

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION - SECOND DEPARTMENT

Sam Sloan,

Petitioner,

Index No. 2004-7739

-against-

Affidavit in Support
of Order to Show Cause

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

Respondents

Sam Sloan, being duly sworn, deposes and says:

1. I am a voting member of the United States Chess Federation. The United States Chess Federation is a Not-For-Profit Corporation which since the 1940s has been headquartered in New York State. Between 1999 and 2003, the USCF suffered more than one million dollars in financial losses. By 2003, the only significant asset left was the headquarters building in New Windsor which the USCF owned free and clear. In July and August 2004, a special election was held to replace two board members who had resigned before their terms were up. This special election was to fill the one remaining year of their terms. Elected were Elizabeth Shaughnessy and Randy Bauer. I finished third. There were a total of six candidates.

2. When they ran for their one year terms, Elizabeth Shaughnessy and Randy Bauer did not tell anybody and nobody knew nor had even the slightest reason to believe that they had any plans to completely decimate and destroy the United States Chess Federation as we knew it. Yet, that is exactly what they have done.

3. In September 2004, only one month after Shaughnessy and Bauer were first elected, the USCF sold the headquarters in New Windsor, New York. This was a 12,000 square foot building. The proceeds of the sale was the ridiculously low amount of \$513,000. This sale was done in violation of New York Not-For-Profit Law because the board never voted for this sale, the voting members and the delegates did not vote on this sale, the New York State Attorney General was not notified of this sale and the Orange County Supreme Court was never notified and never approved of this sale. No appraisal of the building was done prior to the sale. The sale of the building violated Sections 510 and 511 of New

York Not-for-Profit Law as well as the by-laws of the United States Chess Federation.

4. On October 19, 2004, after only ten minutes of debate and discussion, by a vote of 4-3, the USCF Executive Board voted to move to Crossville Tennessee. The USCF at that time employed 23 persons in its New Windsor Headquarters. This meant that those people, who had worked there for an average of seven years and some of whom had worked for more than 30 years, would lose their jobs unless they moved to Crossville, Tennessee.

5. During the ten minutes which was allowed for debate of the move to Crossville, Bill Goichberg, Executive Director, presented an offer from Liberty New York which he said was worth \$400,000 more than the Crossville offer and since Liberty is near to New Windsor it would enable the staff members to keep their jobs. In addition, Ken Thomas, Chief Financial Officer of the USCF, submitted a letter stating that he had experience in moving several major companies and the board had failed to seriously consider the costs of such a move.

6. Several superior offers were presented to the board: One from Kansas, one from Kentucky and one from Massachusetts. The Board brushed aside all these superior offers and the recommendation from the Executive Director and the warnings from the Chief Financial Officer and after only ten minutes of discussion and no written plan on how to accomplish this move voted in favor of the move by 4-3.

7. Neither the sale of the building nor the decision to move to Crossville was timely announced on the USCF website or on any public forum. I found out about it only because I have insider friends and secret sources of information. On November 8, 2004, I filed a special proceeding entitled Sloan vs. Marinello, Index No. 2004-7635 seeking to enjoin the move to Crossville. Because I had insufficient funds to pay the filing fees totaling \$305, I filed a poor person motion. Three days later I was informed by the law clerk of Judge Lawrence I. Horowitz that he was not signing my order to show cause because 1) I needed to include a letter from an attorney certifying that I had meritorious case, 2) I needed to obtain approval from the County Attorney for Orange County approving the case and 3) I had failed to name the Attorney General of the State of New York as a Defendant.

8. I did not understand or agree with this decision by Judge Horowitz but I was able to borrow the \$305 from a person concerned about USCF staff members who were losing their jobs. I then paid the filing fee, but the clerk's office in a strange ruling said that it had to be paid under a new index number. Therefore, a new index number was assigned to this case, which was 2004-7739. The petition and all the other documents were the same.

9. On this same day but just prior to filing this second case I served all of the defendants with a complete set of papers which included my proposed order to show cause, and my petition, affidavit in support and memorandum of law. I also mailed courtesy copies to

everybody I could think of who might oppose my case. I mailed a total of 27 sets of my papers. One of these sets went to Leroy Dubeck, who thereafter filed opposition papers to my motion. I also served a complete set of papers on the Office of the New York Attorney General at 120 Broadway, New York City. By surprising coincidence, the attorney at the New York Attorney General's Office who received my papers was Andy Davis, who I knew 32 years ago when he was Bobby Fischer's Personal Attorney.

