him within 14 days after the date of receipt of TSA's notice or such longer period determined by TSA.
- 7.10 The Investigating Officer may not disclose any documents or evidence received from the Complainant to the Respondent.
- 7.11 If the Respondent is a Child, all correspondence in respect of the Complaint must be given to and received from the Respondent's parent or guardian, on the Respondent's behalf.
- 7.12 The Investigating Officer shall investigate the merits of the Complaint and may if he deems it necessary, at any time consult with and/or obtain further information from the Complainant, the Respondent and/or any other person in relation to the Complaint.
- 7.13 On conclusion of his investigation, the Investigating Officer shall provide the Disciplinary Committee with a report setting out all evidence and/or information which he has gathered relating to the Complaint as well as his recommendations, if any, as to how the Complaint should be addressed.

Consideration by the Disciplinary Committee

- 7.14 The Disciplinary Committee shall consider the Investigating Officer's report, including the evidence and/or information relating to the Complaint and the Investigating Officer's recommendations, and may at its election, request to consult with or to obtain further information from the Complainant, Respondent or any other person in relation to any aspect of the Complaint or the documentation received.

Disciplinary Committee's Determination

- 7.15 When it has considered the Complaint, the Disciplinary Committee may in addition to any provisional suspension which it may elect to issue in terms of clause 9:
- 7.15.1 notify the Complainant and Respondent in writing that the Complaint is rejected by TSA on the basis that it is a Vexatious Complaint, Baseless Complaint or Trivial Complaint, together with reasons therefor;
- 7.15.2 notify the Complainant and Respondent in writing that it recommends settlement of the Complaint in accordance with the terms of a plea agreement proposed by the Investigating Officer, as amended by the Disciplinary Committee if applicable, failing which the Complaint will be referred to the Disciplinary Tribunal for further consideration; or
- 7.15.3 refer the Complaint to the Disciplinary Tribunal for further consideration and notify the Complainant and Respondent in writing of such referral.
- 7.16 If the Disciplinary Committee determines that a Complaint is a Vexatious Complaint, Baseless Complaint or Trivial Complaint, the Complaint will thereafter be given no further consideration by TSA.
- 7.17 If the Complainant and Respondent conclude the proposed plea agreement, such plea agreement shall be in full and final settlement of the Complaint and the Complainant may not require the Complaint to be reconsidered by TSA in any respects thereafter.
- 7.18 The Complainant shall have no right of appeal against the Disciplinary Committee's determination in terms of this clause 7.

Complaints initiated by TSA

- 7.19 The Board may in its discretion, initiate and submit a Complaint in respect of any alleged Prohibited Conduct to the Disciplinary Committee for further investigation by the Investigating Officer.
- 7.20 The details of any such Complaint together with supporting evidence and information must be set out in a written Board report.
- 7.21 The provisions of clauses 7.9 to 7.18, read with the necessary changes to the context, apply in relation to any such Complaint submitted by the Board.

8. CONSIDERATION OF A DEFAULT BY THE DISCIPLINARY COMMITTEE

- 8.1 Every Default is referred to the Disciplinary Committee for consideration.
- 8.2 The Investigating Officer shall investigate the Default on the basis set out in clauses 7.9 to 7.13 read with the necessary changes to the context and shall provide the Disciplinary Committee with a report setting out all evidence and/or information relating to the Default as well as his recommendations regarding the Default.
- 8.3 The Disciplinary Committee must consider the Investigating Officer's report, the evidence and/or information relating to the Default and the Investigating Officer's recommendations and may at its election, request to consult with or to obtain further information from the Respondent or any other person in relation to any aspect of the Default or the documentation received.
- 8.4 When it has completed its consideration of the Default, the Disciplinary Committee may:
- 8.4.1 confirm or vary (unless in terms of a plea agreement, not increase) the sanction imposed on the Respondent in terms of the Default;
 - 8.4.2 notify the Respondent in writing that it recommends settlement of the Default in accordance with the terms of a plea agreement proposed by the Investigating Officer, as amended by the Disciplinary Committee if applicable; or
 - 8.4.3 refer the Default to the Disciplinary Tribunal for consideration and notify the Respondent in writing of such referral.
- 8.5 If the Respondent concludes the proposed plea agreement, such plea agreement shall be in full and final settlement of the Default and the Default may not be reconsidered in any respects thereafter.
- 8.6 The Respondent shall have no right of appeal against the Disciplinary Committee's determination in terms of this clause 8.

