

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

Sam Sloan

Petitioner

INDEX No. 2004-7739

-against-

Beatriz Marinello, Tim Hanke, Stephen Shutt,
Elizabeth Shaughnessy, Randy Bauer, Bill Goichberg,
Kenneth M. Chadwell and United States Chess Federation

Respondents

Reply to Affidavit of Leroy Dubeck

Samuel H. Sloan, being duly sworn, deposes and says:

1. Several affidavits have been filed by the respondents in this case. I have decided to respond one-by-one to each affidavit to avoid confusion because they raise separate issues. Subject matter jurisdiction of the court is one issue. Service of Process is another issue. Personal jurisdiction is yet another issue. The Dubeck affidavit goes to the merits of the case so I will address that here.
2. Leroy Dubeck had advance notice of this case because I served a complete set of papers on him even before I purchased an index number in this case. I sent him the petition, the affidavit in support, the memorandum of law and the proposed order to show cause even before I filed this case in court. These documents were mailed to him on November 10, 2004. I mailed these documents to 27 different people on that day. I tried to mail one to everybody whom I thought might want to participate in this case, including those like Dr. Dubeck who I knew I could count on to oppose anything I try to do. He did not disappoint.
3. Just to explain, I have known Dr. Leroy Dubeck since 1961 when he gave me some pointers on the Morra Gambit of which he was the leading expert at the time. This happened at the 1961 Eastern Open in Washington DC. In 1964, to my great chagrin, Dr. Dubeck defeated me in the US Open Blitz Championship in Boston. I was rapidly improving player then and really thought that I was going to beat Dubeck, but I failed. In 1962, I played Bill Goichberg at the Eastern Open in Washington DC. It was a Rossolimo Variation. The game has been published on the Internet. In 1960, I lost to Frank Brady in

round three of the US Open in St. Louis. I was White in a Budapest Defense. I had him completely busted but I was just a kid and I got nervous and lost.

4. The point is that we chess players go back a long time. I have also known Steve Shutt and Don Schultz, two other board members, since at least 1966. I have known two other board members, Tim Hanke and Elizabeth Shaughnessy, for only about ten years. Beatriz Marinello is the relative newcomer, as I have only known her since 1999, when a controversy arose because Richard Peterson, a scholastic chess organizer, accused Beatriz Marinello of forging his signature on the contract to hold the 1999 National Elementary Chess Championship in Arizona, and Beatriz counter-charged Peterson with forging his own signature to the contract. The case wound up in court. Just to explain, events like the National Elementary Chess Championship involve BIG MONEY because as many as four thousand little kids along with their parents and their professional chess trainers, teachers and coaches show up to compete. Events like this were depicted in the movie "Searching for Bobby Fischer".

5. I have great respect for the work Dr. Leroy Dubeck has done as Chairman of the USCF Finance Committee. He generally makes a presentation of his analysis of the annual budget at the annual meetings of the USCF which are held in August every year. His presentations are invariably excellent. He is the best person the USCF has in that respect.

6. However, there is one area in which Dr. Leroy Dubeck is definitely wacko and that is when it comes to anything about Bill Goichberg. Everybody who knows Dr. Dubeck well knows that he hates Bill Goichberg. Nobody knows the reason. Dr. Dubeck was USCF President from 1969 to 1972. At that time, the President of the USCF could not succeed himself, and therefore his term ended in 1972. In 1975, Dubeck ran for USCF secretary or treasurer, I am not sure which. He lost a close election by just a few votes. He had thought that he was going to win easily. He blamed Bill Goichberg for his election defeat, I do not know the reason, and has been determined to get revenge. Ever since, whenever Goichberg runs for anything, Dubeck fields a candidate to run against him. Dubeck budgets anywhere between \$3,000 and \$7,000 of his own money to run this candidate, which is big money for these chess elections. Dubeck hires fellow Goichberg-haters around the country and pays them to write and mail letters attacking Goichberg or extolling the competency or virtue of the latest Bum-of-the-Month Dubeck has hired to run against Goichberg. Dubeck picks up the telephone himself and makes hundreds of telephone calls all around the country telling voters how this terrible disaster will happen if Goichberg is elected and why his candidate is this wonderful person, even though nobody ever heard of him, who will set things right. The problem is that the Dubeck candidate almost always loses, for the simple reason that Dubeck always picks some complete nobody to run, some Holy Man or some ridiculous individual that nobody knows anything about. If Dubeck would run himself for election under his own name, I would vote for him and I believe that he would win. However, Dubeck keeps putting up candidates who are just his front men. Bill Goichberg is by far the biggest chess organizer in America if not the world. However, Leroy Dubeck has been able to stop him or at least slow him down.

