



GENS UNA SUMUS

FÉDÉRATION INTERNATIONALE DES ÉCHECS

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FIDE ETHICS & DISCIPLINARY COMMISSION

The First Instance Chamber of the Ethics & Disciplinary Commission (hereafter called “the EDC Chamber”), sitting in the following composition -

Chairperson: Ms Yolander Persaud

Members: Mr Johan Sigeman
Mr Khaled Arfa

during an exchange of correspondence through the period 20th April- May 6th, 2020, made the following decision -

DECISION

Case n. 1/2020: “Allegations of cheating at Charlotte Norm Tournament, March 2019 against Mr. Siddhart Banik”

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 5 April 2020.
2. The EDC Chamber **notes** the report of the FIDE Fair Play Commission (“FPL”) received by the EDC on the 4th April 2020, representing a complaint of the alleged violation of the FIDE Code of Ethics (“the Code of Ethics”) by Mr. Siddhart Banik (“the Respondent”), more specifically an alleged violation of Art. 2.2.5 of the Code of Ethics.
3. The EDC Chamber **notes** that the Respondent did not respond to the EDC Chamber’s inquiries or use the opportunity given to submit a defensive statement in the proceedings before the EDC Chamber. Accordingly, the facts supplied in the FPL report stand uncontroverted.
4. The EDC Chamber **notes** the following reports, documents and e-mails received as part of the case file: US Ethics complaint by the organizer, Peter Giannatos (4th March, 2019), the Respondent’s response to US Ethics (24th May and 30th July, 2019), Mr. Peter Giannatos’s

rebuttal e-mail (May 29, 2019), the USCF letter to Ms. Carol Jarecki- Chair of the FIDE Events Commission containing US Ethics' decision (August 2, 2019) and the FPL Investigation Chamber Report (March 23, 2020).

5. The EDC Chamber **notes** the subject-matter of the complaint and defence(s):
 - 5.1 The Respondent (born in 2000) was a participant in the CCCSA Spring IM/GM Norm Invitational ("CCCSA Spring 2019"), which took place in Charlotte, USA from March 20-24, 2019.
 - 5.2 In the 7th round of the tournament, the Respondent's opponent complained to the Chief Tournament Director ("TD") that the Respondent was behaving suspiciously and was absent from the playing hall and common areas for over 15 minutes. The TD searched the common areas but could not find the Respondent. Sometime later, the Respondent returned to the playing hall, where the TD enquired about his whereabouts. the Respondent responded that he was in the lobby, which the TD knew to be untrue as he checked that area for the Respondent. The TD asked the Respondent if he would agree to a search of his cell phone and computer after the game was completed, to which the Respondent agreed.
 - 5.3 When the game was completed (which the Respondent won), the Event Organizer Mr. Peter Giannatos accompanied the Respondent to his hotel toom. In the Respondent's computer, Giannatos discovered a ChessBase window with a position from the Respondent's Round 7 game, with an engine still running. The Respondent then admitted that he had visited his room during the game and succumbed to the temptation to check his pre-game anaysis. Thereafter, Giannatos forfeited the game and expelled the Respondent from the tournament. The Respondent sent an electronic message to his opponent also admitting to cheating.
6. The EDC Chamber **notes** the proceedings before the national tribunal and the recommendations of the FPL:
 - 6.1 A disciplinary meeting of the US Chess Ethics Committee ("US Ethics") was held during July 2019. This resulted in the suspension of the Respondent's membership for a period of 3 years, commencing on 15th September, 2019, when his right to appeal the suspension lapsed.
 - 6.2 US Ethics accepted that the Respondent used a computer engine during the 7th round of the CCCSA Spring 2019 in order to check his preparation for the game.
 - 6.3 A copy of the US Ethics' Report was sent to the FPL.
 - 6.4 The Respondent voluntarily subjected himself to non-participation in all FIDE rated tournaments worldwide (outside of the US Chess Federation's jurisdiction) since the CCCSA Spring 2019. Accordingly, the Respondent did not play a chess game in any tournament since the date of the incident on 23 March 2019.
 - 6.5 The FPL points out that it is undisputed that the Respondent cheated in his game in the 7th round of the CCCSA Spring 2019, by using his laptop in his room. Mr Banik in his written response to the USCF took full responsibility for his actions.