9. PROVISIONAL SUSPENSION

- 9.1 If, when considering a Complaint, the Disciplinary Committee, in its sole and absolute discretion, determines that the alleged Prohibited Conduct is of such a serious nature that the Respondent may be a risk to the safety and welfare of others or damaging to the reputation of TSA or to the sport of tennis generally, or

if the Complaint relates to alleged match-fixing, betting or Prohibited Conduct relating to the safeguarding of Children in terms of TSA's Policies, the Disciplinary Committee may provisionally suspend the Respondent's membership of TSA with immediate effect, for a period of time specified by the Disciplinary Committee.

9.2 A provisional suspension may include any terms and conditions as the Disciplinary Committee in its sole discretion deems appropriate, including any one or more of the following:

9.2.1 suspension or removal of the Respondent from any role or duty the Respondent holds at TSA or with any of its Members;

9.2.2 a ban on the Respondent from participating in any events or tournaments sanctioned by TSA; and/or

9.2.3 the imposition of a requirement on the Respondent not to make contact of any nature with any person to whom the Complaint and/or the investigation into the Complaint relates.

9.3 If a provisional suspension is imposed on the Respondent, TSA must notify the Respondent thereof in writing. The provisional suspension shall commence on the date of deemed receipt by the Respondent of such notice.

9.4 There is no right of appeal against a decision by the Disciplinary Committee to provisionally suspend a Member under this clause 9.

10. CONDUCT OF THE PARTIES

10.1 The Complainant and Respondent must not in any way attempt to frustrate or hamper any investigations into the Complaint or Default, unduly influence any witnesses or other relevant persons, tamper in any way with any evidence relating to the Complaint or Default and/or otherwise attempt to unduly influence the outcome of the investigations or the findings in relation to the Complaint or Default.

10.2 If at any point in time, the Complainant is found to have:

10.2.1 acted untruthfully, falsely or in a misleading manner, either in making the Complaint or at any point in time during the applicable proceedings; or

10.2.2 falsely and deliberately accused a Respondent of engaging in Prohibited Conduct;

such conduct by the Complainant shall constitute Prohibited Conduct.

- 10.3 The Complainant and all other persons subject to this Policy who may be able to assist in TSA's investigations, undertake to co-operate fully in such investigations in the manner required by TSA, including by attending interviews and/or providing sworn statements setting out his/her knowledge of the relevant facts and circumstances.
- 10.4 If any person who is party to any proceedings in terms of this Policy is or becomes a suspect in a criminal investigation, or has been charged and/or arrested by the South African Police Service, in relation to conduct to which the Complaint relates, such person shall not be required to give any evidence or make any statements to TSA to the extent that doing so may give rise to self-incrimination.

11. DISCIPLINARY TRIBUNAL COMPOSITION

Referrals to the Disciplinary Tribunal

- 11.1 If the Disciplinary Committee refers a matter to the Disciplinary Tribunal, it must:
- 11.1.1 notify the Board thereof to enable the Board to convene the Disciplinary Tribunal; and
- 11.1.2 provide the Disciplinary Tribunal with a written report setting out the reasons for the referral, together with the Investigating Officer's report and all evidence and/or information relating to the Complaint or Default.

Seat

- 11.2 Unless TSA determines otherwise, the seat of the Disciplinary Tribunal and its proceedings shall be at 269 Von Willich Ave, Corporate Park 66, Block D, round floor, Centurion, Gauteng.

Composition

- 11.3 A separate Disciplinary Tribunal is convened in respect of each Complaint or Default which is referred to the Disciplinary Tribunal by the Disciplinary Committee.
- 11.4 The Disciplinary Tribunal comprises:
- 11.4.1 at least 3 Disciplinary Tribunal Members;
- 11.4.2 a person appointed by the Chairman to take minutes of the proceedings;

- 11.4.3 either or both (as the case may be):
 - 11.4.3.1 the Respondent and a representative of TSA; and/or
 - 11.4.3.2 the Complainant and Respondent;
 - 11.4.4 witnesses, if any.
- 11.5 The Disciplinary Tribunal Members must include:
 - 11.5.1 an attorney of 10 (ten) years standing appointed by the Board, who shall be the Chairman; and
 - 11.5.2 at least two other persons appointed by the Chairman, at least one of whom must have a thorough knowledge and understanding of the game of tennis.
- 11.6 All Disciplinary Tribunal Members other than the Chairman, are appointed by the Chairman.