7. Until last year, that is. Last year, Bill Goichberg got in as Executive Director because the USCF had no choice in the matter. The USCF had lost money eight years in a row and had lost two million dollars. The USCF was broke, as in no money in the bank, as in zero. Bill Goichberg was willing to work for free, for no salary at all. The price was right, as nobody else was willing to work for free. The situation was truly desperate. The USCF did not even have the money to pay the guaranteed prizes at the August 2003 US Open Chess Championship in Los Angeles, a tournament that was organized by a guy named Hanken. The USCF could not make payroll. Goichberg offered to work for free and, more than that, he agreed to pay the employee salaries WITH HIS OWN MONEY. Goichberg did that by purchasing ads in Chess Life one year in advance for the World Open Chess Championship, for the Chicago Open, for the Foxwoods Open and for the other big tournaments around the country that Goichberg runs. There is little doubt that had not Goichberg made this big lump-sum payment in advance, the USCF would have gone under.

8. However, this infuriated Dr. Dubeck, because after his long, hard struggle for the past 30 years where Dr. Dubeck had fought so valiantly to keep Goichberg out of key positions in the USCF, suddenly Goichberg was in charge and running the entire federation.

9. Then, somebody remembered Crossville, Tennessee. Crossville had made a largely forgotten bid to host the USCF. The bid was the product of Harry Sabine, a USCF insider who had served six years on the Policy Board from 1984 to 1990, including three-years as Vice-President. In 1990, Harry Sabine ran for USCF President. Sabine was heavily favored to win and most believed that his opponent, Grandmaster Max Dlugy, had no chance. However, Dlugy pulled off a tremendous upset to win the election. Dlugy later became discouraged by the constant in-fighting among chess politicians and so dropped out and stopped coming to the meetings even before his term as president was up.

10. Sabine did not run for election after that defeat. However, he cooked up this scheme to move the USCF to Crossville. Crossville is a small town of nine thousand people known mainly as a trading place for used aircraft. It is widely believed that Harry Sabine wants to become Executive Director of the USCF. A move to Crossville would virtually guarantee that Sabine will eventually get that job, because there is nobody else in Crossville remotely qualified and not many people would want to move to Crossville.

11. From the affidavit Leroy Dubeck has filed in this court and from the postings by Beatriz Marinello and her henchmen on the Internet chess newsgroups, especially rec.games.chess.politics, one would conclude that it is entirely because of Beatriz Marinello and others associated with her that the USCF was saved from bankruptcy. The name of Bill Goichberg is almost never mentioned and, when it is mentioned, it is in a disparaging or unfavorable manner. Dr. Dubeck does not want to give credit to Bill Goichberg for anything. Actually, Dr. Dubeck was chairman of the USCF Finance Committee during the entire eight years when the USCF lost money every year. He does not say anything about the losses. I do not blame Dr. Dubeck for the losses. That honor

goes primarily to Tim Redman, George DeFeis and the so-called Redman Gang that was in office during 2000-2001 when most of the losses took place. However, Dubeck made some bad decisions. In 1999, Leroy Dubeck decided that the USCF should go into the book publishing business and he put money for book publishing in the budget for the 2000 fiscal year. I opposed that because, although the USCF sells chess books, it does not know anything about the business. I have been the president of a profitable book publishing company, so I know a little bit about the business and I know that almost all books lose money, almost all book publishers lose money and this is not a field for amateurs. Turns out that I was right. The USCF published several books and sold almost no copies. In one instance, the USCF printed 2000 copies of a book and it sold less than 40 copies. Then, the author threatened to sue for royalties. My guess is that the USCF has probably lost at least \$20,000 in this book publishing business that Dr. Dubeck wanted the USCF to get into. However, that is small potatoes compared to the amount we could and probably will lose now that Dr. Dubeck wants us to get into the building construction business.