10. In addition to the above, I sent a complete copy of my papers by email to all of the defendants. I also posted them all to the chess politics newsgroup rec.games.chess.politics as well as to five chess email groups plus I posted them on my own website which has 15,000 visitors per day. In short, everybody in the entire world of chess had access to a complete set of my papers even before the new index number was purchased.

11. Judge Horowitz finally signed the Order to Show Cause on November 16, 2005. I received it by fax on the following day. I immediately sent it by both regular mail and certified mail to each of the individual defendants. I also found a licensed process server in Newburgh to serve it on the office.

12. However, two of the defendants, Beatriz Marinello and Elizabeth Shaughnessy, had gone to Calvia, Spain on the Island of Majorca for the World Chess Olympiad and World Chess Congress. Other defendants lived in Tennessee, Massachusetts, Pennsylvania or Iowa and could not be personally served. Only Bill Goichberg and the United States Chess Federation were New York residents. However, Goichberg was out of state organizing and directing a chess tournament. Therefore, my process server was not able to personally serve Goichberg until Tuesday, November 23, 2004.

13. At the hearing on this motion, counsel for the USCF admitted that the USCF had received the order to show cause by mail on Friday, November 19, 2004. In page 2 of the transcript which is annexed hereto as an exhibit the counsel for the USCF said "There was apparently service by mail at least on USCF, and the executive director in New Windsor that was received on Friday." However, counsel for the USCF argued that because the process server had been unable to track down the executive director and serve him personally until November 23, 2004 (four days after service by mail had been received) that the case should be dismissed.

14. Several of the other defendants evaded or refused service of process. For example, the certified letters sent to Beatriz Marinello and Tim Hanke were both returned marked "UNCLAIMED". Please see attached exhibit showing a certified letter postmarked November 17, 2004 addressed to Beatriz Marinello and returned marked unclaimed. Similarly, please see the attached exhibit showing a certified letter to Randy Bauer also postmarked November 17, 2004 and returned marked "REFUSED". This demonstrates that the defendants, all of whom had already received the moving papers by regular mail and by email were evading service of process. However, Stephen Shutt and Kenneth M. Chadwell both received and signed for the certified mail, as did the husband of Elizabeth Shaughnessy.

15. Chess Life magazine, a copy of which is attached hereto as an exhibit, listed the address of Beatriz Marinello and Tim Hanke as being the USCF office in New Windsor. Thus, service on the USCF office was service on them. Elizabeth Shaughnessy does not have any postal address at all listed in Chess Life, only an email address.
16. At the hearing which was held on November 30, 2004 before Judge Lawrence I. Horowitz, counsel for the USCF and the other defendants served a complete set of motion and opposition papers. These included a notice of motion (2 pages), Affirmation of Michael Matsler in support (7 pages), affidavit of Bill Goichberg in support (3 pages), affidavit of Leroy Dubeck in support (4 pages), affidavit of Michael Reis (a real estate agent) in support (2 pages) and a memorandum of law (10 pages). In addition, Counsel for the USCF submitted 6 exhibits totaling 25 pages. Thus, the papers filed by counsel for the USCF came to a total of 53 pages. Clearly the USCF had received notice and was well prepared. Counsel did not ask for more time.
17. Significantly, Exhibit A in the papers submitted by counsel for the USCF included a certified mail envelope postmarked November 17, 2004 and marked received by the USCF on November 19, 2004. This clearly establishes that counsel for the USCF admitted and acknowledged receipt of the motion papers on November 19, which was 11 days before the hearing date of November 30, 2004.
18. Is submitted that for these reasons the subsequent decision of Judge Horowitz that the case was dismissed because of inadequate service of process is clearly wrong on the facts and the law.
19. The other issues before the court which concern the illegal acts of the USCF Board in selling the building without permission of the courts and then terminating almost all of the 23 employees and moving the assets to Tennessee are dealt with in my other moving papers which are attached and incorporated by reference. However, here I want to bring up to date the most recent developments.
20. In the proceedings below, counsel for the defendants stated that the USCF has been given “free land” in Crossville Tennessee and for that reason is moving there and is going to build a new headquarters there. It was stated that it was only going to cost \$360,000 to build this new headquarters and therefore there would be a significant cost savings because they the building in New Windsor had been sold for \$513,000.
21. However, it turns out to be not exactly like that. Now that the USCF is half in Crossville, we have been informed that the new building will cost more than \$600,000 and will be only 5,000 square feet whereas the building just sold was 12,000 square feet. Moreover, the land so generously given to us by the generous City Fathers of Crossville is next to a river and a duck pond and has in part been designated as a “wetland” by the State of Tennessee, which means that we will need permission from the Tennessee Department of Environmental Conservation to build there. There is also a report of

mosquitoes in this wetland. Also, this land is close to two major nudist colonies which are located in Crossville and this might be of concern to the parents of the more than 30,000 children who are members of the United States Chess Federation

22. So it turns out that the poor country lawyers who gave up this "free land" were not so stupid or so generous as the Marinello Group made them out to be.

