

Grievance Committee meeting minutes

Date: April 1, 2019

Attendees: Grievance Committee members Andre Carneiro (chair), Brian Mateo, Benjamin Plantz, Bradley Schleyer, Clovis Thorn, Justin Hill, and Sonia Parada attended the entirety of the meeting. As did Lew Smith, in the capacity of Board advisor. Witness 1 joined the meeting from 7:58PM to 8:45PM.

Note: Outside of hearings, Grievance Committee meetings are held entirely in closed session. The Committee chooses, however, to record these minutes reflecting the nature its debate, in the spirit of Bylaws IX.4.C, as it believes they will be beneficial to all interested parties. Finally, the Committee chooses to anonymize certain parties (e.g., Witness 1, Respondent) and redact certain parts of the record. Identity of those parties and content of redactions are made known to others when required by Gotham Bylaws or when the Committee believes it necessary in its deliberative process.

Call to order

Meeting was called to order at 7:20 PM.

Procedural discussion regarding referrals from Gotham President

Andre gave an overview of tonight's agenda and the overall process to discuss the referrals received from Gotham's President Eric Eichenholtz. That process includes a potential GC hearing on Apr 15 (to be voted on tonight) and potential GC deliberation meetings.

He also introduced Lew Smith as the non-voting board liaison to the GC. Lew explained that while a complaint has been made by Witness 1, we are not addressing a member grievance (as outlined in Gotham Bylaws, Article IX). The work before the Committee comes in the form of a pair of referrals from Gotham's President. Lew also pointed to specific language regarding scope of referrals (e.g., SAVP, previous GC / Board decisions).

The Committee also discussed the nature of the *[redacted]* Gotham activity.

Andre explained that the Committee will have to address two separate questions (which may eventually be further subdivided for efficient deliberation and voting):

1. Was there a violation of the SAVP by Respondent? If so, what is the appropriate sanction to be imposed? ("SAVP referral")
2. Should the Board take action against Respondent? ("Referral concerning potential Board action")

He also pointed out that we will likely have to examine the SAVP's language in detail and interpret it in the context of these referrals.

Witness 1's address to the Grievance Committee

Witness 1 arrived at 7:58PM.

The group reviewed the notes of a 3/21 call between Witness 1, Andre and another Gotham Leader. These notes were taken by Andre and were the part of the basis of the referrals ("Facts underlying this referral")

Witness 1 has been a Gotham member for 3 years. He is now a captain in *[redacted]*. He is well acquainted with Respondent, says they've had an overall friendly history.

On the night of the incident, the patio at Gym Bar was mostly populated by Gotham members. He recounts the incident detailed in the referral and call notes. According to Witness 1, there was a mixed response to the photos Respondent was showing to others on his phone: some protested, some laughed, some turned away.

He further pointed out that he did not drink that night, having a very clear memory of the incident, and no doubt about Respondent's exact words. Witness 1 says he strongly confronted Respondent when the incident happened, being very emphatic about how inappropriate and unacceptable the language used was.

Witness 1 left the patio after making his views known to Respondent.

He also recounts subsequent conversations with Respondent and Respondent's friends, including Respondent's attempts to correct, explain or apologize for what was said.

The incident was very upsetting to Witness 1 and, after discussing with others, he decided to report the conduct to Gotham Leaders.

Questions from Grievance Committee to Witness 1

Questions began at 8:14PM.

Q: You mentioned seeing Respondent further interacting with others. Do you know the content of those conversations?

Witness 1 said that he did not, so the content of those conversations was not a factor in his decision to come forward.

Q: Did others in the patio seem bothered by the incident?

Witness 1 recounts one other person bringing the incident up later, agreeing the conduct was problematic.

Q: Are you aware of problematic conduct by Respondent, other than at the bar?

Witness 1 vaguely remembers comments of sexual nature made by Respondent while at the volleyball gym, but at the time did not rise to the point of him wanting to file a complaint.

Q: Was the incident observed by other people?

