

**DECISION OF THE GOTHAM VOLLEYBALL GRIEVANCE COMMITTEE  
AUGUST 31, 2011 MEETING -- GRIEVANCE OF \*\*\*\*\***

**BACKGROUND**

\*GREVIENT\* brings this grievance regarding the conduct of \*RESPONDENT\*, Division X Representative to the Gotham Board of Directors. \*GREVIENT\* alleges that \*RESPONDENT\* violated the Sportsmanship and Anti-Violence Policy by his conduct following the \*DATE\* matches in Summer Division X. After reviewing the matter, the Grievance Committee dismisses the grievance. The vote was unanimous by all members present with Ricky Mora (Division 2), David McDermott (Division 3), Tom Eikenbrod (Division 4), Ethan Felson (Division 6), John Albanese (Division 7) and Chair Eric Eichenholtz (Division 8) all concurring.

Joe Bannan (Division 1) was unable to attend the meeting. Rob Fraizer (Division 5) unable to attend the meeting due to a death in his family. Henry Mui (At-Large) was unable to attend the meeting due to work commitments.

**SUMMARY OF THE FACTS**

Division X Representative \*RESPONDENT\* was scheduled by the League to supervise the closing of the gyms following Summer Division A and Summer Division B play on \*DATE\*. \*RESPONDENT\* was not serving as Summer Division X representative, but was on the roster of Board members who rotated supervising the gym opening and closing over the summer. The procedure for closing, clearly outlined to all Captains in the Summer 2011 Captain's Packet, requires the team that referred the last match to close the gym. On \*DATE\*, for Division X, that team was Team X.

All but one of the members of Division X, Team X left immediately following the match. The one remaining member, \*GRIEVANT\*, assisted in closing the gym. \*RESPONDENT\* noticed that the reffing team did not appear to be there, approached \*GRIEVANT\* and asked where his teammates were. \*GRIEVANT\* said he thought they were changing. \*RESPONDENT\* said to \*GRIEVANT\* that they should have been in the gym, this was the second time this had happened and that it was unacceptable. \*RESPONDENT\* heatedly stated Team X would need to forfeit. At this point Grievance Chair Eric Eichenholtz intervened and told \*RESPONDENT\* that he could recommend the forfeit in his report but it was not his decision to make. \*GRIEVANT\* said he would look for his teammates and went to do so. \*GRIEVANT\* returned with one of his teammates, \*\*\*\*\* , several minutes later. When \*RESPONDENT\* saw them, he stated it was too late, "it was done" and that they could leave.

Later that evening at Gym Bar, \*RESPONDENT\* approached \*GRIEVANT\* to discuss the matter further. \*RESPONDENT\* learned that \*GRIEVANT\* had been unaware of the responsibility of the final reffing team to close the gym.

\*GRIEVANT\* relayed these encounters to his Captain, \*\*\*\*\*, who then relayed them to Gotham Commissioner Joshua Christensen and the Summer Division X Captains. At no time did \*GRIEVANT\* reach out to \*RESPONDENT\* or Christensen or make any other attempts to informally address this situation. Instead, he asked to have his grievance formally heard by this Committee.

Christensen and Vice Commissioner Clovis Thorn spoke with \*RESPONDENT\* at a meeting the following night, discussing numerous techniques for dealing with difficult situations such as a team's failure to assist in closing. Christensen also discussed the incident with \*TEAM CAPTAIN\*, and in his second e-mail to \*TEAM CAPTAIN\*, Christensen suggested \*TEAM CAPTAIN\* take a degree of responsibility, noting \*TEAM CAPTAIN'S\* failure to communicate with his team about closing of the gym placed \*RESPONDENT\* in a position where he needed to address the situation to begin with. \*TEAM CAPTAIN\* responded by e-mailing all of the Division X Captains expressing his belief that his (or his team's) conduct should not be at issue and that the League should address \*RESPONDENT'S\* comments instead.

What resulted was described at the Grievance Committee hearing as an "e-riot." Several Division X Captains immediately defended \*TEAM CAPTAIN\* and described \*RESPONDENT'S\* behavior – which almost none of them actually witnessed – using harsh and strident language seemingly quite disproportionate to the situation at hand. None of the Summer Division X Captains, including the Summer Division X Representative, intervened to de-escalate this "e-riot."

At the meeting, \*TEAM CAPTAIN\* accepted responsibility for the failure of his team to be present for the gym closing and acknowledged he has accepted the forfeit issued as a result.

\*GRIEVANT\* seeks \*RESPONDENT'S\* removal as Division Representative for the remainder of his term which, at the time of the hearing, was less than five weeks.

