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August 20, 2024

By email

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Le règlement par chèque est accepté.

slee@cpradr.org

Re: CPRADR's Article of August 12, 2024 "BREAKING–Did Romania's Lawyer Strip Jordan Chiles of a Bronze Medal?"/Formal Notice

Dear all,

1. We have been instructed by Me Gharavi and the law firm Derains & Gharavi AARPI to put you on notice in relation to the above referenced article. This is because it is defamatory and has triggered, on the presumption that it was written by industry specialists, a chain of similarly defamatory articles on mainstream media damaging to their practice and exposing Me Gharavi to all sort of allegations and to public hatred, threats and disgrace, and with it his family and firm of which he is a name partner.
2. This with aggravating factors given that it is directed, as you know, towards a person holding adjudicative functions, in an industry driven by integrity, without moreover any efforts to reach out for comment, whereas it is customary to do so, especially regarding allegations of this gravity and foreseeable adverse consequences.
3. Another aggravating factor includes the fact that you opted to not wait for the reasoned award that you knew or could not ignore was imminent (ultimately published on August 14) and to not indicate that the same had not yet been issued. Moreover, you elected to not conduct the elementary inquiries that would have avoided the suggestions of wrongdoings contained in the article.
4. A further aggravating factor is the fact that you are experts, and that you necessarily knew or could not ignore that the suggestions of wrongdoing, as put, were both inappropriate and premature, and would not only raise eyebrows within the arbitration community but also anger, particularly within the US public at large because of the underlying US national interests. And this with damaging consequences on the dispute resolution system, CAS, and Me Gharavi, given the wrongdoings suggested, the industry specialists involved and the high profile and public nature of the case involving a US gymnast, the Olympics and the bronze medal, all used as or having the effect of a steppingstone to the detriment of those targeted, in violation of basic notions of independence and integrity.
5. The first issue is with the promotional title of the article "*Did Romania's lawyer strip Jordan Chiles of a Bronze Medal?*" It is in itself defamatory as it alleges conflict and a wrongdoing by focusing on and referring to Me Gharavi, who held an adjudicative function, as "*Romania's lawyer*" which suggests sole decision-making and manifest

conflict and uses in direct relation to the same the word “*stripping*” which implies undue taking and arbitrariness/bias in that context.

6. You were very well aware as industry professionals that the issuance of the dispositive part of the CAS award on August 10 under the auspices of the CAS Ad Hoc division was to be promptly followed by a reasoned award, and that it is not customary to address conflict and associated issues within the dispositive part nor in the accompanying CAS notice. These essentials are missing in your article.
7. You then rushed to call for scrutiny of the award on the issue of conflict as some sort of whistle blower, and this in a speculative manner, suggesting that there may have been a conflict. And this prematurely, without waiting for the reasoned award. Nor were elementary checks and balances conducted or due process afforded, as you did not reach out to the Panelists or CAS, which could have confirmed that the disclosure was obviously made or that you were looking at the wrong direction and/or that you should wait until the issuance and publication of the reasoned award.
8. More, you went on to assume that there may have been (not to say was) no disclosure, by expressing hope that there was one and moreover stating that “[r]easonable people could agree that these issues should have been presented to the parties to the dispute before Hamid Gharavi was selected as presiding arbitrator” and then moving on to add “[w]e can only hope that they are raised in the CAS appeals procedure” before concluding “[t]here would appear to be a need for closer examination of this case, for the benefit of both Jordan Chiles and Ana Barbosu.” Yet, you knew or could not have ignored that on balance, it was more likely than not, to say the least, that the representations of Romania, moreover in public international cases and thus within the public domain, would have been necessarily disclosed, as they indeed were, given the experience of the Panel and the importance of the case that warranted its members being even more attentive to conflicts. This is unfair, un-collegial, and defamatory.
9. Also, you necessarily could not ignore that, disclosures aside, it was implausible that the issue of the representations of Romania would go unnoticed by the many case participants as any counsel, let alone the experienced and prominent counsels representing the parties and interested parties, would have at the very least looked at Me Gharavi’s CV as President of the case, where the representations of Romania in investment cases was clearly set out, not to mention that the same is in the public domain and readily accessible.

