



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: Mrs Yolander Persaud-Sammy

Members: Mr David Hater
Mr Ravindra Dongre

during an exchange of correspondence and online meetings during the period 12 December 2021– 4th April 2022, made the following -

DECISION

Case no. 10/2021: “Alleged undermining and discrediting of national federation by FIDE official”

1. The EDC Chamber **notes** its establishment by the EDC Chairman on 22 December 2021.
2. The EDC Chamber **notes** that on 8 December, 2021 the FIDE Ethics and Disciplinary Commission (EDC) received a complaint lodged against GM Nigel Short (“the Respondent”) from the US Virgin Islands Chess Federation (“the Complainant” or “USVICF”) concerning alleged violation of the FIDE Code of Ethics (“the Code of Ethics”) relating to incidents which occurred during GM Short’s visit to the US Virgin Islands in his capacity as FIDE Vice President during the period October 26- November 2, 2021, having the potential of violating FIDE Code of Ethics arts. 2.2.2, 2.2.10 and/or 2.2.11.
3. The EDC Chamber **notes** that the Respondent has been given the opportunity to respond to the complaint, and the EDC Chamber’s inquiries which were sent to Mr. Colin Heim, Mrs. Dana Reizniece- Ozola (FIDE Managing Director), Ms Sonja Johnson (Chair of FIDE Planning and Development Commission, Mrs Chen Zhu (FIDE Treasurer) and the Respondent.
4. The EDC Chamber **notes** the contents of the following documents and e-mails received as part of the case file: the original referral mentioned above along with annexures which include the recording of a radio broadcast (WTJX Broadcast) on the 28th October 2021,

newspaper articles and photo exhibits; notification to respondent; Mr. Short's response to notification of complaint; e-mail by Mr. Colin Heim dated 4th February 2022; EDC enquiries to Mr. Heim and Mrs Dana Reizniece- Ozola, Mr. Heim's response to EDC questions; FIDE's response to EDC questions dated 7th March 2022; Mr. Short's response to the additional evidence dated 17th March 2022; Ms. Sonja Johnson's (Chair of FIDE Planning and Development Commission) response to EDC questions dated 23rd March 2022; FIDE Accounts response to EDC questions dated 24th March 2022; and Mrs Chen Zhu's response to EDC questions dated 30th March 2022.

5. The EDC Chamber **notes** the subject-matter of the complaint, the defence and other statements submitted:

5.1 The USVICF lodged a complaint against FIDE Vice President GM Nigel Short, alleging that Mr. Short colluded with a rival group of the national federation to overthrow the federation or to cause disaffiliation with FIDE, visiting the US Virgin Islands USVI without notice to or permission from the USVICF, hosting a simul with the rival association, making defamatory statements regarding the Federation and its executives on a public radio show and stirring racial tensions.

5.2 There also exists an additional complaint on allegations of corruption/bribery whereby Mr. Colin Heim claims that the Respondent offered a maximum of US\$5,000 at the expense of joining the rival chess association.

5.3 The Respondent has denied any corruption or collusion on his part, but claims FIDE has the right and obligation to ensure and evaluate compliance of Federations. The Respondent maintains that the visit was a part of a FIDE tour of the Caribbean, conducted with the full knowledge and approval of the FIDE President and Managing Director and that the \$5,000 referred to is that available by the FIDE Planning and Developmental Fund for developing federations.

5.4 This decision does not contain a summary or analysis of the evidence produced and detailed submissions made by the Complainant and the Respondent respectively, nor of the replies received from FIDE organs following the EDC Chamber's enquiries, but all of this have been carefully studied, considered and taken into account by the members of the EDC Chamber prior to arriving at its findings.

6. Upon due consideration, the EDC Chamber, by unanimity of its members, **finds** regarding the admissibility of the complaint that:

6.1 The Complainant is a national federation member of FIDE and the Respondent is a FIDE Official, in respect of both of which FIDE exercises jurisdiction.

6.2 The alleged breach of the FIDE Code of Ethics *prima facie* has the potential to constitute a violation of conduct prohibited in articles 2.2.2/ 2.2.10/ 2.2.11 of the FIDE Ethics Code.

- 6.3 The alleged transgression took place during an alleged official visit by a FIDE Official.
- 6.4 The EDC Chamber finds therefore that it has jurisdiction to investigate a violation of the Code of Ethics.
7. Upon due consideration, the EDC Chamber, by unanimity of its members, **observes** and **finds** regarding the issue of the Respondents' guilt as follows:

FIDE Principles and the neutrality in internal affairs

- 7.1 In the FIDE Charter, it is established that FIDE observes strict neutrality in the internal affairs of its members but has the right and duty to evaluate their compliance with FIDE principles and their obligations towards FIDE. (Art 24.10).
- 7.2 At present the USVICF's governance structures and instruments are under examination and evaluation by the FIDE Council. FIDE has embarked on this exercise as a result of complaints and allegations of dysfunction, nepotism and undemocratic governance processes in the running of the Federation and election of its executives.