Independence and impartiality

- 11.7 The Disciplinary Tribunal Members must act independently and impartially at all times and for this reason, the Disciplinary Tribunal Members may not include any person who:
 - 11.7.1 is a member of the Board;
 - 11.7.2 has had any prior involvement with the matter in question;
 - 11.7.3 is an employee of TSA; or
 - 11.7.4 renders services to TSA, whether such services are rendered in his personal capacity or through any association, business, close corporation, company, concern, enterprise, firm, partnership, joint venture, sole proprietorship, trust, undertaking or similar entity of which he may be a shareholder, director, member, employee, partner, proprietor or otherwise.
- 11.8 On being appointed to the Disciplinary Tribunal and at any relevant time thereafter, each Disciplinary Tribunal Member must disclose in writing any facts or circumstances known to him which in the opinion of a reasonable person, might call his impartiality or independence into question.
- 11.9 Any objection of any person to the independence or impartiality of a Disciplinary Tribunal Member must be made to the Board in writing without delay, and in any

event within 7 (seven) days of deemed receipt of the Directions referred to in clause 15 or within 7 (seven) days after the objecting person learns of the facts or circumstances giving rise to the objection. Failure to give such notice constitutes a waiver of that objection. The Board will rule on the objection and its ruling will be final and binding.

- 11.10 If a Disciplinary Tribunal Member is unable, unwilling or unfit to hear the matter (whether because of an objection to his independence or impartiality or otherwise), the Chairman may, in his sole discretion, either appoint another person to replace such person as a Disciplinary Tribunal Member or authorise the remaining Disciplinary Tribunal Members to hear the matter alone.

Confidentiality

- 11.11 All Disciplinary Tribunal Members and any other persons present, shall keep all matters relating to the Disciplinary Tribunal hearing strictly confidential.

12. POWERS OF THE DISCIPLINARY TRIBUNAL

- 12.1 The Disciplinary Tribunal has all powers necessary for, and incidental to, the discharge of its responsibilities, including to extend or abbreviate any time-limit or adjourn, postpone or suspend its proceedings should it consider it necessary.
- 12.2 Amongst other things, the Chairman may on application of a party to the Disciplinary Tribunal or of his own motion, order:
- 12.2.1 consolidation before the same Disciplinary Tribunal of two or more separate proceedings in respect of any Complaint and/or Default;
- 12.2.2 that concurrent hearings be held in relation to such proceedings; and/or
- 12.2.3 that third parties intervene or be joined in the proceedings and make a single final decision or separate decisions in respect of all parties.

13. DISCIPLINARY TRIBUNAL PROCEDURES

- 13.1 The procedure adopted by the Disciplinary Tribunal in dealing with a Complaint or Default, and all matters relating thereto shall except as set out in this Policy, be determined by the Chairman.
- 13.2 The Disciplinary Tribunal shall hear and determine each Complaint or Default which is referred to it by the Disciplinary Committee, including all witnesses and evidence, in the manner which the Chairman considers appropriate in the

circumstances, including in person and/or by way of tele, web-based or video conference or “on the papers”, provided that natural justice is applied and observed.

14. REPRESENTATION

14.1 A party to Disciplinary Tribunal proceedings may be assisted by a third party but may not be represented by an attorney or advocate without the prior authorisation of the Disciplinary Tribunal. The Disciplinary Tribunal may grant such authorisation if in its discretion, it considers such representation to be in the interests of natural justice. Any such representation is at the party's own cost.

14.2 If any party to the proceedings is a Child, the Child's parent or guardian must accompany the Child and assist the Child at the hearing.

15. DIRECTIONS TO THE PARTIES

15.1 Once constituted, the Disciplinary Tribunal shall consider the report and other documents received from the Disciplinary Committee in terms of clause 11.1.2.

15.2 As soon as practicable thereafter, the Chairman will issue written directions (**Directions**) to the parties in relation to the procedure and timetable to be followed in the proceedings.