23. The move to Crossville and the events surrounding it constitute violations of numerous provisions of the by-laws of the United States Chess Federation. Here are a few of them: The by-laws prohibit any employee of the USCF from serving on the board and any board member from being an employee. Yet, three of the members of the board, all of whom are members of the group of four who voted 4-3 to move to Crossville, have taken over the duties of employees. Beatriz Marinello, USCF President, has had herself appointed as Chief Operating Officer. Elizabeth Shaughnessy, another board member, is the supervising architect supervising construction of the planned building. Tim Hanke, USCF VP of Finance, has taken check signing authority. All of this is prohibited by the by-laws.

24. They claim that they are simply "volunteers" and not employees, but they are receiving compensation in the form of expense money for airplane trips, hotel expenses, meals and car rentals. They refuse to reveal how much they have spent and how much they have received as reimbursement. \$60,000 has been budgeted to pay the expenses of Beatriz Marinello during the move. They refuse to reveal how much she has actually spent or received. This is another violation of the by-laws. Quoted from the "DELEGATE ACTIONS OF CONTINUING INTEREST":

"42. VOLUNTEER EXPENSES. A summary of all reimbursements to each member of the Executive Board, International Delegations, and all other volunteers shall be published in the Executive Board Newsletters and on the USCF website. (1990, 1998)"

Source: <http://www.uschess.org/org/govern/2004delcall.pdf>

25. Frank Brady, a member of the board strongly opposed to the move to Crossville, demanded that proponents of the move provide a statement of expenses to be incurred in connection with the move. They refused to do so and Dr. Brady subsequently resigned. Since then, they have posted on the USCF website a statement of the costs of the move at <http://www.uschess.org/org/gov-ern/finance/moveexpenses.pdf>

26. That statement shows the total budget for the move as \$242,475.38. However, that \$242,475.38 does not include the \$60,000 to be paid to Beatriz for her expenses nor does it include the \$45,000 to be paid to the architect. Originally, a contract was signed to pay the architect \$60,000 but after outrage expressed by me and other voting members it was reduced to \$45,000. However, the new contract with the architect requires that the contract to build the building not be put out for open bidding and that we must hire a

building contractor designated as satisfactory by the architect. Also, the architect accepts no liability regarding the wetlands issue, which is how we first found out that there is a wetlands issue.

27. The result is that most of the \$513,000 realized as proceeds of the sale of the building in New Windsor New York will be expended in the first phase of the move to Crossville. The move will take place in two steps. The first step will be the move from New Windsor to the Old Baptist Church in Crossville. Then, a year later the new building by then will presumably have been built so then we can move into the new building. The budgeted amount of \$242,475.38 only covers the cost of the move from New Windsor to the Old Baptist Church.

28. Meanwhile about ten employees have been left behind in the office in New Windsor. This is because the operations of Chess Life Magazine have proven difficult to move, so they will remain there until the new building is ready. Therefore, the USCF is renting space in New Windsor while also renting space in Crossville whereas the move was originally supposed to be rent free. Originally, we were told that the Generous City Fathers of Crossville were giving us free space during the transition period. However, now they are charging us \$500 per month for storage space alone.

29. Throughout this time, the board majority that voted in favor of the move by a bare vote of 4-3 have tried to keep it secret from the general membership what is going on. However, there is an election coming up and the two board members who were elected for only one year terms and provided swing votes must now stand for reelection. I finished third ahead of three other candidates the last time and I am running again. This time, in order to stop me from revealing the true situation, they left my candidate's statement out of the April Chess Life. Here is in part what my statement said, "2005 will be remembered as the Year of the USCF Election Fraud. Those who claim to have saved the USCF have not done so and instead are leading it to financial disaster. The move to Crossville is absurd, ridiculous and possibly even illegal."

30. USCF President Beatriz Marinello did not want this published in Chess Life magazine and so she ordered Glenn Petersen, the editor of Chess Life, not to publish this. Prior to this, both Glenn Petersen and USCF Secretary Don Schultz (who also opposes the move to Crossville) assured me on February 21, 2005 that the statement would be published. When the April issue of Chess Life came out, there was a blank space in the magazine where my candidate's statement should have been. Instead of my statement, the magazine said "statement not received in time". Meanwhile, Randy Bauer, who is up for reelection got a motion passed on February 27, 2005 that if a statement arrives even five minutes late by email it will not be published in Chess Life.

