

DECISION OF THE GOTHAM VOLLEYBALL GRIEVANCE COMMITTEE

MAY 27, 2014 MEETING SPORTSMANSHIP REFERRAL OF *****

BACKGROUND

Division X Representative *DIVISION REP* reported complaints regarding inappropriate behavior by *****, one of the players in Division 3 for the Spring 2014 season during the May 10, 2014 End of Season Tournament. Specifically, it was reported that ***** had taken the iPhone of *PLAYER 1*, one of the Division X players participating in that Division's End of Season Tournament. It was also reported that ***** was misleading when asked by one of *PLAYER 1*' teammates regarding the whereabouts of the phone. Finding this sufficiently serious behavior to warrant Grievance Committee review, the Executive Board referred the complaints to the Grievance Committee pursuant to Rule III(D)(1)(v) of Gotham's Rules of League Play and Section II(3)(f) of the Gotham Volleyball Sportsmanship and Anti-Violence Policy as well as to hear and report on what action, if any, the Board of Directors should take to address this situation outside the scope of that Policy.

After reviewing the behavior of ***** based on the information provided to the Committee, the Committee found *****'s behavior to be a serious violation of the Gotham Sportsmanship and Anti-Violence Policy and that it constituted improper conduct for a member of Gotham Volleyball. Accordingly, the Committee voted to suspend ***** through the Fall 2014 season and to require ***** upon his return and through May 2016, to immediately report any apparently lost property he happens to find to a Board Member, referee or police/security. The vote was unanimous by all members present with Ricky Mora (Division 2), Alan Amechazurra (Division 3), Jason Shaw (Division 4), Bob Arcari (Division 6), Chair Eric Eichenholtz (Division 8) and Chaim Steinberger (At-Large) all concurring.¹

SUMMARY OF THE FACTS

At the meeting, the Committee heard from *PLAYER 1*, his teammates *TEAMMATE 1* and *TEAM CAPTAIN*, as well as Division X Representative *DIVISION REP*. ***** was invited to attend, and replied to the meeting notification e-mail stating he would attend, but ultimately did not appear at the meeting. *TEAMMATE 2*, another of *PLAYER 1*' teammates, was also later contacted and provided a statement to the Committee via e-mail. The following are what the Committee determined were the relevant facts based on the information that was provided.

PLAYER 1 was present at CCNY on May 10, 2014 to participate in the Division 4 end of season tournament. ***** was also present at CCNY to participate in

¹ Joe Bannan (Division 1), Travis Pouliot (Division 5), Serena Paredes (Division 9) and Bianca Santoro (Division 10) were not present at the meeting. Jason Shaw (Division 4) participated by telephone.

the Division Y tournament. The Division Y tournament was held in the morning and the Division X tournament was held in the afternoon. Thus, there was some overlap between the end of one tournament and the beginning of another.

PLAYER 1 and his team were waiting to play near one of the CCNY courts, when they were told to go to another court farther away to play. At that time, *PLAYER 1* placed his water bottle on a nearby CCNY bleacher. He also placed his phone inside a closed bleacher seat next to the water bottle, hidden from plain view. *PLAYER 1* then played in his match. Upon his return to the section of the CCNY bleacher that he left his personal items, he found his water bottle was still there, but that his phone was missing.

After discovering that the phone was missing, *PLAYER 1* reported the missing phone to on-site security. *PLAYER 1* and his teammates then started asking other players present in the gym if they had seen an iPhone. One of the players present suggested to *PLAYER 1*'s teammate, *TEAMMATE 1*, that he speak with *****. *TEAMMATE 1* approached ***** and asked "Have you seen an iPhone?" ***** responded, "An iPhone? No."

At around the same time, *PLAYER 1* downloaded the "Find My iPhone" app, software that can be used to track and locate a lost iPhone, on a friend's device. When *PLAYER 1* activated the app, he learned that the phone was still somewhere in or around the CCNY gym. *PLAYER 1* then activated a feature in the app that makes the lost iPhone emit a sonar noise, and started walking around the gym to see if he could hear the phone.