15.3 In particular, the Directions will:

15.3.1 set a date, time and venue of the Disciplinary Tribunal hearing and whether it will be held in person or otherwise;

15.3.2 contain amongst other things:

15.3.2.1 a summary of the Complaint or Default and the case put forward by each party;

15.3.2.2 the provisions of clause 14 with regard to representation and legal representation;

15.3.2.3 the rights of each party to cross examine witnesses and to call witnesses of its own;

15.3.2.4 the procedure for the exchange of written submissions and evidence prior to the hearing.

16. DISCIPLINARY TRIBUNAL PROCEEDINGS

Onus and burden of proof

- 16.1 The purpose of the Disciplinary Tribunal proceedings shall be to determine whether the Respondent has engaged in Prohibited Conduct as alleged.
- 16.2 The party who alleges a claim or fact bears the onus of proving it.
- 16.3 The test to be applied by the Disciplinary Tribunal in coming to its determination shall be on a balance of probabilities, meaning that it is more probable than not.

Language of the proceedings

- 16.4 All proceedings shall be in the English language.
- 16.5 A party wishing to rely on evidence or documents in another language must provide for their interpretation to English at his own cost. A party, or a party's witness, who wishes to give oral evidence in another language must bring an independent translator to translate that evidence into English, at that party's own cost.

Attendance and submissions

- 16.6 If the Chairman determines that the matter will be heard in person, including by way of tele, web-based or video conference, the Respondent and any witnesses will be required to attend the Disciplinary Tribunal hearing at the time and place as advised in the Directions, or at such other date determined by the Chairman.
- 16.7 Unless the Chairman orders parties to make submissions in writing only, all parties should attend hearings in person, along with any representative(s).
- 16.8 If within thirty (30) minutes of the notified time for commencement of the hearing, the Respondent or any witnesses are not present, the Chairman may elect to conduct the hearing in the absence of the Respondent or witness/es (even if no written submissions have been received) or adjourn the Disciplinary Tribunal hearing and schedule a new date and time on which the Disciplinary Tribunal hearing will convene.
- 16.9 Each attendee to the hearing shall bear its own costs in relation to the hearing.
- 16.10 The hearing is conducted on a confidential basis and may only be attended by the persons listed in clause 11.4.

- 16.11 The Disciplinary Tribunal may question a witness and/or control the questioning of a witness by a party. No formal rules regarding the admissibility of evidence shall apply.

Decision making

- 16.12 The Disciplinary Tribunal shall make its decision as soon as practicable following conclusion of the hearing and will provide a statement of written reasons for its decision.
- 16.13 The Disciplinary Tribunal may neither discuss nor consider any prior Prohibited Conduct of, and/or sanctions against, the Respondent except as provided for in clause 17.2.
- 16.14 Tribunal decisions shall be made by resolution passed by the majority of the Disciplinary Tribunal Members. No Disciplinary Tribunal Member may abstain from participating in the decision.
- 16.15 The Tribunal's decision and statement of written reasons for its decision shall be issued by the Chairman and a copy thereof furnished to TSA's President, TSA's CEO, the Complainant and Respondent, the President of the Member of which the Respondent is a member and any other party affected by the decision.

17. DISCIPLINARY TRIBUNAL SANCTIONS

- 17.1 If the Disciplinary Tribunal determines that the Respondent has engaged in Prohibited Conduct it may impose any sanction on the Respondent which it deems appropriate in the circumstances, any of which may be fully or partially suspended, including but not limited to one or more of the following:
- 17.1.1 a formal written warning;
- 17.1.2 where the Respondent is an independent contractor of TSA, termination of that contractual arrangement between the Respondent and TSA;
- 17.1.3 a recommendation to TSA that the Respondent's membership of TSA be terminated;
- 17.1.4 a recommendation to TSA and/or any Member that any role (excluding employment) which the Respondent holds within TSA and/or that Member be terminated;