The Respondent Nigel Short

- 7.3 The FIDE tour of the Caribbean appears to be one of good intention, resulting in 4 new federations joining FIDE.
- 7.4 Although the trip's mandate was not specifically outlined or explicitly authorized by FIDE, FIDE's reimbursement of the Respondent's expenses for the trip seems to suggest that it was approved and recognized as an official trip engaged in FIDE affairs. The Respondent also provided an oral report of the trip to the FIDE President and Managing Director.
- 7.5 Despite the trip being of an official nature, it is not in itself sufficient to conclude that the Respondent's actions in the USVI were within permissible bounds of his duties as Vice President of FIDE or at the behest of FIDE.
- 7.6 One important question, when interpreting article 4.10 in the Charter, is what is considered permissible for FIDE in terms of evaluating compliance, and where is this line crossed in terms of FIDE maintaining neutrality and evaluation to determine compliance of member federations.
- 7.7 Another critical question is if the conduct under scrutiny amounts to a breach of the FIDE Code of Ethics, particularly Articles 2.2.2 (Office bearers who through their behaviour no longer inspire the necessary confidence or have in other ways become unworthy of trust), 2.2.10 (occurrences which cause the game of chess, FIDE or its federations to appear in an unjustifiable unfavourable light and in this way damage its reputation) and/or 2.2.11 (any conduct likely to injure or discredit the reputation of FIDE, its events, organizers, participants, sponsors or that will enhance the goodwill which attaches to the same).
- 7.8 The EDC Chamber agrees that, considering the allegations of a lack of democracy and constitutional malfunction against the USVICF, a fact-finding trip may have been helpful for FIDE to determine the status of the Federation and the veracity

of the complaints. However, in the view of the EDC Chamber, this trip should have been conducted in a more diplomatic and delicate manner, whereby the Respondent should have informed the USVICF in advance of his visit and made efforts to meet with the President and Executives of the Federation, and not use the platform of a public radio show to make comments which may justifiably be interpreted as showing favouritism and biasness towards the rival association. The actions of the FIDE VP appeared in poor taste, in particular the public denouncing of the USVICF Executives on the live radio broadcast.

- 7.9 On the other hand, the EDC Chamber does not find Mr. Heim's account and evidence of the allegation of bribery sufficient to prove that the \$5,000 mentioned by the Respondent was an incentive to join the rival association, as opposed to a reference to the funds available by the FIDE Planning and Development Fund.
- 7.10 It is crucial that FIDE maintains its principle of neutrality regarding member federations so that they may have the freedom to manage their internal matters without undue influence and interference. If intervention is indeed warranted, then the FIDE Council must follow the correct due process and procedures, whereby the Council may guide the Federation on the right path and, if unsuccessful, only then withdraw recognition of the Federation and allow for another group to validly and voluntarily take the helm.
- 7.11 Considering this, the Panel finds that the Respondent's actions crossed the lines of FIDE's duty to maintain neutrality and showed an over-zealousness in the matter, a clear bias against the USVICF President Margaret Murphy and gave the appearance of undermining the current USVICF. The Respondent's mishandling of the situation with the USVICF and his conduct, although not sufficient to make him guilty of a breach of Articles 2.2.2 or 2.2.11, potentially falls under Article 2.2.10.
- 7.12 A necessary condition for the establishment of guilt of Article 2.2.10 is that the Respondent's conduct showed FIDE, or the federation concerned in an unjustifiably unfavourable light. The EDC Chamber is of the opinion that the Respondent's conduct was unjustified as it was premature in nature. The Respondent was on a fact-finding mission and needed to report to the FIDE Council afterwards, for the Council to make any informed decisions. The EDC Chamber is comfortably satisfied that this condition is fulfilled in this case.
- 7.13 Against the background described above and after an overall evaluation of all the the facts in this case, the EDC Chamber concludes that the Respondent is guilty of having breached Article 2.2.10 of the FIDE Ethics Code.

Appropriate sanction

8. Upon due consideration, the EDC Chamber, by unanimity of its members, **finds** regarding the matter of an appropriate sanction that:

- 8.1 To the knowledge of the members of the EDC Chamber, the Respondent is a first-time offender

- 8.2 In the present case, the Respondent has been found guilty of breach of an Article in the FIDE Code of Ethics that is designed to protect the reputation of FIDE and its member federations and by extension to maintain FIDE's neutrality in national federation matters.
- 8.3 The EDC Chamber nevertheless accepts that the Respondent acted in good faith and with the intention of performing FIDE's duties under the Charter by seeking to improve the chess governance situation in the US Virgin Isles. The Respondent has been found guilty rather for adopting a *modus operandi* which does not fully respect the principles established in the FIDE Charter. Hopefully, the Respondent and other FIDE Officials will be reminded by this decision of the sensitive, yet responsible, role they are expected to play in the public chess world.
- 8.4 Considering the nature of the breach the EDC Chamber finds that a warning is the appropriate sanction in this case.
9. Accordingly, and considering all of the above, the EDC Chamber **unanimously decides** as follows:
- 9.1 The Respondent GM Nigel Short is found **guilty** of breach of article 2.2.10 of the FIDE Code of Ethics.
- 9.2 GM Nigel Short is **sanctioned** to a warning not to unduly interfere with the politics of member federations, and to take it upon himself to pronounce publicly on matters pending before the FIDE Council.
10. The Respondent GM Nigel Short 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. 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.
11. The EDC Chamber **requests** the FIDE Secretariat to communicate forthwith the decision to the Respondent and the FIDE Management and to publish in due course the decision on the FIDE website.

DATED ON THIS 5th of April 2022

Yolander Persaud-Sammy

CHAMBER CHAIRPERSON
DEPUTY CHAIRPERSON
FIDE ETHICS & DISCIPLINARY COMMISSION