31. While debating this, Randy Bauer admitted that his own filing of petition to be a candidate for the board had arrived late and that he had called Judy Misner, a USCF employee, who is thereby an employee of Randy Bauer, and she had said that she would take care of it. However, this was a violation of the USCF by-laws because the by-laws

require the petitions and filing fees of the candidates to be sent to the USCF Secretary, who is Don Schultz, who lives in Miami. Instead of that, Bauer sent his petitions and his filing fee to Judy Misner in Tennessee and Judy Misner received the check one day late. Therefore, petitioner submits that Randy Bauer should be ruled off the ballot.

32. This election in which the votes are to be counted on July 20 is a critical matter that will determine the live or death of the USCF. Four of the candidates including the three incumbents are known to favor the move to Crossville. The other five candidates, which include myself, are known or believed to be opposed to the move to Crossville. Because of the election fraud which has already occurred and which is continuing to occur, petitioner is asking this court to take supervision over the election.

33. Tim Hanke, the VP of Finance who gave himself check signing authority (in violation of the by-laws) has disappeared. Just prior to his disappearance, Hanke wrote that he was volunteering to go to Iraq to fight in the war. On Jan 29, 4:34 pm Tim Hanke posted under USCF governance:

“Now that I have saved the USCF, I'm looking around for something else to do. This is why I re-joined the National Guard two weeks ago. The Iraq mess needs to be cleaned up, and I like a challenge.

SGT Tim Hanke

34. A few weeks prior to that, Hanke had posted that he and Beatriz Marinello were like Bonnie and Clyde and he was driving around with the \$513,000 received from the sale of the building in New Windsor in the trunk of his car. This was taken as a joke. One hopes that he really was joking. Since then, Tim Hanke has been silent. He has not responded to emails. He did not participate in the telephone call of February 27 and he did not attend the Executive Board meeting in Berkeley California on the weekend of April 2-3. Nobody has heard from Tim Hanke in nearly three months.

35. Only a few days after Beatriz Marinello ordered Glenn Petersen not to publish my candidate's statement in Chess Life Magazine, Petersen suffered two major heart attacks and had open heart surgery. Petersen is now home from the hospital but his family has asked that he not be contacted regarding this matter. Petersen was replaced by Gerald Dullea but a few days after that Dullea had to be hospitalized for angioplasty. Prior to all of this, in January 2005, the Board by a 5-2 vote fired the regular Editor of Chess Life, Kalev Pehme, who was also believed to be opposed to the move to Crossville.

36. Since taking over as Chief Operating Officer on January 3, 2005, Beatriz Marinello has fired the entire USCF accounting staff so there is nobody minding the store. There are almost no permanent employees left because those still in New Windsor know that their days are numbered whereas the new hires in Crossville may be temporary.

37. Since the initial petition was filed in this case on November 8, 2004, drastic and

irreparable harm has occurred to the United States Chess Federation, much as I predicted. The top five officials of the USCF have all been pushed out of office, fired or forced to resign. Beatriz Marinello, the current President of the USCF, has taken over as Chief Operating Officer, in clear violation of the USCF By-Laws and New York Not-For-Profit Law.

38. Bill Goichberg left as Executive Director on December 31, 2004 and Ken Thomas left as Chief Financial Officer on the same day. Kalev Pehme has been fired as Editor of Chess Life magazine. Barbara VanDerMark is no longer Executive Assistant and has moved to Florida. Judy Misner, Managing Director, has been sent to Tennessee. Thus, the top five people are no longer there.

39. On January 3, 2005, Beatriz Marinello took over running the office on a day-to-day basis. She told the remaining staff members that their jobs were guaranteed only until the end of January.

40. A meeting of the USCF Executive Board was held on December 19, 2004 in Boca Raton, Florida. The original agenda of this meeting provided that Beatriz Marinello would resign as President as of January 1, 2005, at which point she would take over the day-to-day operations as Chief Operating Officer. However, prior to the meeting, Ms. Marinello realized that she might not have enough votes to hold the position of Chief Operating Officer unless she was also President, so she changed her mind and decided to hold both positions. Her resignation was taken off the agenda.