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- 17.1.5 a ban on the Respondent from taking part in any tennis activity (including but not limited to tournaments and competitions) for a specified period of time, and/or from attending one or more tennis facilities and/or venues for a specified period of time;
 - 17.1.6 withdrawal of ranking points, awards, placings and/or records won in any activities, competitions or tournaments held or sanctioned by TSA;
 - 17.1.7 cancellation of the Respondent's TSA coaching or officiating accreditation or license;
 - 17.1.8 a permanent or temporary suspension or a termination of any rights, benefits or privileges provided by TSA to the Respondent.
 - 17.2 Prior to the Disciplinary Tribunal considering and imposing a sanction on the Respondent, the Complainant and Respondent may address the Disciplinary Tribunal on mitigating and aggravating circumstances which the Disciplinary Tribunal should consider in determining an appropriate sanction.
 - 17.3 In imposing a sanction, the Disciplinary Tribunal shall give consideration to:
 - 17.3.1 the seriousness of the Prohibited Conduct;
 - 17.3.2 the personal circumstances of the Respondent;
 - 17.3.3 any prior Prohibited Conduct for which the Respondent has been disciplined and the sanction imposed in each case;
 - 17.3.4 any mitigating and aggravating circumstances presented in terms of clause 17.2; and
 - 17.3.5 the interests of TSA, its Members and the game of tennis in general.

18. APPEALS

Grounds of Appeal

- 18.1 A Respondent has the right to appeal a decision and/or sanction handed down by a Disciplinary Tribunal only on the following grounds:
 - 18.1.1 where the Disciplinary Tribunal relied on a clear error in its decision making;
 - 18.1.2 where the Disciplinary Tribunal failed to comply with natural justice;

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- 18.1.3 where the Disciplinary Tribunal failed to comply with the provisions of this Policy;
- 18.1.4 where new evidence has become available which was not available at the time of the Disciplinary Tribunal hearing which, if presented and accepted, may on the balance of probabilities, be likely to have affected the decision of the Disciplinary Tribunal; and
- 18.1.5 where the Respondent's ability to earn a primary source of income is substantially negatively impacted by the sanction imposed by the Disciplinary Tribunal.

Right of appeal

- 18.2 There is only one right of appeal against the decision and/or sanction of the Disciplinary Tribunal.
- 18.3 Any appeal must be solely and exclusively resolved by the Appeals Committee and the decision of the Appeals Committee shall be final and binding on the parties.
- 18.4 The parties may not institute legal action to challenge the decision of the Appeals Committee in any respects.

Referrals to the Appeals Tribunal

- 18.5 Legal representation of the parties to an appeal is permitted but is not obligatory.
- 18.6 An appeal is to be made to the Appeals Committee.

19. NOTICE OF APPEAL

- 19.1 An Appellant shall within seven (7) business days after the Disciplinary Tribunal delivering its decision and sanction, notify TSA in writing of the Appellant's intention to appeal the Disciplinary Tribunal's decision (**Notice of Appeal**).
- 19.2 On receipt of the Notice of Appeal, TSA shall convene the Appeals Committee and refer the matter to the Chairman of the Appeals Committee.

Seat

- 19.3 Unless TSA determines otherwise, the seat of the Appeals Committee and its proceedings shall be at 269 Von Willich Ave, Corporate Park 66, Block D, round floor, Centurion, Gauteng.

20. COMPOSITION OF THE APPEALS COMMITTEE

- 20.1 A separate Appeals Committee is convened in respect of each appeal.
- 20.2 The Appeals Committee shall be comprised of persons as determined by the Board from time to time and must comprise a minimum of three (3) members two of which must be:
- 20.2.1 an advocate in the position of Senior Counsel, who shall be the Chairman; and
- 20.2.2 a person with a thorough knowledge and understanding of the game of tennis.
- 20.3 All Appeals Committee members apart from the Chairman, are appointed by the Chairman.
- 20.4 The participants in the appeal proceedings shall be the Appeal Committee Members, the Appellant and the Respondent and any witnesses.

Independence and impartiality

- 20.5 The Appeal Committee Members must act independently and impartially at all times and for this reason, the Appeal Committee Members may not include any persons listed in clauses 11.7.1 to 11.7.4.
- 20.6 On being appointed to the Appeals Committee and at any relevant time thereafter, each Appeals Committee Member must disclose in writing any facts or circumstances known to him which in the opinion of a reasonable person, might call his impartiality or independence into question.
- 20.7 Any objection of any person to the independence or impartiality of an Appeals Committee Member must be made to the Board in writing without delay, and in any event within days of deemed receipt of the Directions referred to in clause 25 or within days after the objecting person learns of the facts or circumstances giving rise to the objection. Failure to give such notice constitutes a waiver of that objection. The Board will rule on the objection and its ruling will be final and binding.
- 20.8 If an Appeals Committee Member is unable, unwilling or unfit to hear the matter (whether because of an objection to his independence or impartiality or otherwise), the Chairman may, in his sole discretion, either appoint another person to replace such person as an Appeals Committee Member or authorise the remaining Appeals Committee Members to hear the matter alone.