12. In his affidavit dated November 24, 2004, Leroy Dubeck states:

7. I have read Mr. Sloan's factual allegations in his affidavit and petition. They are unfounded. The proceeds from the sale of the building were duly deposited in USCF's LMA accounts and have been prudently managed. Beatriz Marinello as Board President, and Tim Hanke as Vice President of Finance, are duly authorized to sign checks on the LMA account. Bill Goichberg, Ken Thomas and Judy Misner have authority over USCF's general checking account. All funds are accounted for. USCF's financial statements are audited by a certified, independent accounting firm, and are posted on USCF's website at www.uschess.org for all to examine. Board resolutions, minutes, and decisions are also posted. Neither Ms. Marinello nor the Board, or for that matter any of the other respondents to my knowledge have acted in self-interest and have not engaged in any self-dealing. If any members such as Mr. Sloan are unhappy about the Board's decisions, they have the right to express their feelings at both our membership meeting and the Board of Delegates meeting, held in August each year. In addition, he has the right under USCF's by-laws to file an ethics complaint against any individuals he feels engaged in wrongful conduct I submit that these internal solutions are more appropriate than wasteful litigation.

13. However, this is ingenuous. The only reason the money had not been moved to banks in Crossville is that Beatriz has not done it out of lazyness or stupidity. Beatriz ordered the money to be moved and believed that it had been done. On about November 10, just about the time I was filing my motion to freeze the bank account, Stan Booz, who is Beatriz Marinello's head of the Audit Committee, reported that the money had been moved to Crossville. He was wrong. Beatriz repeatedly called the USCF office in New Windsor demanding that the money be moved. She was told just as repeatedly that the office could not move the money, because she had cut out the office from having any

signing authority over the money. Since only Beatriz could write checks on the account, she would have to do it herself. However, the Key Bank in Newburgh where Suzanne Boyko is the account officer insisted that in order for them to follow the instructions of Beatriz Marinello, she would have to provide the bank with photo-ID plus sign a signature card. Beatriz either failed or refused to do that. We do not know the reason and we would like to find out. The bank was concerned that a large amount of money was involved. The movement of a large amount of money like \$513,000 on behalf of a foreign national aroused some concerns regarding the Patriot Act. It took less than that to blow up the World Trade Center.

14. Beatriz became increasingly concerned over the fact that the money was not getting moved to Crossville. Here is an email she sent on November 22, 2004, which was six days after this court signed the Order to Show Cause:

In a message dated 11/22/2004 12:39:28 PM Eastern Standard Time, Beatchess writes:

Subj: Re: LMA Money transfer
Date: 11/22/2004 12:39:28 PM Eastern Standard Time
From: <mailto:Beatchess>Beatchess
To: <mailto:timothyhanke@comcast.net>timothyhanke@comcast.net,
<mailto:Chessoffice>Chessoffice,
<mailto:stephenshutt@yahoo.com>stephenshutt@yahoo.com,
<mailto:bradyfm@msn.com>bradyfm@msn.com,
<mailto:Chessdon>Chessdon,
<mailto:Randy.Bauer@iowa.gov>Randy.Bauer@iowa.gov,
<mailto:elizabethshaughnessy@hotmail.com>elizabethshaughnessy@hotmail.com
CC: <mailto:accountant@uschess.org>accountant@uschess.org,
<mailto:jon@bocachess.com>jon@bocachess.com,
<mailto:sbooz@boozmajor.com>sbooz@boozmajor.com,
<mailto:LWDubeck>LWDubeck,
<mailto:hdsabine@citlink.net>hdsabine@citlink.net

Bill and Ken:

I spoke with Harry Sabine this morning, he told that the Banks in Crossville did not receive the monies to complete the transaction of purchasing the CDs for the USCF.

Could you please advise us about the reason why the money has not being transferred to Crossville. ?

At the same time, please verify the information in the Banks to make sure that

the mailing address is the USCF address either in New Windsor or Crossville.

I would appreciate a reply as soon as possible.