PLAYER 1 heard the sonar sound and walked toward the sound. *PLAYER 1* got within a few feet of *****, with the sonar noise being emitted from *****'s bag. It was only when *PLAYER 1* was directly next to *****, focused on the sound coming from *****'s bag, that ***** asked *PLAYER 1* if he was looking for something. *PLAYER 1* said yes, an iPhone. At this point ***** opened his bag, took out *PLAYER 1*'s iPhone and asked if it was his. When *PLAYER 1* said yes, ***** handed the phone back to *PLAYER 1*. There was a considerably long time – as little as but likely beyond an hour – between the point that *PLAYER 1* noticed his phone was missing to the point he was able to locate it in *****'s possession. *****, by his own admission, did not report that he had found what he believed to be a lost iPhone to anyone, including when he was asked by *TEAMMATE 1*.

TEAMMATE 2, one of *PLAYER 1*'s teammates then confronted ***** about what had occurred. He confronted ***** about the suspicious circumstances and asked for an explanation. ***** denied that he intended to take *PLAYER 1*'s phone and claimed that the phone was never in *****'s bag and that it was just sitting to his side and he returned the phone to *PLAYER 1*. *TEAMMATE 2* described ***** as "nervous."

Given that ***** had previously denied that he had seen an iPhone, and only turned over the iPhone after *PLAYER 1* tracked it to *****, *TEAM CAPTAIN*, the

team Captain, reported the incident to Division X representative *DIVISION REP*. *DIVISION REP* decided to confront *****, who was leaving the gym, to ask why he took the phone. When *DIVISION REP* did so, ***** had no explanation for his conduct. ***** admitted he knew who *DIVISION REP* was, that there were other Board members present, and that there were referees and school security present, all of whom he could have reported the missing phone to but did not. Because ***** had taken the phone, denied having ever seen a phone after he took it and only returned the phone when it was evident due to the sonar noise, it was *DIVISION REP*'s opinion that ***** likely did not intend to return the phone. As a result, *DIVISION REP* reported the incident to Gotham Volleyball Commissioner Lew Smith, who then referred this matter to the Grievance Committee to review.

In his e-mail to the Grievance Committee, ***** reiterated his belief that he did nothing wrong, and stated that he would come to the Committee to explain his side of the story. ***** failed to attend the meeting as he promised and, as of the date of this decision, has not contacted the Committee to explain his absence.

At the hearing, *PLAYER 1*, *TEAM CAPTAIN*, *TEAMMATE 1* and *DIVISION REP* all stated that they felt less safe at Gotham activities as a result of what had occurred.

DISCUSSION

The Sportsmanship and Anti-Violence Policy states, “Gotham seeks to use volleyball competition to help bring people together, foster friendships, reinforce healthy lifestyles, and build community pride and participation. In order to ensure these goals, Gotham Volleyball officials and participants are entitled to a non-judgmental, competitive, safe, positive, encouraging, and fun environment.” On this occasion, the key portion of the policy that gives rise to this meeting is the entitlement for members to participate in a “safe” environment. This is one of the paramount priorities of our league and extends beyond the Policy. Indeed, the *very first* rule in Gotham’s Rules of League Play -- Section I.A -- states “The enjoyment of the sport of volleyball in a safe environment should be the goal and intent of all league play regulations.”

The Committee believes that the only way for the League to maintain this safe environment is to take action to address unlawful or inappropriate acts of one member that impairs the safety of, or otherwise damages the person or property of their fellow members. The Committee believes that, even if certain acts are not expressly prohibited by the Policy, Gotham has an obligation to act if one of its members engages in inappropriate conduct during league activities that endangers the safety – whether of the person or the property – of another member.

With that in mind, the Committee believes that ***** engaged in conduct that damaged the safe environment the league strives to maintain, and that his conduct was as inappropriate as it was serious. To be clear, this is not a situation where a member

simply took apparently lost property to give it to a responsible party or report it lost or stolen. While ***** denies any malevolent intent, his conduct tells a different story. ***** took *PLAYER 1*' phone and told no one. He placed it in his own bag and closed the zipper. He held on to the phone for at least an hour without telling anyone. Even worse, when asked by a league member if he had seen an iPhone, ***** misleadingly said no. Only after he was confronted with the beeping iPhone in his bag did he return the phone to *PLAYER 1*.

