

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 Bill Goichberg

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 Goichberg affidavit goes to the service of process in the case so I will address that here.
2. Because of this lawsuit, the USCF Board has decided to accelerate the move to Crossville and to get there in the next few weeks before this court had had time to act. There is one particular danger in this that may have been overlooked. Chess Café has a contract with the USCF in which they are supposed to pay the balance of \$350,000 owed to the USCF in about March. This is why the Board has been planning to complete the move in March. However, if Chess Café is unable to pay the balance of the \$350,000, then the USCF will be stuck and cannot move. That money is what the board has been planning on getting to pay for the move.
3. However, if the USCF starts moving before that money has come in, and if the money does not come, then the USCF will be stranded and will have no choice but to dip into the \$513,000 it got from the sale of the building. This is the first year of the USCF's contract with Chess Café and nobody can know whether Chess Café will pay or not. If Chess Café does not pay, the USCF will have no choice but go back into the books and equipment business from which it derived \$3.5 million in revenues annually up until 1999 and it will need to get back the space in the building it sold in New Windsor which has a basement

which was the storage room for the books it was selling.

4. Beatriz Marinello has no family ties and indeed no family at all in the United States in the traditional sense for reasons that would be obvious to anyone who knows her well. She has no husband and no children. Several people have asked why this is relevant. This is relevant because it means that there is nothing holding her here in case Beatriz should decide to go back to Chile with the large sum of money that has been entrusted to her. The USCF has given her signing authority over the \$513,000.

5. The opponents have said that I failed to serve all the defendants personally. However it would have been impossible to do so. Two of the defendants were in Spain for the World Chess Olympiad although they may have arrived back in the US before the court signed the order. However, look at the title page of Chess Life which I attach. Three defendants list their address as being the New Windsor address of the USCF. Therefore, by serving the office, I have served them. One defendant, Elizabeth Shaughnessy, has no address listed at all, except for an e-mail address.

6. I originally filed in this court along with a request for a waiver of filing fees on Monday November 8, 2004. The following day the clerk called and indicated that the request would not be granted. Since I knew that the defendants were desperately trying to move the money to Tennessee, I was trying to get a freeze on the bank account without prior notice to them. When I found out that this plan would not be successful, I moved on to Plan B, which was to serve everybody right away.

7. On Wednesday, November 10, 2004 I arranged for a copy of all the papers to be served on everybody I could think of who might want to participate in this case, including all potential opponents. I had 27 people served in all. Here is a partial list:

Beatriz Marinello
Tim Hanke
Stephen Shutt
Elizabeth Shaughnessy
Randy Bauer
Bill Goichberg
Kenneth M. Chadwell
Harry Sabine
Leroy Dubeck
Steve Doyle
Harold Winston
Don Schultz
Frank Brady
Harold Dondis
Michael Atkins
Steve Immitt
Glenn Petersen

John Donaldson, Mechanics Institute Chess Club
Mike Goodall
Jerry Hanken
Kathleen Merz
Larry Evans

8. Each of these persons were mailed four documents on November 10, 2004. These were the Petition, the Affidavit in Support, the Memorandum of Law and the Proposed Order to Show Cause. Many of these were received by Friday November 12, 2004 and all of them would have been received by Monday, November 15, 2004. Thus, by November 16, 2004 when this court signed the order to show cause, all of the defendants had received a complete set of papers. None of these mailings were returned by the post office and all of them had return addresses.

9. The order to show cause was signed on November 16, 2004. I received it by Fax late the same day. The following morning, November 17, 2004, all of the defendants were served by both certified mail and regular mail. In addition, they were all served by e-mail as I knew the email addresses of all of them. The papers were also posted on the Chess Politics Newsgroup rec.games.chess.politics which all of them read and on my own website at <http://www.samsloan.com/marinello.htm>

9. All of the defendants knew that a case had been filed and the order signed even before they received it by certified mail. Since they already knew what it contained, most of them refused the mail. Bill Goichberg and Kenneth Chadwell received the mail and the green card was signed and returned. Elizabeth Shaughnessy received the mail but did not sign for it and the green card never came back. I happen to know that her husband is an invalid and is elderly and has a stay-at-home caretaker and I suspect that it was her husband who actually received the mail. Randy Bauer refused the certified mail and the envelope was returned to me marked refused. I enclose a copy. Steve Shutt finally signed for it two weeks later. Beatriz Marinello and Tim Hanke neither signed for it nor refused it so it was sent back to me two weeks later.

10. To see the results of my attempt to serve them with notice of the pending lawsuit one need only to go to the US Postal Service website at <http://www.usps.com/shipping/trackandconfirm.htm?from=global&page=0035trackandconfirm>

11. Then, one needs to type in the certified mail numbers to see what happened to my attempts to serve the defendants by certified mail. All of these items were sent by certified mail on Wednesday, November 17, 2004, the day after Judge Lawrence Horowitz signed his order to show cause. The numbers are all the same except for the last two or three digits. In the case of Randy Bauer, the certified mail number is 70032260000196734444

Here is what comes back when you type in that number:

Track & Confirm

Current Status

You entered 7003 2260 0001 9673 4444

ACCEPTANCE, November 17, 2004, 3:49 pm, FAR ROCKAWAY, NY 11691

Your

item was refused by the addressee at 2:15 pm on November 20, 2004 in URBANDALE, IA 50323 and is being returned to the sender. Information, if available, is updated every evening. Please check again later.