- 6.6 The FPL submits that an appropriate sanction for the Respondent would be a world-wide ban from participation in all FIDE-rated and FIDE-authorized chess competitions for a period of three years, beginning and ending on dates to be determined by the EDC.
7. The EDC Chamber **notes** that an admission of guilt is usually a mitigating factor in the determination of an appropriate sanction. In the present case, the Respondent admitted his guilt after it was discovered that he was analysing his game using his laptop in his room.
8. The EDC Chamber **notes** the delay between FIDE's notification of the US Chess Federation's decision on the 2nd August, 2019 and the EDC's receipt of the case on 4 April 2020.
9. Upon due consideration of the documents submitted, the EDC Chamber, by unanimity of its members, **finds** that:
- 9.1 The CCCSA Spring 2019 was an international event given the participation of foreign players and the EDC has jurisdiction to investigate a violation of the Code of Ethics, which occurred at the event, independently from the national federation's jurisdiction to take disciplinary steps against their own player for such a violation. Accordingly, the prohibition against double jeopardy is not applicable in the instant matter.
- 9.2 In the present case, the Respondent's guilt regarding a violation of Art 2.2.5 (Cheating or attempts at cheating during games and tournaments) is not disputed or otherwise in contention.
- 9.3 The sole issue to be addressed is an appropriate sanction for such violation in circumstances *inter alia* where FIDE was notified of the incident as well as the US Chess Federation ("USCF") suspension in August 2019 already, and the Respondent complied with the USCF local suspension, as well as did not play on a global level since the event.
- 9.4 In the present case, the FPL delayed the commencement of its investigation into the incident with a view to review the USCF decision with the purpose of requesting the EDC to extend the USCF sanction, or to impose a different one, with world-wide effect. Although substantial delay occurred, it was not found to have prejudiced the Respondent since he has not fully served the USCF suspension period as yet.
- 9.5 The offense was nevertheless of a serious nature as cheating by electronic means remains perilous for chess in the modern era, and previous sanctions imposed by the EDC on others clearly did not have a sufficiently deterrent effect for Mr. Banik. The offence was committed at a FIDE-rated event by a titled player (National Master) with a rating-strength above ELO 2300.
10. Accordingly, taking into account the Respondent's age as a young adult and the fact that he is a first offender, the fact that he voluntarily obeyed the USCF ban in the international sphere and precedent decisions of the EDC in similar previous matters, the EDC **unanimously decides** as follows:

- 10.1 Mr. Siddhart Banik is **found guilty** of a violation of Art. 2.2.5 of the Code of Ethics;
- 10.2 Mr Siddhart Banik is **sanctioned** to a worldwide ban of 30 months from participating as a player in any FIDE rated chess competition, taking effect retroactively from 24th March 2019 (the day following the date of the incident).
11. The Respondent is **advised** that this decision may be appealed to the Appeal Chamber of the EDC by giving written notice of such appeal to the FIDE Secretariat within 21 days from the date upon which this decision is received by the Respondent. The notice of appeal must clearly state all the grounds for the appeal. Failing the due exercise of this right of appeal, the EDC Chamber's decision will become final.
12. The EDC **requests** the FIDE Secretariat to communicate forthwith the decision to the FPL, the Respondent, the US Chess Federation, and to publish in due course the decision on the FIDE website.

DATED ON THIS 8th DAY OF MAY, 2020.

Yolander Persaud

First Instance Chamber Chairperson

FIDE ETHICS & DISCIPLINARY COMMISSION