Witness 1 recounts that it was widely observed. However, the offending comment was made directly at Witness 1: Respondent called him by name, put the phone with the lewd photo in

his face, and made the comment. Witness 1 admits that not everyone seemed as bothered as he was by the incident. He ventured that some may be de-sensitized to the behavior.

Witness 1 further added that he was not bothered by the nudity, or the sexual nature of the image. It was the comment that crossed a line. His strong reaction was further reinforced by Respondent's attempts to "edit" the substance of the comment.

Q: In your address, you referred to Gym Bar as "our space". What did you mean by that?

Witness 1 explained that it's a place where we go after every match, where we bond as teams, and as a division. To him, it is part of his Gotham experience.

Q: Do you see a clash between Respondent's conduct and Gotham's mission, especially on inclusivity?

Witness 1 agreed that that was a significant reason why he was bothered by the incident.

Q: Would your reaction have been any different if Respondent held no leadership position in Gotham?

Witness 1 said he would have been bothered regardless, but that he sees the fact that Respondent is a Gotham leader as an aggravating factor. Being a leader himself, he expects more from Gotham leaders.

Q: Was there any discussion of Respondent's behavior during this season's draft process?

At this point, Lew reminded the Committee that, normally, discussions among captains during the draft process are kept confidential. As Board representative to the Committee, he released Witness 1 from that confidentiality requirement and instructed him to answer the question.

Witness 1 said there was no discussion of Respondent among captains. They were aware that he was available for drafting but each captain made their own decision independently.

Q: You mentioned having conversations with Respondent's friends after the fact. Can you clarify?

Witness 1 clarified that it was Respondent who relayed the incident to those friends, and those friends later approached Witness 1.

Q: In your previous call with Andre and Leah you mentioned you would like action to be taken. What did you mean by that?

Andre clarified that, as Grievance Officer, he always asks complaining members to articulate the resolution they would be satisfied with. In many instances, members are content to have a conversation and explicitly request no action to be taken. But, that was not the case here.

Witness 1 believes the incident to be "egregious and awful," and sees as his role to hold his peer accountable, by reporting the conduct. He does think Respondent is sorry and has apologized, but still tries to backpedal or edit what was said. He does not think Respondent is fit to be a Gotham Leader.

Q: Can you clarify what you remember being said, and the different versions Respondent alleged he said?

Witness 1 insists that *[redacted]* was said, while Respondent insists he said *[redacted]* or *[redacted]* instead. Witness 1 finds any version deeply troubling but insists on his version. He also adds that Respondent has justified his version with the context of *[redacted]*.

Witness 1 departed at 8:45 PM.

Discussion on whether to hold a Grievance Committee hearing

Andre provided some context on the other complaints mentioned in the referrals, to the extent that he participated in discussions in his capacity as Grievance Officer facilitating an informal resolution.

The Committee asked Andre to seek more information from the VPs mentioned in the referral, as it wishes to weigh the credibility of those complaints, and a potential pattern of behavior. Additionally, the Committee requests a description of Respondent's duties as Gotham Leader.

There was brief discussion of scope, jurisdiction, and what specific sections of the SAVP may have been violated. This included a review of specific language in relevant documents (e.g., SAVP, previous GC / Board decisions). The Committee agreed to postpone full deliberation on these issues until after an eventual GC hearing, when it could hear from Respondent.

A few more process points were clarified. Firstly, the Committee would not be required to issue a decision on the same meeting as an eventual hearing; it would have the option to schedule additional hearings, request additional information, or have further deliberation sessions. Finally, it was clarified that the GC, by precedent, works with a standard of preponderance of the evidence ("more likely than not" test).

Pursuant to Gotham Bylaws IX.4.B, which is also used here as a process outline for SAVP referrals, the Committee discussed whether it should hold a hearing as outlined in Bylaws IX.4.C.

Andre moved for a vote on having a Grievance Committee hearing later in April 15, 2019. Seconded by Bradley. The motion passed by a roll call vote of 7-0-0.

Discussion of pro-rated refund for season ending-injury

Andre shared a new request from *[redacted]* for a pro-rated refund for Division Play. The GC unanimously voted to recommend a refund to *[redacted]*.