Confidentiality

- 20.9 All Appeals Committee Members and any other persons present, shall keep all matters relating to the Appeals Committee hearing strictly confidential.

21. GROUNDS OF APPEAL

- 21.1 Within fourteen (14) business days of lodging the Notice of Appeal, or such longer period permitted by the Chairman, the Appellant is required to submit to the Chairman a written statement of what is being appealed and the grounds determined in accordance with clause 18.1, on which the Appellant is appealing the decision and/or sanction of the Disciplinary Tribunal (**Grounds of Appeal**).
- 21.2 The Chairman shall ensure that a copy of the Grounds of Appeal is provided to the Appeals Committee Members, the TSA President and TSA's CEO.
- 21.3 If the Appellant fails to submit its Grounds of Appeal to the Chairman as required by clause 21.1, the appeal shall be deemed to have been withdrawn and the decision of the Disciplinary Tribunal will be final and binding on the Appellant.
- 21.4 If at any time the Appeals Committee is satisfied that the Appellant has submitted his Grounds of Appeal to the Chairman as required by clause 21.1, but in its sole and absolute discretion, determines that such Grounds of Appeal do not meet one or more of the criteria specified in clause 18.1, the Appeals Committee shall reject the appeal and the Chairman shall immediately notify the Appellant thereof in writing. The Appellant shall have no right of appeal against the decision of the Appeals Committee in this regard.
- 21.5 If the Appeals Committee is satisfied that the Appellant has submitted his Grounds of Appeal to the Chairman as required by clause 21.1, and in its sole and absolute discretion, determines that such Grounds of Appeal meet one or more of the criteria specified in clause 18.1, the Chairman shall convene a hearing to hear and determine the appeal.

22. COSTS OF THE APPEAL

- 22.1 On receipt of written confirmation from the Chairman that the appeal hearing is to proceed, TSA shall determine the reasonable costs of convening the appeal, including the attendance costs of the Appeal Committee Members and other parties to the appeal (**Estimated Appeal Costs**).
- 22.2 The Appellant shall deposit the full amount of the Estimated Appeal Costs into the trust account of an attorney of TSA's choice, which Estimated Appeal Costs shall

be held by such attorney in an interest-bearing account, with interest accruing to the benefit of the Appellant, pending the outcome of the appeal.

22.3 If the Appellant:

22.3.1 succeeds in its appeal, the Appellant and Respondent must bear their own costs in relation to the appeal and the Estimated Appeal Costs will be refunded to the Appellant in full;

22.3.2 does not succeed in its appeal, the Appellant shall bear the costs of the entire appeal, including those of the Respondent and the Appeal Committee Members, which costs will be assessed by TSA and notified to the Appellant in writing and the Estimated Appeal Costs shall be applied towards the settlement of such costs.

23. POWERS OF THE APPEALS COMMITTEE

23.1 The Appeals Committee has all powers necessary for, and incidental to, the discharge of its responsibilities, including to extend or abbreviate any time-limit or adjourn, postpone or suspend its proceedings should it consider it necessary.

23.2 Amongst other things, the Chairman may on application of a party to the appeal or of his own motion, order:

23.2.1 consolidation before the same Appeals Committee of two or more separate appeal proceedings;

23.2.2 that concurrent hearings be held in relation to such proceedings; and/or

23.2.3 that third parties intervene or be joined in the proceedings and make a single final decision or separate decisions in respect of all parties.

24. APPEAL PROCEDURE

24.1 The procedure adopted by the Appeals Committee in dealing with an appeal, and all matters relating thereto shall except as set out in this Policy, be determined by the Chairman.

24.2 The Appeals Committee shall hear and determine the appeal, including all witnesses and evidence, in the manner which the Chairman considers appropriate in the circumstances, including in person and/or by way of tele, web-based or video conference or “on the papers”, provided that natural justice is applied and observed.

