

Decision re Dave Koenig (Respondent) issued 5/22/22

In March 2022, CoCo received a complaint along with three supporting statements against the Respondent under the Coco Anti-Harassment policy (the Policy). The Coco Conduct Team addresses the case and decides as follows:

Summary of Complaint

The complaint includes content and supporting statements as set forth in sections 6.A.a and 6.E of the Policy. The complaint and supporting statements are made by a total of four individuals and allege multiple incidents of harassment, stalking, specific threats, invasion of privacy, sexual coercion and other acts, over several years. The Respondent was invited to reply to these allegations; the time set for his reply has long passed. Under section 6.D.e of the Policy, we must deem the Respondent's failure to address the allegations as an admission of the facts as stated in the complaint. The complaint in this case comprises the supporting statements, and facts therein are taken as admitted by Respondent.

Timeframe; Incidents

Under section 6.A.b of the Policy, the complainant must submit the complaint "as soon as practicable, ideally within 30 days of the incident(s)", "Except in extraordinary circumstances, the complainant must submit a complaint within one year for the CoCo to consider the complaint", and "CoCo reserves the right to consider all complaints, regardless of the date of the alleged incident(s) and the date of submission of the complaint, on a case-by-case basis."

In this first case under the Policy, we have before us facts, admitted by non-response, that span several years. We want to make clear that a long timeline of incidents, or a complaint package as full and chronicling serious facts over years as in this case, is not needed before a victim's complaint could receive redress. Moreover, because the events in the year preceding the complaint are so severe as to require major discipline, we need not make findings whether "extraordinary circumstances" are present for earlier events and which might have the requisite CoCo nexus (see Section 4 of the Policy). Without enumerating each aspect if earlier facts were to be adjudicated in this case, we consider that: (1) a range of reasonable views of "extraordinary circumstances" could occur, (2) we are without previous CoCo decisions on which to draw, and (3) extending what is deliberated in a case already decidable on recent serious incidents interferes with the Policy's speedy resolution timeline in section 8.

We therefore decide this case based on incidents in the year preceding the complaint and which broadly fall under two counts:

1. The invasion of privacy of a Coco member, including text messages and emails of a private and intimate nature, on a dedicated website which has been publicly available since 2020 and continues to be available today
2. The stalking and harassment of another Coco member, both in-person and online

Invasion of Privacy

We find that invasion of privacy occurred. The Respondent's website publishes, without consent, personal information about another Coco member's "location, employment, finances, mental health, political views, alcohol consumption, family, and sex life" (to use the words in the Witness Statement). This invasion of privacy is contextualized by an escalating pattern (not denied by Respondent and hence deemed admitted) in the preceding years. The invasion of privacy continues to this day, the content having been continuously visible since 2020.

We find that by the invasion of privacy, the Respondent has harmed another CoCo member as set forth in the supporting statement, including medical symptoms (bodily injury), emotional distress, and out-of-pocket expenses. Costs of treatment have been significant. Also, the member has had to adopt security precautions for all Coco tournaments they organize.

Stalking and Harassment

The Respondent stalked and harassed another Coco member online and in-person in several incidents over the relevant period, including at the 2022 New Orleans tournament and via Instagram, after a variety of tactics employed by the member to cut off contact. We find the stalking and harassment is severe, and are particularly troubled by physical threats to other Coco members as well as intimidation at a tournament. This stalking and harassment is contextualized by an escalating pattern (not denied by Respondent and hence admitted) in the preceding years. We find that the impact on the injured party of this stalking and harassment was severe as described in the supporting statement.

Considerations for Disciplinary Action

Having found two major violations of the Policy, we must consider that, under section 2 of the Policy, someone who violates the Policy "may be subject to disciplinary action, up to and including suspension and permanent bans from participation in CoCo events." In framing a disciplinary action in this case, we have considered the safety of the Coco community, prospects of Respondent's rehabilitation, the need for general and specific deterrence, and adequacy of punishment. Also, we consider that some of the injured parties are women, who are underrepresented in competitive Scrabble and historically have been underserved elsewhere with remedies for incidents such as those of this case. See CoCo website. We have considered that the invasion of privacy incident is ongoing, and that those (probably hundreds) who have consumed the private information cannot "unsee" or wipe the information from being known by them even if the Website itself is scrubbed.

Disciplinary Action

Respondent is BARRED from CoCo participation through May 2027 and subsequently until such time that CoCo may grant a Reapplication by Respondent. BARRED status prohibits Respondent from presence at or outside physical Coco venues, and also prohibits Respondent from presence at online Coco events.

The window for Respondent to reapply shall open 5 years after the issue date of this decision. BARRED status shall remain in effect unless and until CoCo receives a convincing Reapplication from Respondent and unbars him.

Coco will review the reapplication and decide whether Respondent will remain barred. In doing so, Coco may consider a broader scope than Counts 1 and 2, including other incidents regardless of time of occurrence.

Signed

Coco Conduct Team

Mike McKenna, Zach Dang, Mary Goulet, Scott Jackson