41. This violates at least three provisions of the USCF by-laws. Article VI Section 4 of the USCF By-laws states:

"No employee of the USCF is eligible to serve on the Executive Board"

See <http://www.uschess.org/org/govern/Bylaws.php>

42. Beatriz Marinello is now serving on the Executive Board as USCF President. She is also employed by the USCF as Chief Operating Officer. This is a clear and obvious violation of USCF By-laws. Therefore, Beatriz Marinello must immediately resign or be removed as USCF President.

43. The defendants respond to this in Internet postings by saying that Beatriz Marinello does not receive a regular salary, and therefore is not an employee. They claim that she is a "volunteer" who only receives expense money, they say. However, the expense money she receives is considerable, probably as much as a salaried employee would be paid. It is known that she receives a \$50 per day food allowance, or \$350 per week. She receives hotel, travel and rental car expenses. She also receives \$300 per month to park her car in New York City, even though her duties as "Chief Operating Officer" do not involve travel to New York City. (Apparently, she travels to New York City for treatments for her kidney disease.) She receives considerable travel expenses, including for frequent trips between

Miami where she lives and New Windsor, New York, where the USCF office is still located, and to Crossville, Tennessee, where it is moving.

44. A total of \$60,000 has been budgeted for “expenses” for Beatriz Marinello from now until July. This is considerably more than the prior executive directors received as salary.

45. Beatriz Marinello sits in the USCF office, at the desk in the chair normally occupied by the Executive Director, unless she is on one of her all-expenses-paid trips. She makes decisions, issues orders, hires and fires people and is the major working executive of the USCF. She writes her own checks, controlled only by her political allies. There is no way to know how much she is paying herself.

46. For her to claim that she is a “volunteer” and not an employee is ridiculous and absurd. I am sure that there is a multitude of case law on this, including Workman’s Compensation Law, showing that she is clearly an employee.

47. Another board member is the recipient of largess. Elizabeth Shaughnessy, who resides in Berkeley, California, is receiving considerable expense money to supervise the work of the Crossville architect who has been hired to design and supervise the construction of the new building in Crossville, Tennessee. The USCF has signed a contract to pay the architect \$60,000. This is for a building that was only supposed to cost \$360,000, not counting the fee for the architect. The Beatriz Group claims that this is justified because Elizabeth Shaughnessy is an architect. However, Shaughnessy has not worked as an architect for many years, if ever. Her professional job is teaching chess to children and running chess camps and schools.

48. The by-laws of the USCF prohibit this. In Not-For-Profit Corporations such as hospitals and universities, the members of the Board of Directors are never employees.

49. The sale of the USCF’s building in New Windsor, New York was prohibited by the by-laws. The by-laws provide:

B. The building and land cannot be encumbered, liened, or mortgaged in any fashion without action by the Delegates at a regular meeting or special meeting called for that purpose, except as provided in Section 10 below.

Section 10. Life Member Assets Management.

Borrowing of an aggregate of more than \$200,000 is possible only when:

1. The Executive Director certifies that there is a need for such borrowing.
2. The Executive Board approves of the borrowing.
3. The Life Member Assets Management Committee approves of such borrowing.
4. A report shall be made to the Delegates in the Annual Report describing the

funds borrowed and repaid during the past year

50. No such action was voted upon or taken by the Delegates at a regular or special meeting called for that purpose. The opponents are claiming that a vote that was taken at the August 2002 delegates meeting in Cherry Hill, New Jersey covers this. However, that was for a different amount of money at a different time under different circumstances. That proposed sale did not take place for reasons which are still not clear. No vote on this matter was taken at either the August 2003 or the August 2004 delegates meetings. Obviously, a new vote was required in view of the passage of time and the change in circumstances.

51. The Bylaws state:

"The Executive Board shall be subject to the authority of the Board of Delegates, and none of its acts shall conflict with actions taken by the Board of Delegates."

52. This means that if the Executive Board does contravene the acts of the Board of Delegates, it is a Bylaws violation. The "Standards of Conduct for the Executive Board", are to be found at:

<http://www.uschess.org/org/govern/conduct.html>

"The USCF Board of Delegates establishes the following standards of conduct for Executive Board members in the performance of their duties:

(2) (a) Except where noted below, no Executive Board member or a member of his immediate family may receive financial compensation from the USCF for any reason, except for standard reimbursement of expenses, during his tenure on the Board, or for two years after completing his tenure if such compensation results from bids accepted or agreements made by the Board during his tenure. In claiming expense reimbursement, a Board member must claim only that portion of expenses that were incurred in non-political activities that were a legitimate exercise of the Board member's duties. Any unusual expenses for which reimbursement is questionable must be referred to the full Board for consideration. Board members are expected to exercise all reasonable frugality in incurring expenses to be reimbursed."