25. DIRECTIONS TO THE PARTIES

- 25.1 Once constituted, the Appeals Committee shall consider all evidence as well as the record of proceedings considered by the Disciplinary Tribunal and its related findings.
- 25.2 As soon as practicable thereafter, the Chairman will issue written directions (**Directions**) to the parties in relation to the procedure and timetable to be followed in the proceedings.
- 25.3 In particular, the Directions will:
- 25.3.1 set a date, time and venue of the appeal hearing and whether it will be held in person or otherwise;
 - 25.3.2 contain amongst other things:
 - 25.3.2.1 a summary of the Grounds of Appeal;
 - 25.3.2.2 the procedure for the exchange of written submissions and evidence prior to the hearing.

26. APPEALS COMMITTEE PROCEEDINGS

Onus and burden of proof

- 26.1 The purpose of the Appeals Committee proceedings shall be to determine the appeal based on the Appellant's Grounds of Appeal.
- 26.2 The party who alleges a claim or fact bears the onus of proving it.
- 26.3 The test to be applied by the Appeals Committee in coming to its determination shall be on a balance of probabilities, meaning that it is more probable than not.

Language of the proceedings

- 26.4 All proceedings shall be in the English language.
- 26.5 A party wishing to rely on evidence or documents in another language must provide for their interpretation to English at his own cost. A party, or a party's witness, who wishes to give oral evidence in another language must bring an independent translator to translate that evidence into English, at that party's own cost.

Attendance and submissions

- 26.6 If the Chairman determines that the matter will be heard in person, including by way of tele, web-based or video conference, the Respondent and any witnesses will be required to attend the Appeals Committee hearing at the time and place as advised in the Directions, or at such other date determined by the Chairman.
- 26.7 Unless the Chairman orders parties to make submissions in writing only, all parties should attend hearings in person, along with any representative(s).
- 26.8 If within thirty (30) minutes of the notified time for commencement of the hearing, the Respondent or any witnesses are not present, the Chairman may elect to conduct the hearing in the absence of the Respondent or witness/es (even if no written submissions have been received) or adjourn the Appeals Committee hearing and schedule a new date and time on which the Appeals Committee hearing will convene.
- 26.9 The hearing is conducted on a confidential basis and may only be attended by the persons listed in clause 20.4.
- 26.10 The Appeals Committee may question a witness and/or control the questioning of a witness by a party. No formal rules regarding the admissibility of evidence shall apply.

27. OUTCOME OF THE APPEAL

- 27.1 The Appeals Committee shall make its decision as soon as practicable following conclusion of the hearing and will provide a statement of written reasons for its decision.
- 27.2 In coming to its decision, the Appeals Committee may neither discuss nor consider any prior Prohibited Conduct of, and/or sanctions against, the Appellant except as considered by the Disciplinary Tribunal in terms of clause 17.3.3.
- 27.3 The Appeals Committee may:
- 27.3.1 dismiss the appeal;
 - 27.3.2 uphold the appeal;
 - 27.3.3 withdraw or amend the sanction imposed by the Disciplinary Tribunal; and/or
 - 27.3.4 impose any additional sanction/s which it deems appropriate.

- 27.4 Appeals Committee decisions shall be made by resolution passed by the majority of the Appeals Committee Members. No Appeals Committee Member may abstain from participating in the decision.
- 27.5 Except as provided in clause 28, the decision of the Appeals Committee shall be final and binding on the parties and no further right of appeal shall exist.
- 27.6 The Appeals Committee decision and statement of written reasons for its decision shall be issued by the Chairman and a copy thereof furnished to TSA's President, TSA's CEO, the Appellant and Respondent, the President of the Member of which the parties are members and any other party affected by the decision.

28. APPEAL FOR CLEMENCY

- 28.1 The President of TSA may in his sole discretion, in exceptional circumstances, consider an appeal for clemency from any person.
- 28.2 Any such appeal for clemency may in the President's sole discretion, be decided:
- 28.2.1 solely by the President;
- 28.2.2 by the President in conjunction with any other person/s; or
- 28.2.3 by any person/s to whom the President elects to refer the appeal for clemency.
- 28.3 The outcome of such appeal for clemency, as approved and conveyed by the President to the applicant for such clemency, shall be final and binding on the applicant and no further right of appeal shall be permitted.

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