Adjournment

Justin moved to adjourn. Sonia seconded. The motion passed by unanimous consent.

The meeting was adjourned at 9:36 PM.

Grievance Committee meeting minutes

Date: April 15, 2019

Attendees: Grievance Committee members Andre Carneiro (chair), Brian Mateo, Benjamin Plantz, Bradley Schleyer, Clovis Thorn, and Sonia Parada attended the entirety of the meeting. GC member Justin Hill was unable to attend.

Lew Smith attended, in the capacity of Board advisor to the Committee.

Respondent joined the meeting from 8:10PM to 9:33PM.

Note: Grievance Committee deliberation after the departure of Respondent was held in closed session. Pursuant to Bylaws IX.4.C, minutes are nevertheless taken, reflecting the nature the debate, and clearly stating Committee decisions (always by roll call).

Finally, the Committee chooses to anonymize certain parties (e.g., Witness 1, Respondent) and redact certain parts of the record. Identity of those parties and content of redactions are only made known to others when required by Gotham Bylaws or when the Committee believes it necessary in its deliberative process.

Call to order

Meeting was called to order at 8:08PM.

Meeting agenda

Andre started with an agenda outline:

- 20 mins for Respondent's address to the President referrals
- 10 mins to respond to a recently provided statement
- 25 minutes of questions from the Committee
- Committee deliberations as needed, in closed session, in 10 min intervals

Any time extensions will require consent from 4 Committee members.

Note: Since all motions to extend were unanimously approved, they are omitted for brevity.

Respondent address to the Committee

Respondent arrived at 8:10PM.

Andre reiterated the agenda and process with Respondent.

Respondent structured his address in three parts:

1. March 9 incidents (basis for referrals)
2. SAVP jurisdiction
3. His record as a leader, as context for the Committee's recommendation to the Board

Part 1: Respondent has been a Gym Bar patron since it opened. His relationship with Gym Bar is different than other Gotham members. He does not see it as exclusively a Gotham setting. He pointed out that he did not play volleyball on March 9 and was there in his personal capacity. On March 9, he was there to meet friends who are not in Gotham.

He arrived at approx. 8:00PM. He met friends he's known for a long time, not through Gotham specifically. He stayed almost exclusively in the patio area.

Respondent was drinking that night. To his left was a very close friend who is also in Gotham. To his right was a [redacted], with whom Respondent is close, and that friend's boyfriend. There were at least two other friends close by. At this point Respondent recounted a sexual experience to the group: He met someone at Gym Bar the weekend before who enjoys [redacted].

Respondent made a comment in which he referred to this person as [redacted]. Witness 1 had a very strong reaction to the comment, prompting Respondent to apologize and explain the context. Witness 1 did not want to talk further and walked away. Respondent said there was strong conversation, but it was not demonstrative, did not cause a scene.

Respondent stayed around the bar for another half hour, then left.

At this point, respondent circulated copies of a written document to the Committee and proceeded to read from it. He also requested that said document be incorporated into the minutes.

Note: Since the Committee later voted to include Respondent's document in its entirety (see below), the minutes for the rest of this section only cover Respondent's comments not in the written statement.

He argues that the SAVP does not cover Gym Bar; it is out of scope. He also emphatically stated that he "was not there as a Gotham leader." He pointed out and expanded that he was with the same friends the following week at Industry Bar, under very similar circumstances, arguing that scope could not reasonably be extended there.

Respondent emphasized that Witness 1 did not participate in the entire conversation at issue. He heard parts of it, not the whole thing.

At 8:31 PM, Respondent concluded the reading of his written statement.

Response to additional statement

Respondent then began a response to a written statement provided by Leader 1 earlier today. He mentioned (and the Committee is cognizant) that Respondent had limited time to review Leader 1's statement and was largely responding to it in real time.

Respondent recounted an issue discussed with Leader 1 regarding an Open Play. Respondent wished to speak to someone in leadership regarding the conduct of another member:

Respondent felt his playing ability was being minimized and criticized by the other member in an unsportsmanlike manner, more than once. Respondent and Leader 1 had more than one conversation about those incidents.