10. No context moreover was provided, namely that Me Gharavi is an experienced practitioner with an important history of major representations and nominations and an extensive ongoing docket of cases, and thus not dependent on any party, as it clearly transpires from his CV and cases publicly reported. Nor was there any mention made that Me Gharavi, like all members of the *ad hoc* division selected by CAS, is passionate about sports, and its values, and had put his family and busy practice during the holiday season in parentheses for three weeks (and in fact more given the drafting that followed) to carry out his duties during the hot summer month of August, and this free of charge. The foregoing is yet another reason why disclosure should have been presumed together with the fact that the Parties, represented by experienced counsel, may have been satisfied to have an experienced practitioner, raised, educated and trained both in the US and Europe, nominated amongst the limited number of Ad Hoc Division pool of arbitrators to preside their case, and thus not object to Me Gharavi's nomination upon review of his CV. As a recent commentator has put it, "*as the August 14 explanation makes clear, no one objected. And let's be fair: Gharavi has a postgrad degree from NYU and started his impressive – it is hugely impressive – career at the megafirm Skadden Arps in New York*".¹ Yet, it is the very contrary image that you have unfairly and prematurely conveyed to the international arbitration community and to the public in the above-described manner by gratuitously and prematurely speculating that Me Gharavi may have disregarded his obligations and basic principles of integrity.
11. It could not come as a surprise to you that your above suggestions of wrongdoings by their gravity in relation to Me Gharavi's adjudicative function, and this with respect to a mediatic case involving the Olympic bronze medal of a US gymnast, has caught the attention of the US mainstream media and thus in turn the attention of the US public at large and the world. This has resulted, as it was similarly foreseeable, in attacks in the mainstream media directed towards Me Gharavi, including with express references to your article as the source and starting point of this scandal² and to dozens of threat messages (including death threats) and hate with allegations of corruption and calling for his disbarment and the launch of investigations of all sorts against him.

¹ <https://www.3wiresports.com/articles/2024/8/15/in-which-the-usopc-did-not-attend-the-jordan-chiles-cas-hearing-what-no-for-real>;

² ABC News, "Romanian gymnast Ana Barbosu receives Olympic bronze medal amid Jordan Chiles scoring controversy," dated August 16, 2024, available at <https://abcnews.go.com/amp/GMA/Living/romanian-gymnast-ana-barbosu-receives-olympic-bronze-medal/story?id=112889944>

12. Whereas the publication of the award and the CAS press release of August 14, 2024 have gradually led to a fairer press coverage in both mainstream media³ and industry journals⁴ that have started to set the record straight on some of the above issues, the above referenced defamatory article necessarily continues to influence the public opinion and will continue to cause Me Gharavi and his firm long lasting damage, in relation to which he and his firm reserve their rights.
13. In sum, there was no objective basis - manifestly nothing to see and nothing out there then - for you to write as industry professionals such an article on August 12 to speculate impropriety. And the reasoned award, issued two days later, proved it.
14. In fact, the final aggravating factor is that you have still have not as of August 19, engaged in any efforts, since the issuance of the detailed reasoned award on August 14 with the corresponding CAS release, to update and mitigate the unwarranted and defamatory “buzz” that you have created (within a mere two days of the issuance of the dispositive part of the award) and its harmful consequences.
15. It was your duty, particularly under the above-described circumstances, to the reader, Me Gharavi, the firm Derains & Gharavi, and all those impacted by your article, to report that the CAS’ reasoned award proved that Me Gharavi did what he had to do, in full compliance with industry standards and practice. More specifically, that Me Gharavi disclosed immediately and in full his representations of Romania to CAS for transmission to the Parties notwithstanding the same being in the public domain and mentioned in his CV. It would have been appropriate also to add apologies for the unnecessary buzz that the article generated by way of the premature and inappropriate suggestions and for the above resulting adverse consequences on Me Gharavi and his firm.
16. It is yet not too late. It is in fact advisable, and you are invited to immediately do so, without reservations nor spins. And this even more so as Me Gharavi cannot comment publicly on this issue given his adjudicative function. You are invited to do so, directly and expressly, not only by fairness and collegiality, but to mitigate Me Gharavi and his firm’s damages, and with it those that your journal and the authors of the article will be held accountable for, without prejudice to Me Gharavi and his firm’s right to seek

³ See for instance : <https://www.3wiresports.com/articles/2024/8/15/in-which-the-usopc-did-not-attend-the-jordan-chiles-cas-hearing-what-no-for-real>; and [https://eu.usatoday.com/story/sports/olympics/2024/08/14/jordan-chiles-gymnastics-medal-ruling/74803693007/.](https://eu.usatoday.com/story/sports/olympics/2024/08/14/jordan-chiles-gymnastics-medal-ruling/74803693007/)

⁴ See for instance : <https://globalarbitrationreview.com/article/us-furore-over-gharavi-olympic-ruling>; <https://globalarbitrationreview.com/article/cas-publishes-gharavi-award-amid-media-storm>.

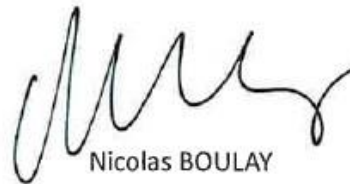
compensation for the material and moral damages, including before French courts and under French criminal law.

17. We look forward to hearing from you by Wednesday, August 21, 2024. In accordance with the ethical rules applicable to our profession, we invite you to forward this letter to your usual counsel.



Laurence MAROT

Avocat à la Cour



Nicolas BOULAY

Avocat à la Cour