53. This act of the Delegates does in fact flat-out prohibit Beatriz Marinello and Elizabeth Shaughnessy from receiving money from the USCF "for any reason", except to reimburse expenses incurred in the course of their duties as a member of the Board. Their duties as a member of the Board involve attending meetings of the Board held four times a year and air fare to and from those meetings. Three hundred dollars a month for parking a car in New York City is not a legitimate expense incurred as a member of the Board.

54. Traditionally, the expenses incurred by Board members have amounted to a few hundred dollars per year. For example, one year, Don Schultz, who was USCF President at the time and who lived in Miami, took a limo to the airport to attend a Board meeting and charged the limo expense of \$90 to the Board. This caused a tremendous flap and row which reverberated for months over the Internet. Some Board members argued that Mr. Schultz should have taken a public bus to the airport at a cost of less than two dollars. The harsh debate over this \$90 limo charge can be found in the Google archives of the newsgroup *rec.games.chess.politics*. Since then, board members have traditionally claimed no expenses. They have paid their own expenses. It is only since Beatriz Marinello became president that they started claiming expense money again.

55. Now, in contrast, we have Beatriz Marinello and Elizabeth Shaughnessy spending tens of thousands of dollars of USCF membership dues with no board or membership oversight at all. Nobody knows how much they are spending or how much they are paying themselves.

56. Even if Beatriz Marinello had in fact resigned, and then was immediately given a contract as move coordinator or anything else, the Executive Board would have had to show some kind of "paper trail" to prove that the "agreement" was made only after she resigned. If Ms. Marinello had resigned in the expectation of being given a contract, and then immediately after getting it (the minute after, the day after, the week after), one would be hard put to it to say there was no "agreement".

57. What we have here is a bandit group acting completely illegally in total violation of New York Not-for-Profit Law and of USCF By-laws. They clearly have no care nor concern for legal niceties. They belong in jail (which might be the best thing for Beatriz Marinello, because then the government and not the USCF members will be required to pay for treatments for her kidney disease.)

58. Each of the illegal agreements to move to Tennessee and to appoint Beatriz Marinello as Chief Operating Officer have passed by a bare 4-3 vote. There is vocal opposition to all this, led by Dr. Frank Brady, the only qualified person with significant experience running a business who is on the Board. Dr. Brady is Chairman of the Department of Mass Communications, Journalism, Television and Film of St. John's University. By contrast, the most of the group pushing through this illegal scheme to loot the few remaining assets of the United States Chess Federation are a motley crew of nerdy well unemployed or minimally employed. Mostly, they teach chess to children professionally. Beatriz Marinello has never held a regular office job anywhere except as USCF Scholastic Director, which primarily involved directing or supervising chess tournaments for children. She has no background in business or finance. She has no background for working in a business office, much less running one. She has never submitted a resume or signed or submitted a job application or gone through the interview process normally required by any job applicant. She would never have been hired for this job of Chief Operating Officer were she not Chairman of the USCF Executive Board.

59. The motion papers submitted by Michael J. Matsler state that I never served the papers other than the signed Order to Show Cause. This is simply a lie. ALL OF THE PAPERS WERE SERVED ON ALL OF THE DEFENDANTS. However, the papers other than the signed order to show cause were all served previously. They were all served on the same day that this case was filed. They were also posted on the Internet and on my website on the same day, which was November 12, 2004. Since the underlying papers had all been previously served, there was no need to serve the same papers again. Please note the tricky wording in the affidavit of Bill Goichberg.

4. On Tuesday, November 23, 2004 at 4:45 in the afternoon a man came to our offices and delivered to me one copy of the same Order. Once again, there were no other papers attached to the Order.

60. Please note that this sentence does not state that the underlying papers were never served or received. Rather, it simply states that the papers were not attached to the order. The fact is that the full papers were served, but not on that day. They were served on November 12, 2004, which was 11 days previously. It is true that the previously served papers did not have this index number on them, because the index number had not yet been assigned. However, in New York State, unlike other states, it is customary and indeed recommended to serve the papers before the index number has been purchased, and that is what was done here.

