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CONTACT: S. David Berst, NCAA Assistant Executive Director for Enforcement

NORTH CAROLINA STATE UNIVERSITY INFRACTIONS REPORT

by the NCAA Committee on Infractions

MISSION, KANSAS--This report is organized as follows:

I. Introduction.

II. Violations of NCAA legislation, as determined by committee.

III. Committee on Infractions penalties.

I. Introduction.

The processing of this case began on January 9, 1989, when the then chancellor and the then director of athletics contacted the NCAA enforcement department to request a review of certain matters involving the men's intercollegiate basketball program following highly publicized reports of possible violations of NCAA legislation. As a result of this request, the enforcement department conducted an investigation, and an official inquiry was sent to the university on August 31, 1989. A prehearing conference was held in Raleigh, North Carolina, on October 25, 1989.

The enforcement staff and the institution shared information and conducted several joint interviews throughout the processing of this case. On November 3, 1989, a hearing was held before the NCAA Committee on Infractions, which was attended by university representatives, to consider the matters that are addressed in this infractions report. At the conclusion of the hearing, the Committee on Infractions deliberated in private, determined findings and penalties, and prepared this report.

It should be noted that the university and NCAA enforcement staff investigated several matters that ultimately did not involve NCAA rules governing intercollegiate athletics competition or that did not meet the minimum standards of reliability set forth in NCAA Bylaw 32.5.1.2 in order for the enforcement staff to allege a violation. Under these standards, an allegation may be submitted only when the enforcement staff concludes that the allegation can be supported by sufficient information to reasonably expect that the Committee on Infractions will make a [Page 2] finding of violation. The committee, in turn, must base its findings on information that is "credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs," as set forth in Bylaw 32.6.6.2.

The information presented to the committee by the university and enforcement staff generally focused on two discrete areas of NCAA violations -- the handling of complimentary admissions to regular-season and Atlantic Coast Conference tournament basketball contests for members of

the men's basketball team, and the manner in which basketball shoes were issued to members of the men's basketball team. A few additional violations were reported, but the committee regarded them as secondary in nature, and the existence of these violations did not affect the committee's views of the appropriate penalties in this case. It also should be noted that the committee did not find that any clear and direct competitive advantage accrued to the university's men's basketball program as a result of the violations in this case. Notwithstanding the limited scope of the violations, the committee concluded that in each of the two principal areas of concern (the handling of complimentary admissions and basketball shoes), the violations indicated that the institution failed in its "responsibility . . . to control its intercollegiate athletics program in compliance with the rules and regulations of the Association" [reference: Constitution 2.1.1]. The violations also demonstrated a failure to comply with the principles of rules compliance, which require a member institution to "monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved" [reference: Constitution 2.5.1]. In this case, the failure to exercise institutional responsibility concerned matters of omission, such as the absence of adequate compliance monitoring systems and slow responses to correct practices and procedures that the institution and its then director of athletics (who also serves as men's head basketball coach) should have recognized as fraught with potential for rules violations.

The committee, therefore, has concluded that this case should be classified as a major case subject to the minimum schedule of penalties mandated by the Association. Under the Association's bylaws, "A secondary violation is one that provides only a limited recruiting or competitive advantage and that is isolated or inadvertent in nature" [reference: Bylaw 19.02.2]. All other violations are major violations. Repeated secondary violations are expressly identified as a class of violations that may be regarded as major [reference: Bylaw 19.02.2].

A number of considerations entered into the committee's final conclusion that this is a major case, notwithstanding certain differences between this case and typical major cases that involve willful violations of fundamental recruiting and extra-benefit legislation. Firstly, the violations in this case are not "isolated or inadvertent." Those relating to complimentary admissions occurred from 1985-86 to 1987-88. There were few instances identified by the institution when men's basketball players obtained material benefits in exchange for complimentary admissions, but there were numerous occasions when individuals were permitted to use [Page 3] players' complimentary admissions improperly. The university reported that during this period, there were as many as 650 erroneous designations for use of admissions, and a few improper designations continued to occur even into the 1988-89 season when the institution was reviewing its administrative practices in this area. Moreover, the university had reason to know that it needed to take preventive action to avoid problems in this area. During the 1985-86 season, in response to national attention to problems at other institutions concerning complimentary admissions, the university detected, took disciplinary action, and reported to the NCAA violations relating to complimentary admissions in the men's basketball program. Nonetheless, no improvement occurred in managing complimentary admissions, and improper designations of individuals on the complimentary lists continued to occur. Even team managers were able to make changes and designate persons who would be able to use the basketball team members' complimentary admissions.

Secondly, violations relating to the issuance of basketball shoes also continued over an extended period of time, 1984-85 to 1987-88. Because of the laxness of the university's procedures in this area (as set forth in the findings in Part II of this report), some members of the men's basketball team were able to obtain material benefits in exchange for basketball shoes they had received from the athletics department. Although some improvement in control procedures occurred during the latter part of this time period, the procedures throughout this period were inadequate to prevent some men's basketball team members from obtaining shoes without being accountable to return them to the institution. During the beginning of this period, an excessive number of shoes were issued with little or no effort to keep track of the shoes.