Even giving ***** every benefit of the doubt, his actions were inconsistent with someone who simply found lost property and tried to return it. Moreover, his acts fell far below what Gotham members should expect from fellow members of their community. When a member finds lost property, one would reasonably expect that member to either (a) report the lost property to a Gotham Board or staff member, or security; or (b) make reasonable attempts to locate the owner of the property. One would certainly not expect that member to deny having seen the property he found when asked by a member searching for that property. All of these, in the aggregate, not only speak dimly of *****'s intent, but also demonstrate startling irresponsibility with another Gotham member's valuable property and contributed to making the Tournament feel less safe for several Gotham members.

We therefore turn to the question of what sanction is appropriate to address this conduct. We have weighed various factors here. On one hand, *****'s conduct was serious, and could easily lead to the conclusion that ***** may never have returned the phone had *PLAYER 1* not located it – a startling breach of trust and safety. It seems, based on *****'s discussions with *TEAMMATE 2*, *DIVISION REP* and the Committee, that he does not appreciate the severity of what he has done. On the other hand, ***** is a long term member with no previous incidents that the Board or this Committee is aware of.²

Given these circumstances, the Committee is unconvinced that a warning would be productive. It would also not be productive to expel ***** from the organization. However, because we are at the end of the Spring season, any suspension less than several months would have little, if any, practical impact and would not deter future conduct. Accordingly, the Committee has decided to suspend ***** through the Fall 2014 season. As a result of this suspension, ***** will not be allowed to participate in or otherwise attend any Gotham events until tryouts for the Spring 2015 season.

Additionally, while the Committee hopes that this suspension will allow ***** to reflect and act more responsibly in the future, the Committee is not inclined to leave that to chance and feels it best to provide ***** with specific requirements to ensure

² At the hearing, several individuals said that ***** has engaged in similar conduct in the past. However, these statements were based on nothing more than uncorroborated hearsay (basically gossip) from other Gotham members, none of whom could be identified. There is no record of any similar incident being reported to the Board in the past. We give the uncorroborated rumors of prior conduct the weight they deserve – which is none – and assume that ***** has never committed a similar infraction during his time in Gotham.

that a similar incident does not recur. Accordingly, the Committee will also require that, until June 1, 2016, when ***** is present at any Gotham Volleyball events and discovers property that is not his and that he believes is lost, he must immediately report the property to a Board member, referee or school security or Police before taking the property. We believe this requirement will ensure that ***** stays well within the boundaries of appropriate conduct regarding others' property.

Finally, when reviewing the Sportsmanship and Anti-Violence Policy, it appeared to the Committee that the Board, while likely wanting to include non-violent but unlawful or improper conduct that could harm members' person or property within its scope, did not specifically do so. The Board may want to review the Policy and see if it wishes to revise any part of the policy in view of what occurred here.

CONCLUSION

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

- 1) The conduct of ***** described above represents a serious violation of the Gotham Volleyball Sportsmanship and Anti-Violence Policy as well as independently constitutes sanctionable conduct.
- 2) The appropriate sanction for *****'s conduct is a suspension from Gotham Volleyball competition and events through the end of the Fall, 2014 season. ***** cannot attend any Gotham events during this time.
- 3) Upon his return and until June 1, 2016, when ***** is present at any Gotham Volleyball events and discovers property that is not his and that he believes is lost, he must report the property to a Board member, referee or school security or Police before taking the property. A failure to adhere to this requirement, in and of itself, may result in further sanction by this Committee or any successor body.
- 4) The Gotham Board of Directors is requested to review and, if it deems appropriate, revise the Sportsmanship and Anti-Violence policy in light of this incident.

NOTICE OF APPEAL RIGHTS

Under Article XI, Section 3c of the Bylaws of the Gotham Volleyball League and Section III(4)(h) of the Gotham Volleyball Sportsmanship and Anti-Violence Policy, ***** may appeal this decision 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 (by e-mail or other means) to Clovis Thorn, Vice Commissioner/Commissioner, Gotham Volleyball League on or before June 13, 2014.