Respondent also takes issue with how he was identified in relation to a previous Gotham event, in complaints allegedly brought to Leader 1 regarding that event.

He expanded that he and Leader 1 spoke again in March, by when Leader 1 had allegedly been brought other issues regarding Respondent. According to Respondent, Leader 1 made decisions that impacted Respondent in a unilateral fashion, and not interested in Respondent's side of the story. Leader 1 mentioned wanting to bring Respondent's conduct to the Board for further reprimand.

Respondent later spoke to Gotham President, requesting a process for such intended sanctions since, so far, the actions of Leader 1 were unfair and unethical. Respondent believes Leader 1 "has an agenda."

Respondent recounts his work done for Leader 1, starting in 2014. They had disagreements about how the work was to be done but seemed to reconcile most of their differences. Respondent also pointed out that his was in line with other professionals.

Respondent contends that, unlike stated by Leader 1, their conversations were not kept confidential. He mentions Witness 1 being aware of some of their content.

Respondent disagrees with Leader 1's statement that Respondent agreed with Leader 1's decisions. He simply felt it was not worth pursuing: he was "picking his battles" and did not feel like being combative at that point.

He reiterated that Leader 1 has an agenda, judging him and imposing sanctions.

Questions from the Committee to Respondent

Q: How does Gotham cultivate an inclusive and welcoming community, and how does your behavior correlate with those examples?

Respondent answered that NYC is a large and diverse city, and he fits into that. He pointed out that he has collaborated as a witness when other issues took place. He takes his leadership position very seriously. He keeps things inclusive.

Q: What are your thoughts on holding Gotham Leaders to a higher standard?

Respondent agrees that this is absolutely something that should be expected from Leaders. But, he also needs to be able to have a life outside of Gotham and should be allowed to have that different life with close friends. He said he will always be attentive when he is at Gotham.

Q: If you are a Leader, and you're at Gym Bar around Gotham members, isn't that relationship still there despite the location?

Respondent agrees but argues that a line must be drawn. Should he have asked Witness 1 to leave the conversation? That would have been rude. Could he have used a better choice of words? Yes. Respondent apologized to Witness 1 but Witness 1 is not looking for an apology. He is singularly focused on the fact that Respondent holds a leadership position. When probed

deeper on whether one is a leader regardless of location, Respondent agreed but argued that he needs to be able to have different relationships depending on the context.

Q: In a scenario where you have a relationship with an LGBT coworker, would you have made the same comments?

Respondent pointed out that he has had conversations with work colleagues that veered in that direction. He mentioned examples of what coworkers have confided in him, mentioning that wouldn't have made the comment if roles had been reversed.

Respondent said he is mindful about what he says around Gotham members. He recounts of several behaviors from Gotham members and captains that he believes are egregious and not sanctioned.

He further points out the he's not received full guidance on his leadership role. Also, many other leaders fail to meet these expectations.

Q: Were any of your teammates part of the conversation on March 9?

Respondent said "yes", but he had known him before they were teammates. They have been friends for quite some time, mostly outside of Gotham. Respondent would certainly be more restrained around someone who is new to Gotham. He is friends with a lot of people he plays with. And, he admits that there are probably some who don't like him and some whom he does not like, and that's OK. He reiterated that he's heard about misbehavior, even by Board members, that he could share if he wanted to.

Q: Leaders have had conversations with you about your behavior today. Why do you feel you are here today? Is there a pattern of behavior?

Respondent claims that much of the criticism stems from his work with Leader 1, which he has addressed before. He can't respond to any other incidents since they are hearsay, no one has come forward. He reiterates that he'd also have hearsay on many leaders, including Board members.

Q: What did you say, exactly, on March 9?

Respondent: *[redacted]*. And, he said it to the group, not to Witness 1.

Q: How do you feel those words could impact others?

Respondent understands that the words could be seen negatively outside of the group he was talking to. He could have chosen better words. He felt he tried to respond immediately, to apologize, and handle it. But his words were meant for his close friends, who would understand the context.