By looking at the first page of the inside cover of Chess Life, one can see that the zip code of the address of Randy Bauer is 50323. My zip code is 11691. Therefore, this certified mail was sent by me to Randy Bauer.

Three of the board members named as defendants do not have their own address listed in Chess Life. Instead they use the USCF office address as their own address. One of the board members, Elizabeth Shaughnessy, has no mailing address listed at all, only an email address.

Here is what happened to the mail to the other defendants:

The zip code of Tim Hanke is 01950. My certified mail to him was number 70032260000196734413

Here is what happened:

You entered 7003 2260 0001 9673 4413

We attempted to deliver your item at 10:28 am on November 19, 2004 in NEWBURYPORT, MA 01950 and a notice was left. It can be redelivered or picked up at the Post Office. If the item is unclaimed, it will be returned to the sender. Information, if available, is updated every evening. Please check again later.

The zip code of Beatriz Marinello is 33133. My certified mail to her was number 70032260000196734390

Here is what happened:

You entered 7003 2260 0001 9673 4390

We attempted to deliver your item at 2:23 pm on November 20, 2004 in

MIAMI, FL 33133 and a notice was left. It can be redelivered or picked up at the Post Office. If the item is unclaimed, it will be returned to the sender. Information, if available, is updated every evening. Please check again later.

The zip code of Steve Shutt is 19130. My certified mail to him was number 70032260000196734406

Here is what happened:

You entered 7003 2260 0001 9673 4406

We attempted to deliver your item at 2:35 pm on November 19, 2004 in PHILADELPHIA, PA 19130 and a notice was left. It can be redelivered or picked up at the Post Office. If the item is unclaimed, it will be returned to the sender. Information, if available, is updated every evening. Please check again later.

One the other hand, the zip code of Elizabeth Shaughnessy is 94709. My certified mail to her was number 70032260000196734451

Here is what happened:

You entered 7003 2260 0001 9673 4451

Your item was delivered at 11:00 am on November 22, 2004 in BERKELEY, CA 94709.

The zip code of the USCF is 12553. My certified mail to it was number 70032260000196734437

Here is what happened:

You entered 7003 2260 0001 9673 4437

Your item was delivered at 10:45 am on November 19, 2004 in NEW WINDSOR, NY 12553.

You entered 7003 2260 0001 9673 4420

The zip code of Kenneth M. Chadwell, attorney for the City of Crossville, is 38555. My certified mail to him was number 70032260000196734420

Here is what happened:

Your item was delivered at 10:37 am on November 22, 2004 in CROSSVILLE, TN 38555.

So, it can be seen that the only board member brave enough to sign for a certified letter from me was Elizabeth Shaughnessy. On the other hand, she is the only board member who does not have a mailing address listed in Chess Life. She perhaps did not realize that I knew her residence address. Also, her husband or somebody else might have been home and signed for the certified mail. Her green card certified mail receipt has not come back. The only cards that have come back were signed for by the USCF and by Kenneth M. Chadwell.

Update! After a delay of two weeks, Steve Shutt has accepted my certified mail. I got back the signed green card today. The rest are being returned.

Here is the latest:

You entered 7003 2260 0001 9673 4444

Your item was refused by the addressee at 2:15 pm on November 20, 2004 in URBANDALE, IA 50323 and is being returned to the sender. No further information is available for this item.

Here is what happened earlier:

ACCEPTANCE, November 17, 2004, 3:49 pm, FAR ROCKAWAY, NY 11691

You entered 7003 2260 0001 9673 4413

Your item was returned to the sender on December 08, 2004 because it was not claimed by the addressee.

Here is what happened earlier:

NOTICE LEFT, November 19, 2004, 10:28 am, NEWBURYPORT, MA 01950
ACCEPTANCE, November 17, 2004, 3:46 pm, FAR ROCKAWAY, NY 11691

You entered 7003 2260 0001 9673 4390

Your item was returned to the sender on December 06, 2004 because it was not claimed by the addressee.

Here is what happened earlier:

NOTICE LEFT, November 20, 2004, 2:23 pm, MIAMI, FL 33133
ACCEPTANCE, November 17, 2004, 3:44 pm, FAR ROCKAWAY, NY 11691

You entered 7003 2260 0001 9673 4406

Your item was delivered at 4:00 pm on December 03, 2004 in PHILADELPHIA, PA 19130.

Here is what happened earlier:

NOTICE LEFT, November 19, 2004, 2:35 pm, PHILADELPHIA, PA 19130

ACCEPTANCE, November 17, 2004, 3:45 pm, FAR ROCKAWAY, NY 11691

You entered 7003 2260 0001 9673 4451

Your item was delivered at 11:00 am on November 22, 2004 in BERKELEY, CA 94709.

Here is what happened earlier:

ACCEPTANCE, November 17, 2004, 3:47 pm, FAR ROCKAWAY, NY 11691

12. From this it is apparent that all of the defendants received all of the papers filed in court or else refused the mail and had it returned before the November 22 date. Therefore, this court has jurisdiction over all of them.

Samuel H. Sloan

Sworn to Before me this 9th
Day of December 2004

NOTARY PUBLIC