61. Opposing counsel claims that this court has no jurisdiction over the defendants with the exception of Bill Goichberg because they do not do business in New York State nor do they reside in New York State. This is not true. They regularly attend meetings in New York State at the USCF offices in New Windsor. They also have telephone conference calls involving New York State. On September 29, 2003, the USCF Executive Board held a meeting at the USCF Offices in New Windsor. The minutes are posted at <http://www.uschess.org/org/govern/motions200309.html>

62. Included among those present were Beatriz Marinello, Tim Hanke and Steve Shutt, who are all defendants here. At that meeting, when the question and answer time came, I raised my hand and asked a question. This was a perfectly normal question which any normal board member would have been happy to answer. Tim Hanke refused to answer the question, which I had not even finished asking, and loudly stormed out of the meeting. The meeting immediately broke up and almost everybody left. Just a few minutes before all this had happened, Al Lawrence, who was a 15 year employee of the USCF including 8 years as Executive Director, abruptly resigned from all his positions with the USCF and abruptly left the meeting because of obscene language including the f-word and the a-word which had been used in closed sessions of the Board, especially by Stan Booz, Chairman of the Audit Committee and a political ally of Beatriz Marinello.

63. Most of the defendants evaded service of process. The papers sent by certified mail were in most cases returned marked "refused" or "unclaimed". Attached are copies of a returned envelope. I still have the unopened envelopes which I am prepared to present to

the court. The defendants cannot be allowed to gain any benefit from evading service of process. Defendants Beatriz Marinello and Elizabeth Shaughnessy were in Spain attending the World Chess Olympiad which lasted from mid-October to mid-November, 2004. I believe that Beatriz Marinello went at USCF expense, which may be a violation of USCF by-laws because she had no official status at the FIDE Congress. Only the USA Delegate has official status. That is Robert Tanner. Elizabeth Shaughnessy usually attends as a member of the Irish Woman's Team. She plays chess (although very weakly). I assume that the USCF did not pay her expenses. Don Schultz was there as well, but he usually travels at his own expense.

64. There is also a requirement in the by-laws that candidates for election to the USCF Executive Board receive "BINFOS", which is short for "Board Information". Copies of all contracts and commitments are to be included in these BINFOS. These should include any contracts to move to Crossville, Tennessee. I am a certified candidate for election to the Board. My name will appear on the ballot for election in August. However, I have never received any BINFOS. In addition, Beatriz Marinello is trying to have my candidate's statement banned from publication in *Chess Life*.

65. The by-laws also require that tapes or typed transcripts of all meetings of the board be posted on the USCF website. Although tapes of some of the meetings have been posted, most have not. This is a further violation of the by-laws.

66. Regarding their claim that all of the papers were not served, there should be a traverse held on this. I have submitted affidavits of service showing that all of the papers were served. The defendants claim that only the signed order to show cause was served. The court cannot accept one version and reject another version without a fact hearing. Furthermore, I am willing to serve the papers again, to erase all doubt. In addition, I believe that service of the signed order to show cause is sufficient to provide notice to establish the jurisdiction of the court, regardless of whether or not the underlying papers were served at the same time.

67. It is unfortunate that the court has chosen to release the funds in the previously frozen bank account without first conducting a fact hearing on this matter. All of my sources of information have been cut off. When I first filed this case, I knew more about the internal situation of the USCF than probably anybody else, including even the members of the Board, because everybody was calling me and giving me information. This is how I was able accurately to predict what was about to happen. Since then, Beatriz Marinello has pulled her wagons into a circle. She has decreed that there be no conference telephone calls and no group emails. All conversations should be one-on-one, so that there will be no witnesses. This, plus the fact that the top five office officials of the USCF have been removed, creates a situation where nobody other than Beatriz Marinello and her small band of merry men know what is going on in this organization of nearly 90,000 dues paying members. I do not know whether the money is still in the Key Bank in Newburgh, or in Crossville, Tennessee or in Chile. I have tried in every way I can to find out, without success.

68. I believe that ultimately the only solution is a court injunction removing Beatriz Marinello and her allies from power. It is obvious that they will never obey the law or orders of this court. This court dismissed this case on a technicality. Nevertheless, the Board members were informed on the law. They have chosen not to obey the laws of New York State and it is apparent obviously nothing will convince them otherwise, except possibly some time in jail.

69. There is a new election campaign underway. The election will be held in August. The swing members of the board, Elizabeth Shaughnessy and Randy Bauer, were just elected to the Board for one year terms in a special election held August 2004 to fill vacancies created when two other board members resigned. This explains the sudden shift to move to Crossville right after that election was held. Now, they must run for full four-year terms. They are committing election fraud by making false statements in their campaign flyers. A copy of a campaign flyer handed out by them during the US Amateur Team Chess Championship held in Parsippany NJ on February 19-21, 2005 is annexed hereto. It is filled with false statements. For example, they state about Elizabeth Shaughnessy:

“She is a current Executive Board member who has also played an important role in saving the USCF financially. As an architect, she is the liaison between the board and the architects to insure that the new USCF headquarters building stays on budget.”