## **DISCUSSION**

The grievance is dismissed. There is no doubt \*GRIEVANT\* was sincerely upset by his exchange with \*RESPONDENT\*. However, a formal hearing on the encounter was not an appropriate use of the grievance process or of the Sportsmanship and Anti-Violence Policy. It demeaned the spirit of the Policy and similarly misused the Committee's time. Team X erred in failing to take down the nets. \*RESPONDENT\*, as the Board member responsible for closing the gym, was expected to explain to \*GRIEVANT\* that his team had not followed the proper procedure for closing and to explain the potential consequences. Even if \*RESPONDENT\* used a terse or brusque tone disproportionate to the situation, it does not rise to the level of a violation of the Sportsmanship and Anti-Violence policy. The remedial action taken by Commissioner Josh Christensen and Vice Commissioner Clovis Thorn following the incident was more than sufficient to resolve this issue.

While we respect the right of \*GRIEVANT\* to pursue this grievance to its fullest extent, the facts in the matter suggest the desire to pursue the grievance and the relief requested far outweigh any appreciable risk of harm the Committee could discern. The appropriate course for a grievant in \*GRIEVANT'S\* situation is to follow up with league officials and/or \*RESPONDENT\* and attempt to resolve any differences with \*RESPONDENT\* informally. Pursuing a grievance to a hearing should be reserved as a last resort, not a first one. It is a step that should be taken only after all other avenues of resolution have proven ineffective. In the context of sportsmanship issues, the Committee agrees with the notion set forth in the Sportsmanship and Anti-Violence Policy that only unusually serious or repetitive acts of particularly poor sportsmanship should be pursued to a grievance hearing. To do otherwise, in our view, is a misuse of the grievance process.

The Committee is also concerned by the conduct of \*GRIEVANT'S\* Captain, \*\*\*\*\*, described at the meeting. \*TEAM CAPTAIN\* stated at the meeting that he believed that the issue before the Committee was more serious because, according to him, \*RESPONDENT\* had yelled at \*TEAM CAPTAIN\* and other League members on other occasions. It became clear that \*TEAM CAPTAIN\* and \*RESPONDENT\* have had a feud for some time now and we decline to graft their feud on to this grievance. This grievance is solely about the incident with \*GRIEVANT\*.

Nonetheless, this Committee cannot ignore that, by his own admission, \*TEAM CAPTAIN\* himself has engaged in very inappropriate conduct, including the use of derogatory and inappropriate language and even threatening physical violence against \*RESPONDENT\*. This Committee does not believe such conduct is ever appropriate in Gotham Volleyball. \*TEAM CAPTAIN\* attempted to justify his behavior by claiming he was provoked. There is never an excuse for any member of Gotham Volleyball to use profanity or threats of violence. Regardless of the circumstances, no member should ever engage in such behavior. As a player and certainly as a Captain, \*TEAM CAPTAIN'S\* responsibility was to de-escalate, not to exacerbate the situations he described.

Finally, we also note that the Summer Division X Captains and Division Representative did not fulfill their obligation to appropriately address and de-escalate this situation. The Sportsmanship and Anti-Violence Policy places an affirmative obligation on League officials, Board members, Captains and league veterans to assist in de-escalating situations of poor sportsmanship. Instances of poor sportsmanship require that elected officials, including Board members and Captains, react with discretion, calm and even handedness, not hysteria. The tone and tenor of their e-mail discussion demonstrated poor judgment on the part of the Captains. The rush to judgment, accompanied by overcharged, heated rhetoric was unbecoming. Each participant, from what the Committee can discern, failed in their duty to de-escalate the situation and, in the process, demeaned themselves, the parties, and the League.

The Committee recognizes the need for and importance of Captains conversing about issues effecting their division. However, when discussions occur concerning

sportsmanship issues, Captains should remain cognizant of their affirmative obligations to de-escalate such situations and behave appropriately for the benefit of all concerned.

To avoid the problems discussed here in the future, the Committee recommends that the Board make an effort to remind all Captains of their obligation to de-escalate tense situations, of the need for civility and to highlight the resolution procedures in the Sportsmanship and Anti-Violence Policy at tryouts prior to the start of the Fall season.

### **CONCLUSION**

For the reasons discussed above, the Committee has determined as follows:

- 1) The grievance of \*GRIEVANT\* is dismissed.
- 2) The Committee recommends that the Commissioner of Gotham Volleyball or his designee spend between five to ten minutes' time at the Captains' meetings with the Division Representatives prior to Fall tryouts discussing the need for civility and making the Captains aware of the procedures outlined in the Sportsmanship and Anti-Violence Policy.

### **NOTICE OF APPEAL RIGHTS**

Under Article XI, Section 3c of the Bylaws of the Gotham Volleyball League, any aggrieved party may appeal this ruling to the Gotham Volleyball Board of Directors within 10 business days of the Committee's decision. In order to be timely, any letter seeking appeal of this decision **must** be delivered to Joshua Christensen, Commissioner, Gotham Volleyball League on or before September 19, 2011.