Beatriz Marinello

15. Here is the reply by Bill Goichberg the same day to the same letter:

My understanding is that the office cannot transfer the money, only you and/or Tim Hanke can do that as you are the signers on the account. I thought that you were both aware of this and were working on making the transfers.

Bill

16. The court may be wondering where I get all these secret, confidential emails from. The answer that just about everyone in the USCF outside of the four members who voted in favor of the move plus Stan Booz, Leroy Dubeck and Harry Sabine are calling me up all the time to give me the latest secret inside information. Almost nobody in the USCF outside of the people named in the above email wants the USCF to move to Crossville. Many USCF members are trying to help me stop the move.

17. This explains how I know what is about to happen. What is about to happen is that on December 19 and 20 the Executive Board will meet in Florida. Beatriz Marinello will resign as USCF President and from the Board and five minutes later Beatriz will be appointed as USCF Acting Executive Director or as the Relocation Coordinator or some other such title. Her salary will be \$37,500 per year, to be increased later. The resignation of Bill Goichberg will be accepted. A resolution will be passed awarding Bill Goichberg a payment of \$10,000 as a reward for working for 15 months as Executive Director. I imagine that Bill will refuse the offer as the amount is insulting. The original proposal was to pay Bill \$60,000 but Tim Hanke and Beatriz Marinello would not stand for that and so the amount was reduced to \$10,000.

18. The result of the decision of this court on November 30, 2004 is that the Board is not exercising caution about the move to Tennessee. To the contrary, the board is speeding up and accelerating. The original plan was for the move to be completed on March 31, 2004. Now, they want to do it in January. Mr. Dubeck states in his affidavit: "If any members such as Mr. Sloan are unhappy about the Board's decisions, they have the right to express their feelings at both our membership meeting and the Board of Delegates meeting, held in August each year."

19. However, that is just the point. There was a delegate's meeting this past August, four months ago, and no mention was made of a possible move to Crossville or to anywhere else. I contend that both the move and the sale of the building was a violation of the by-laws. I have checked the minutes of the meetings of the Executive Board for the past

three years. They are all online at: <http://www.uschess.org/org/govern/>

20. Nowhere in any of these meetings was a vote taken to sell the building in New Windsor. There was also no vote to give Beatriz Marinello and Tim Hanke signing authority over the bank accounts. In the past the LMA funds were controlled by a chess player named James D. Oberweis, who was a professional money manager who had more than one hundred million dollars under management.

<http://www.64.com/uscf/ratings/12464623>

21. The Oberweis Fund is listed with a symbol OBM CX. We knew that Mr. Oberweis was not going to run off with the money. For that matter, we know that Leroy Dubeck is not going to run off with the money. We are not sure about Tim Hanke and Beatriz Marinello. Both are unemployed with probably very little money. Tim Hanke was fired from his job just a few weeks ago and now says that he want to become Editor of Chess Life. Beatriz Marinello is a notorious lesbian who lives with a woman and has no regular or known source of income and no verifiable job. It seems strange that two people of such questionable backgrounds would be entrusted with such a large amount of money. It can be stated that almost without doubt if this court had not ordered on November 30, 2004 that the funds may not be transferred out of the Key Bank in Newburgh, then the funds would not be there any longer.

22. Here is what Tim Hanke posted on the newsgroup rec.games.chess.politics on November 18, 2004 at 11:51 am:

Beatriz Marinello is the head of the gang of thieves that have taken over USCF. Her henchman is a guy named Hanke, who drives around with all of USCF's money in a suitcase in the trunk of his car, apparently because he doesn't trust banks. Marinello and Hanke are like Bonnie & Clyde.

Tim Hanke

23. Of course, this was taken as a joke. However, it is not so funny when one realizes that it could possibly happen.

24. Prior to voting to move, there was no study or discussion of the costs of the move. It is now being estimated that it will cost \$300,000 to move to Crossville and that will just cover the first aspect of the move. There are two moves involved. First the USCF will move from New Windsor to an abandoned church in Crossville which the city fathers are making available. However, the Crossville newspaper has pointed out that the abandoned church does not meet the building codes and requires work. It is expected that the USCF will spend one year in that church. During this time, the USCF will be building a new building on a vacant lot. However, it has been pointed out that that vacant lot is next to the gas company on one side and the electricity company on the other side. Nobody until now has been willing to build next to the gas company and that is the reason that the lot has remained vacant until now.

