CL-2022-000196

Claim No CL-2022-000196

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
QUEEN'S BENCH DIVISION
COMMERCIAL COURT
IN THE MATTER OF THE ARBITRATION ACT 1996
IN AN ARBITRATION APPLLICATION

BEFORE THE HONOURABLE MR JUSTICE CALVER
DATED 8 JULY 2022

BETWEEN

ALEXANDER JAMES HYDES

Claimant

-and-

THE ENGLISH BRIDGE UNION LIMITED

Defendant

ORDER

UPON the claimant's application for permission to appeal under section 68 and/or 69 of the Arbitration Act 1996

IT IS ORDERED THAT:

Permission to appeal is refused.

Reasons

Section 68

1. No fair-minded and informed observer would have thought that there was a real possibility of bias on the part of any member of the Appeals Committee.

2. Rule 10.4 of the Disciplinary Rules of the EBU provides that the appeals Committee shall comprise at least three individuals appointed by the Chairman of the Board from among the Vice Presidents of the Company, the Board of Directors and members of the Disciplinary Panel. Mr Russ and Ms Fawcett were accordingly qualified to sit on the appeal. Neither of them had prior involvement with the case (they did not sit on the Disciplinary Committee whose decision was the subject of the appeal. Merely being informed of the charges against the Claimant at EBU meetings is plainly not an "involvement" in the case under Rule 10.6; nor did any member of the Appeals Committee have any "relevant interest" in the outcome of the case under that Rule. EBU is not a commercial enterprise. Mr. Russ's shareholding in the EBU (which is of no financial value) is irrelevant: see Heather Sanderson's witness statement ("Sanderson"), paragraph 50.
3. The suggestion that the members of the arbitral panel were not appropriately qualified or competent to deal with the dispute, not having legal training, is hopeless. The Law and Ethics Committee proved to the comfortable satisfaction of the Disciplinary Committee under Rule 8.9 that the Claimant, on his admission, was guilty of self-kibitzing. His argument that doing so did not amount to an offence because some of his opponents were also self-kibitzing was plainly no defence to the charge of dishonesty against him. The question for the Appeals Committee was whether the Appellant could prove on the balance of probabilities that the Disciplinary Committee erred in finding the charge proved (Rule 10.12). The answer to that question did not require any legal expertise. At the appeal hearing, the Claimant again admitted on numerous occasions that he was guilty of self-kibitzing: see Sanderson, paragraph 61. The Appeal Committee was fully entitled to reject his unconvincing purported justifications for so doing.
4. The alleged (minor) failures to comply with the form of the award plainly did not cause substantial injustice to the Claimant: see paragraphs 54-56 of Sanderson.

<u>Section 69</u>

5. There is no error of law. The Appeals Committee applied the correct test to the issue before it. It was entitled to find the case proved based upon the Claimant's admissions both before the Disciplinary Committee and before the Appellate Committee itself. It had a broad discretion to regulate its own procedure: Rule 10.13. The Appeals Committee also clearly understood that it was applying English law (see paragraph 29

of the Defendant's skeleton argument) and it gave sufficient reasons for its decision. Contrary to paragraph 19 of the Claimant's Reply to the Defendant's Skeleton Argument, the Committee was obviously not required to explain "why certain pieces of evidence were afforded more weight than others." It is not a court of law.

6. In short, there is no merit in any of the grounds of challenge.

Dated 8th July 2022