Q: Did you at any point recant or deny the statements made to Witness 1?

Respondent said "no." He also said he did not put the picture in Witness 1's face. He showed the photo to the group and say the phrase to the group. And, the words were said in a different context than Witness 1 understood them.

Q: Can you describe the content of the photo?

Respondent answered that it was a picture of *[redacted]*. The description roughly conforms with that of Witness 1.

Q: Would it have been any different if this was overheard by someone who is new to Gotham?

Respondent said that, hypothetically, when he goes out he does not go out thinking that he is a Gotham leader all the time.

Q: Even if we stick to Gym Bar, would this phrase, if overheard, reflect on Gotham and diminish the experience of a new member?

Respondent contends that Gotham has a lot of people doing things that do not conform with our policies.

Q: You are mentioning a lot of allegations, but why are others being made feel uncomfortable in this case? What can you do to change?

Respondent said only one person (Witness 1) has come forward saying they were uncomfortable. And it took Witness 1 three weeks to do so.

He recounts of some friction in division play, which led to Respondent no longer being in his previous division: "there is a lot of politics." He believes he is here today because of something started by Leader 1, who motivated this process and coached other leaders to get this moving along. He feels this is politically motivated, because some people don't like him.

He feels that if you asked some of his past teammates, they would not say they felt uncomfortable.

Moving forward, he wish he had not said it, and it has given him a lot to think about. He will be more aware of who is around him.

Q: Can you elaborate on the incident from 2015, mentioned in the referral?

Respondent clarified that he brought an issue to the then Vice Commissioner involving a teammate feeling uncomfortable. Respondent then mediated a solution, which the Vice Commissioner adopted. To him, it shows how well he handled his leadership position.

Q: Even if not an official Gotham event, shouldn't you have been more mindful at your language, given you were at Gym Bar?

Respondent said that it does not apply. He said that there has to be a line drawn between what is a Gotham event and what is not.

Q: Did alcohol have an effect on your judgment that night?

Respondent said "no." He said drinking is not an excuse for behavior. He was in a situation where he was comfortable with friends and made a bad choice of words, and would not say the same words today.

The questions ended at 9:33PM and Respondent left.

Grievance Committee deliberation

The Committee started deliberation at 9:39PM, in closed session.

Andre reminded the Committee that only two sets of facts are under consideration: the events of the evening of March 9 (as recounted by Witness 1 and Respondent) and the conversations between Leader 1 and Respondent (as recounted by those two parties). For all other facts alluded to, we do not have a firsthand account and should not consider.

Clovis made a motion for Respondent’s statement be incorporated into the meeting minutes. Andre seconded. The motion passed 6-0-0.

The Committee decided to address the SAVP referral first (Parts 1 – 3 below) and then the Referral concerning potential Board action (Part 4 below). Note that, unlike the others, **Part 4 is non-binding**: the Committee is merely examining a matter referred to it by Gotham’s President and providing its recommendation to the Board. Hence, recommendations in Part 4 are only binding if reviewed and adopted by Gotham’s Board of Directors.

Part 1. On jurisdiction.

The Committee considered Respondent’s jurisdictional arguments first.

They were weighed against specific SAVP language around scope: “This policy pertains to the conduct of all participating, in any manner, in any Gotham Volleyball event, including guests and spectators, **or any interactions directly related to or arising from such events.**” (SAVP, II.1)

Also considered was the last set of Grievance Committee / Board decisions, on a separate matter, here: <https://www.gothamvolleyball.org/wp-content/uploads/2018/04/Gotham-Grievance-Committee-Meeting-32918-Full-Record.pdf>

In page 12, regarding that unrelated SAVP incident, the Board provided specific jurisdictional guidance, allowing the Committee to consider potential SAVP violations in various non-Gotham settings:

“Section III [...] is not intended to limit [...] what constitutes misconduct under the policy. Rather, the SAVP is designed to allow Gotham to provide a safe environment for its members to enjoy Gotham’s community and is intended to allow Gotham to address conduct that takes away from that safe environment if Gotham believes it needs to do so in order to achieve the safe environment required under the policy. The Board has also passed a revision to the SAVP to clarify this ambiguity [...]. **The Board finds that jurisdiction over this matter exists under either version of the SAVP.**”

The Committee finds that SAVP, II.1 clearly intends to encompass congregation at bars following play. Additionally, the Board guidance applies given the similarity of locales. Finally, the SAVP does not excuse Respondent for the mere fact that he was not playing that day, as it even encompasses guests and spectators.