25. The Executive Board never voted to sell the building. In fact, neither the members nor the delegates are to this day aware that the building has been sold. I knew about it only because people are calling me day and night giving me inside information about what is going on. Look at <http://www.uschess.org> and you will see that there is no notice that the building has been sold.

26. It is being argued by representatives of the Gang-of-Four that has taken over the USCF that at the USCF meeting in Cherry Hill NJ in August 2002 the Delegates voted to sell the building and this gave the board the right to sell the building in October 2004, more than two years later. I was at the 2002 meeting as a Delegate from New York and I know what happened. In addition, Myron Lieberman made a video tape recording of the entire meeting and I call upon him to make that videotape available to us so that we can all see what really happened.

27. What happened was that Steve Doyle took the floor on supposedly some other matter and immediately made a motion to sell the building and move to Miami. I stood up and objected, since we were still in the "Old Business" phase of the agenda and this item was clearly new business. Mike Nolan, the USCF Parliamentarian, ruled in favor of Doyle, saying that as long as he had the floor Doyle could make any motion on any subject and get it voted upon. It was obvious that Doyle had consulted with Nolan before the meeting and had used a parliamentary trick to get his motion voted upon before the Advance Agenda had even started, much less finished.

28. A heated debate ensued. It quickly became obvious that this off-the-wall motion which had not been placed in the agenda nor had it gone through the normally required procedure of being presented to the relevant committee and debated and discussed prior to the meeting was nevertheless put-up by several board members especially President John McCrary and by Executive Director Frank Niro. However, other Board members, especially Frank Brady, were angry that they had not even been told about this motion until it had been presented on the floor.

29. Frank Niro took the microphone and explained that he had a ready buyer who was ready, willing and able to buy the building for \$600,000 cash. However, this buyer wanted to buy the building right away, now. The buyer was not willing to wait for some committee report. If there was going to be any delay at all, the buyer would simply buy another building in the area. Frank Niro further explained that \$600,000 was more than the appraised value of the building. This was a good deal for us and it might be a long time before we would get another deal like this. With this \$600,000, there were many buildings we could buy cheaper and better than that or, of course, we could move to Miami.

30. Frank Niro further stated that in Miami, we had been offered free quarters in the Chess Hall of Fame which the Hall of Fame had generously offered us. Frank Niro was asked a lot of questions by the delegates and spoke for well over 30 minutes on this topic

(which is why I want for Myron Lieberman to give us the tape). Frank Niro explained that the reason why this buyer had been willing to pay such a high price is that the buyer had another property adjoining this one and he especially wanted the parking lot in the back and the warehouse in the basement. The buyer planned to build a strip mall and had already purchased all the surrounding land and he needed to buy this one remaining piece so that he could start building his mall. These attributes to the building were a great advantage to this particular buyer, whereas we, the USCF, could move anywhere.

31. The move to Miami was more hotly debated, even though it appeared to be such a great deal. We were being offered free office space, with no rent, in a very suitable location in Miami. Nevertheless, a lot of delegates objected to the move to Miami for various reasons. Finally, the language of the motion was reworded to state that we could move to Miami or to some other suitable location. The motion passed by a bare majority on a close vote. I WAS ONE OF THE DELEGATES WHO VOTED IN FAVOR OF THE MOTION.

32. After the meeting was over, it turned out that this was all false. We will probably never know whether Doyle and the others who supported this motion knew that it was all false or if they were simply misled. That buyer who was so anxious to pay \$600,000 evaporated. It was reported that he later offered \$300,000, but this was obviously unacceptable. The offer of free office space by the Chess Hall of Fame turned out to be another lie. What they were really offering was to give us free office space while we were building a new building on their land. As long as we were spending our money to build a building on their land, they were willing to let us stay temporarily in their offices without charging us much rent, provided of course that we give priority to selling their products. The Chess Hall of Fame is owned by Excaliber, formerly named Fidelity, which is a big producer of chess related computers. They advertise in Chess Life magazine and in other chess publications, which is the reason why they sponsor the World Chess Hall of Fame, which is in their offices. They wanted our sales staff to concentrate on selling their products, which is the reason why they were offering us such a generous deal.