70. None of this is true. Elizabeth Shaughnessy was first elected in August, 2004 and had nothing to do with saving the USCF financially, which had already occurred, so this statement about her is false. Elizabeth Shaughnessy is not a practicing architect. She makes her living teaching chess to children. It is possible that she has a degree or some qualifications in architecture, but she has not worked as an architect for many years, if ever.

71. This statement is noteworthy because it constitutes the only instance where there is any mention of the fact that the team running for election has sold the building in New Windsor and plans to move to Crossville, Tennessee and to build a new USCF building there. The membership has been kept in the dark about all these plans and the costs thereof. The instant litigation and the freeze on the bank account has not been disclosed to the voting membership either and I believe that this is required.

72. I demand the disqualification of Michael J. Matsler as opposing counsel, on the grounds of conflict of interest. Mr. Matsler has a personal interest in the outcome of this case because his law partner, Charles Frankel of the law firm of Rider, Weiner & Frankel, P.C. represented the USCF at the closing of the sale of the building. Thus, if the sale were found to be legally invalid because the Attorney General was not notified and the sale was not approved by the court, then the law firm of Rider, Weiner & Frankel, P.C. would need to repay the money.

73. If you look at the court papers filed by Michael J. Matsler, you will see that he does not state whom he represents. There are several different legal entities sued herein. This includes the USCF, the USCF Executive Board as a Body, the individual members of the Executive Board, the former Executive Director and a lawyer in Tennessee. Who among these does Michael J. Matsler represent? There are two members of the Board that I have not sued, because they are opposed to the move to Tennessee and the firings of the employees. Clearly, Michael J. Matsler cannot claim to represent all of these distinct and conflicting legal entities, and therefore he must be disqualified from representing them.

74. After eight consecutive years of huge losses followed by just one year with a small surplus, the USCF board majority has embarked on a ruinous plan to squander the few remaining resources of the corporation to build a new headquarters building in Crossville, Tennessee. They have hired two of themselves to oversee this absurd, ridiculous and illegal scheme. The USCF voting members and delegates have not even been informed of this plan, much less allowed to vote on it. All this constitutes clear violations of the USCF By-Laws and of New York Not-for-Profit Law.

75. In March, 2000, Beatriz Marinello had been fired as USCF Scholastic Coordinator (although she claims that she resigned in protest of the USCF's decision to settle the lawsuit she had instigated against Richard Peterson). In August, 2003, only a few days after she had been elected USCF President, Beatriz Marinello got some part of her revenge by firing 17 members of the USCF Staff. Now, she plans to make her revenge complete by firing almost all of the remaining staff and gutting the remnants of the organization, while paying herself and her political allies substantial expense money.

76. No prior application has been made for the relief requested herein, except for the three previous motions for an order to show cause filed in the Orange County Supreme Court.

WHEREFORE, the petitioner requests that this court issue an order to show cause and a stay providing the following:

1. A freeze on all the bank accounts of the USCF at Key Bank in Newburgh until a hearing can be had.
2. A temporary restraining order and a preliminary and permanent injunction restraining and enjoining Beatriz Marinello, Tim Hanke, Steven Shutt, Elizabeth Shaughnessy and Randy Bauer from taking any actions at all with respect to the USCF until a hearing can be had. Beatriz Marinello, Tim Hanke, Steven Shutt, Elizabeth Shaughnessy and Randy Bauer 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 requiring Beatriz Marinello and Elizabeth Shaughnessy to return to the USCF all expense money they have received from the USCF, except for expenses incurred while attending the regularly scheduled quarterly meetings of the Executive Board.
6. An order removing Beatriz Marinello, Tim Hanke, Steven Shutt, Elizabeth Shaughnessy and Randy Bauer from the Executive Board of the United States Chess Federation and disqualifying and barring them from future membership on the Board of the United States Chess Federation.
7. An order removing the names of Randy Bauer, Steven Shutt and Elizabeth Shaughnessy from the ballot of the United States Chess Federation for the board election to be held in July 2005.
8. An order disqualifying Michael J. Matsler or the law firm of Rider, Weiner & Frankel PC from representing the defendants herein.
9. Such other and further relief as may be deemed just and equitable.

Samuel H. Sloan
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Tel. 718-949-2512

Sworn to before me this 20th
Day of April, 2005

NOTARY PUBLIC