Ben moved to declare the events referred to the Committee as within the scope of the SAVP. Clovis seconded. The motion passed unanimously (6-0-0).

Part 2. On potential SAVP violations.

The Committee then examined both versions of the events of March 9 against each article of the SAVP: Sportsmanship (Article III), Anti-Violence (Article IV) and Sexual Harassment (Article V).

There was substantial discussion of Article III (Sportsmanship), especially III.1.b: “Gotham Volleyball prides itself on being an open and safe environment for all of its members. The

conduct of members and participants at all Gotham Volleyball events should create a positive image regarding the community represented and served by Gotham. **Use of inappropriate language or comments that focus on someone's age, race, sex, religion, national origin, sexual orientation, or other personal characteristics that have nothing to do with their play in volleyball is prohibited.**"

We considered as mitigating factor that the comment made were about someone not present. Nonetheless, the comment was made in the presence of Gotham members. At least one of them was offended by the language. And, it is conceivable that others may have been as well. Furthermore, the committee found, generally, that the use of such language in a Gotham setting is unacceptable, as it can harm the experience of other Gotham members.

There was a brief discussion of Article IV (Anti-Violence). The quick consensus was that it does not apply to the events at hand.

Discussion proceeded to Article V (Sexual Harassment). Key to the discussion was the statement by Witness 1 that he was not bothered by the content of the photos shown. The possibility was raised that others may have been made uncomfortable. Or, that others could hypothetically be made uncomfortable if the behavior were to persist.

Clovis moved to find that Respondent violated SAVP III.1.b. Bradley seconded. The motion passed unanimously (6-0-0).

Andre moved to find that Respondent violated Article V of the SAVP. Ben seconded. The motion failed by a vote of 1-5-0 as follows: Andre (Yes), Ben (No), Bradley (No), Brian (No), Clovis (No), Sonia (No).

The Committee did not find a need to conduct a vote on a potential violation of Article IV.

Part 3. On sanction.

The Committee then discussed an appropriate sanction for the violation of SAVP III.1.b. Among the possible sanctions considered were: a warning, a fine, a suspension and a ban from leadership.

Fines were quickly dismissed as there is no rationale for monetary compensation. A suspension was also quickly dismissed as too severe.

The possibility of a warning was briefly discussed but dismissed as insufficient. In that deliberation, we considered some of Respondent's address to the Committee: his belief that his behavior at Gym Bar is not relevant to or does not reflect on Gotham, his attempts to normalize the behavior (by saying it is commonplace, or that others have done worse), and his responses to previous conversations with Gotham Leaders (which did constitute warning).

Finally, the Committee concluded that Respondent's leadership would be a key aspect of the sanction. Leadership requires a higher bar on one's conduct, making any SAVP violation more serious. Also, being part of Gotham leadership means that one's actions, including at the bar after play, reflect on Gotham and impact the experience of other members. We found that Respondent has not fully grasped this aspect of leadership despite his extensive leadership experience.

Brian moved to impose the following sanction: Respondent is prohibited from serving in any Gotham leadership until the conclusion of the Fall 2019 season. Seconded by Andre. The motion passed unanimously (6-0-0).

Part 4. On recommendations to the Board (non-binding)

Having concluded deliberation on the SAVP referral, the Committee moved on to the referral concerning potential Board action.