33. As soon as the true nature of the deal being offered by the Chess Hall of Fame became apparent, it was dropped. Attention turned to Palm Beach Gardens, which seemed to offer us a much better deal. However, President John McCrary refused even to consider the Palm Beach Gardens deal and refused even to go there to look at what was being offered, although he lived nearby. In 2003, John McCrary came up with the Crossville Deal sponsored by old-time USCF insider Harry Sabine. There were tremendous objections to Crossville, especially because of its remote location. McCrary nevertheless insisted on Crossville but not long after resigned as president in August, 2003. Crossville was virtually forgotten, everybody seemed to be against it, and the 2002 vote to sell and move was not even brought up at the 2003 or 2004 USCF delegates meetings.

34. Suddenly, in October 2004, the Board majority decided that the August 2002 vote to sell the building was still valid. I feel that this is clearly incorrect. Since I was one of the bare majority that voted in favor I can say that my primary reason for voting for it was

that I was quite familiar with the real estate market at that time and there were many better buildings even in downtown Brooklyn where I was living that could be had for less than \$600,000. I agreed that \$600,000 was too good an offer to pass up. If the buyer had offered only \$500,000, my vote would have been different.

35. In the last two years, real estate values in Brooklyn have doubled. There are no longer buildings for sale at such prices. The \$513,000 which we got in October, 2004 was too low. (One source says that the actual amount was \$503,000, not \$513,000.) More than that, the Executive Board has never voted to sell the building. I have checked all of the minutes of meetings for the past two years and none of them record a vote to sell the building. I believe that whomever signed the contract to sell the building did not have legal authority to do so and the sale is void.

36. Counsel for the USCF argues that New York Not-For-Profit Law does not apply because the USCF was originally incorporated in Illinois. I disagree. However, even if he is right on that point, there are a lot of additional requirements for the sale of a building such as a corporate resolution authorizing the sale of the building and a vote by the board to sell a building. None of this has been done. It is not only that the USCF has violated Not-For-Profit Law. It has also violated its own by-laws.

37. Furthermore, it is now known that Beatriz Marinello is to take a paid position with the USCF shortly after the meeting on December 20, 2004. It is unethical and possibly even illegal for a member of a Not-For-Profit Board to do that. The USCF delegates also passed a resolution a few years ago prohibiting that. Beatriz claims that that vote was non-binding but others believe that it is binding.

38. The board majority are not backing down. They are going full blast ahead. I believe that at a minimum the \$513,000 now held at the Key Bank in Newburgh should be placed in an escrow account under the control of this court. I also believe that Beatriz Marinello, Tim Hanke and Elizabeth Shaughnessy and possibly the others must be removed from the board. It may even be necessary for this court to take complete control over the USCF, because it seems that nothing short of that will save this organization.

WHEREFORE, the petitioner requests that this court issue an order providing the following:

1. A freeze on the account at Key Bank which contains the \$513,000 realized as proceeds of the sale of the Building in New Windsor until a hearing can be had. Other bank accounts such as the account to pay employee salaries should not be affected by this freeze.
2. A temporary restraining order and a preliminary and permanent injunction restraining and enjoining Beatriz Marinello, Tim Hanke, Steven Shutt and Elizabeth Shaughnessy from taking any actions at all with respect to the USCF until a hearing can be had. Beatriz Marinello, Tim Hanke, Steven Shutt and Elizabeth Shaughnessy may not hire employees,

fire employees, buy anything, sell anything, enter into contracts, write checks or pay or receive money or do anything at all with respect to the United States Chess Federation.

3. A temporary restraining order and a preliminary and permanent injunction restraining and enjoining the United States Chess Federation or its officers or employees from doing anything to effectuate a move to Crossville, Tennessee or to anywhere else absent the order of this court.

4. An order enjoining Beatriz Marinello and Tim Hanke from signing any check or transferring any funds of the United States Chess Federation.

5. An order enjoining Kenneth M. Chadwell from filing or threatening to file any lawsuit to compel the USCF to move to Crossville.

6. Such other and further relief as may be deemed just and equitable.

Samuel H. Sloan

Sworn to Before me this 9th
Day of December 2004

NOTARY PUBLIC