Given that a SAVP violation was found and a sanction of leadership ban imposed above, the only conceivable Board action would be to immediately remove Respondent as a leader. The Committee weighed his short remaining tenure (practically over by the next schedule Board meeting), the potential disruption of a removal, and the fact that the incidents do not suggest imminent harm to **recommend that the Board do not pursue such removal.**

Given the newness of Respondent's leadership role, the Committee also found appropriate to clarify that **it understands Respondent's role to be equivalent to that of a Division Play Team Captain** (see Bylaws IV.2.E), which is implicit in the reasoning of Part 3 above. This conclusion was reached by comparing Respondent's duties as a leader to those of a Division Play Team Captain. That equivalence means not only that Respondent (and others in the same role) may be held at a higher bar for conduct under the SAVP, but it also implies that removal from said roles is governed by Bylaws IV.2.E.(6), requiring Leadership Group or Board action.

Finally, the Committee sees fit to recommend that **all members fulfilling said leadership roles receive leadership training equal to that of a Division Play Team Captain**, e.g., a Captain's Packet and participation at a Captain Orientation.

Andre moved to recommend the entirety of Part 4 above to the Board. Clovis seconded. The motion passed unanimously (6-0-0).

Adjournment

Andre moved to adjourn, Clovis seconded. The motion passed by unanimous consent.

Notice of appeal rights

Pursuant to Gotham Bylaws IX.4.E and SAVP VI.h, any interested party may appeal Parts 1 – 3 of the Grievance Committee decision above to the Board of Directors by delivering a letter stating the nature of the appeal to the Grievance Officer (grievance@gothamvolleyball.org) within 10 days of the release of this decision.

Appendix: Written statement from Respondent

A scanned version of the written statement provided by Responded is appended below. Redactions were made to protect the identity of the parties, in conformity with the treatment of all other records, including these minutes.

Grievance Committee Presentation

April 15, 2019

Question #1: Did I violate Gotham's SAVP policy?

I plan to address this question in two parts. First, I want to argue that Gotham's SAVP policies do not cover Gym Bar or any bar for that matter and therefore the complaint is out of scope. Second, I will discuss how even if they were within scope, they still do not violate the policy.

Jurisdiction

With regard to scope, Gotham defines a "Gotham Volleyball Event" as "any event using the Gotham Volleyball name, structure and/or under the jurisdiction of the Gotham Volleyball League." Gym Bar does not fall under this definition.

The policy further states that "Any event organized or authorized by any Gotham Leader, Team Captain or Coach (in their capacity as such) for the Gotham Volleyball League or any of its sub-divisions (including Divisions, Classes and Teams) shall be included within the definition of a Gotham Volleyball event and will be subject to this policy." Again, this was not the case on the night I was out. I was not at an event organized by a Gotham leader. If someone did formally organize an event at Gym Bar, I certainly was not aware of it and was not invited to Gym Bar under these circumstances. I was there as a patron of the bar hanging out with friends on a day when I did not participate in Gotham activities. It's important to separate Gym Bar as a common meeting place for Gotham members from official Gotham events as defined by the policy.

If Gotham has a different interpretation of the words of the policy, then I would argue that the reasons for why I was at an official event are not clear to me because the organization has not been transparent about what an official event entails beyond what is written in the policy, which as far as I can tell, does not leave any room for the events of that night falling under the SAVP policy at an official Gotham event.

To further drive this point home, I was with the same friends a week later at Industry bar. Again, I was not participating in Gotham activities that day. Again, I was not invited to an event organized by a Gotham leader in an official capacity. I can't imagine that if the same events unfolded that night at Industry Bar with my friends instead of Gym Bar that we would be having this discussion unless the policy encompasses all bars by default. If that were the case, where is the line drawn? I

feel that the scope of the policy is pretty clear on this issue, and there is not justification for including the events of the night under the scope of the policy.

Violations of the policy

Even if this committee believes that the events of the night fall under the scope of the policy, I still do not believe that I violated the policy. I will address this issue by referencing the words used by Eric Eichenholz in his referral letter. He states that the complaint could rise to the level of sexual harassment and racial animus.

With regard to sexual harassment, there are two aspects of the complaint that I wish to address. The first is the verbal description of the sexual act. As I explained earlier, I was with close friends. I am going to bet that everyone in this room has either recounted a sexual experience with close friends or has heard a friend recount a sexual experience from a close friend. The story I was telling was meant for the friends I came to see that night and is no different than any other instance of someone at Gym Bar or any other place talking about a personal experience they had. As for the picture, I dispute [REDACTED] characterization that I pulled him aside and pushed the picture in his face. This was not how I showed the picture. Similar to how multiple people at Gym Bar and other places have shown Grindr photos without any issue, I was showing a picture to friends. Even [REDACTED] stated in his complaint that he wasn't particularly bothered by the pictures.

As for the statement by Eric Eichenholz that the comments could rise to the level of racial animus, I again dispute the characterization by [REDACTED] that my comments were referring to slavery and oppression. As I stated previously, my story was about sexual submission and dominance through a consensual act. In fact, just a couple days later, I met the same man again and this time, we switched roles. He played the dominant role and I was submissive, and I have text messages to prove it if you really want to see them. I am sexually experimental, and I am not ashamed of it. But never once were my words ever meant to communicate the dominance of one group of people over another. [REDACTED] partial hearing of the story gave him the impression that I find America's history of slavery funny and permissible. Nothing could be further from the truth. I also have friends that would never tolerate the kinds of comments that [REDACTED] believes I said. It is noteworthy that only [REDACTED] has submitted a complaint around my words and no one else. I hope this committee understands that the full events of that night tell a very different story around the meaning of my words.

Could I have been more careful of my words and more mindful of who was listening? Yes, of course. But they were not said with racial animus. And again, I immediately apologized to [REDACTED] because it was never my intention for my words to be interpreted in the manner in which they were.

Question #2: Regardless of the previous question, should the Board take action to remove [REDACTED] and / or bar him from pursuing other leadership positions in Gotham for a certain amount of time?

I now would like to address the second question before the committee. First, with the additional context, I hope that the committee has a better understanding of the events of that night. I do not believe that my talking about a sexual experience on a night where I was with close friends disqualifies me from serving as [REDACTED] or participating in other leadership positions.

I also want the committee to understand that I have contributed to Gotham as a leader for most of my time in the league, and I do not believe that one statement where my words were taken out of context should end that. So that the committee understands that I am not some careless captain for the first time in my life, I want you to understand how I've contributed as a leader:

- I have served continuously as [REDACTED] since my second season in Gotham in [REDACTED].
- I served as [REDACTED] for a year and served on the Board during that time.

Outside of Gotham, it has been important for me to find ways to continue leading and giving back. For example:

- I was on the LGBTQ committee for the [REDACTED] for five years, which educated [REDACTED] on LGBTQ issues and ensuring fairness and career opportunities within the industry
- I founded and currently lead the first LGBTQ human resource group with my current employer at the [REDACTED]
- I served as a mentor for a year and half for a transgender youth

Leading and giving back is not new to me. It's something I have been doing for years, and I hope the committee considers my full leadership history when deciding whether my comment warrants removing me from these responsibilities.

Closing

In conclusion, I ask that the committee consider the following points when evaluating the two questions before it:

- As someone who has a different relationship with Gym Bar, who didn't participate in Gotham Activities that evening, and who was spending time with close friends, I do not believe that events of the night fall under the scope of the SAVP policy insofar as events are defined.
- Even if the events fell within scope, with the additional context around my comments and the manner in which I spoke about the picture, I hope the committee understands that my recounting of a story does not rise to the level of sexual harassment and that my comments were not said with racial animus and did not advocate for racial oppression in any manner whatsoever.
- I have a long history of leading in Gotham and outside of it. I do not believe that this complaint should automatically end my ability to contribute in this regard.

I also want to recognize that this story has been discussed and misunderstood by the general Gotham membership who have already heard about it. I want the committee to understand that I have not had the opportunity to defend myself or tell my side of the story. I ask that the Grievance Committee not be swayed by whatever it believes the public opinion to currently be, but rather consider the full context, much of which is being communicated to you for the first time today. I also ask that committee include the additional context where possible in the minutes, so the membership has access to this information rather than a one-sided complaint that paints me to be something that I am not.