Thirdly, the violations that occurred with respect to complimentary admissions and basketball shoes flourished because of inadequate institutional procedures for administering these areas of responsibility. Neither the faculty athletics representative nor any other person outside the athletics department appeared to have a significant role in overseeing the compliance practices of the athletics department. Further, there was no effective system within the athletics department for monitoring or checking these areas of compliance responsibility. The administration of complimentary admissions and issuance of basketball shoes are normal activities in a basketball program, and the head coach is responsible for seeing that these activities are assigned to persons who will manage them appropriately and for seeing that effective systems are in place to oversee the individuals to whom such duties are delegated. The director of athletics, in turn, is responsible for overseeing the performance of these duties by the head coach in the program. The committee also notes, as it has stated on other occasions, that an institution must be aware that when it combines the assignments of head coach of a major sport with those of director of athletics in one individual, the institution is responsible to ensure adequate administrative arrangements are in place to provide appropriate supervision and monitoring of that program. There is nothing inherently improper in an organizational structure that combines such positions, but it places responsibilities on the institution, as well as on the individual, to ensure that such a form of organization does not diminish institutional control. [Page 4]

Finally, the committee believes that NCAA member institutions consciously adopted a narrow definition of secondary violations, limiting that category to violations that are "isolated or inadvertent," because the Association intended to impose a duty on all member institutions to make rules compliance a major responsibility for which each institution would be held accountable in a significant way if rules violations could be attributed to the absence of reasonable compliance procedures. This limited definition is consistent with the principles of institutional control and rules compliance, which are among the fundamental principles of the Association and its member schools [reference: Constitution 2.01, 2.1, 2.5 and 3.2.4.1]. The membership recognizes that maintaining compliance with NCAA rules may involve costs to an institution both in terms of resources that must be devoted to the task and in terms of institutional energy needed to withstand pressures to relax an institution's commitment to rules compliance. Although there may be cases in even the best-administered athletics programs where violations occur despite efforts of the institution to prevent them (which properly are treated as secondary), this category was not intended to permit an institution to enjoy the benefits of competition with other member institutions while neglecting compliance responsibilities. Even when the violations reflect no willful effort to obtain a competitive advantage, other institutions in the membership

are disadvantaged when a competitor does not meet the minimum requirements of institutional control.

Having classified this case as major, the committee is obligated to apply the mandatory minimum penalty schedule adopted by the Association unless the case can be classified as "unique." Ordinarily, the unique circumstances that would justify relief from the Association's mandatory penalties would include factors such as: prompt detection of violations; investigating and reporting violations to the NCAA; cooperating in the processing of the case, and initiating strong corrective and disciplinary measures before action by the committee. The committee gives great weight to such institutional actions in deciding the extent that a case presents unique circumstances. Other circumstances, although not as significant as these institutional measures, also may warrant viewing a major case as unique for some purposes. In this regard, the committee determined that this was a unique case in some respects.

In making its findings in this case, the committee took into account the university's own actions in adopting corrective and disciplinary measures for its men's basketball program. These actions are described in Part III of this report. The committee also took into account the university's commendable approach in its presentation to the committee of acknowledging the violations in this case and the university's deficiencies in procedures for maintaining institutional control. Because of these actions, the committee did not impose the full penalties identified in Bylaw 19.4.2.2. However, for the reasons set forth above in explaining why the committee regards this as a major case, the committee concluded it is appropriate to impose significant penalties. These penalties include: adoption of the university's own corrective actions concerning grant-in-aid limitations in the sport of men's basketball; off-campus recruiting activities, the number of official visits for [Page 5] prospects, and reorganization of the university's athletics department and men's basketball program. Additionally, the committee has concluded that a probationary period of two years, as required by the minimum penalty structure, should be imposed in order to provide a monitoring period while the university develops stronger procedures for institutional control. Also, the committee concluded that a prohibition on postseason competition for one year, as required by the minimum penalty structure, should be imposed. The committee did not believe it appropriate to require disciplinary action against any individual staff member of the university or to impose a television sanction, although these sanctions also are part of the minimum penalty structure.

The committee's findings are set forth in Part II of this report, and the committee's penalties are set forth in Part III.

## II. Findings of violations, as determined by committee.

### A. [NCAA Constitution 2.1, 2.5.1 and 6.01.1, and Bylaws 16.2.2.1 and 16.12.2.]

During the 1984-85, 1985-86, 1986-87 and 1987-88 academic years, the institution's athletics department and members of the men's basketball staff did not exercise appropriate institutional control with respect to the administration of certain responsibilities for compliance with NCAA rules concerning complimentary admissions for student-athletes, issuance of basketball shoes to student-athletes and other matters of rules compliance as specified below:

1. [NCAA Constitution 2.1, 2.5.1 and 6.01.1, and Bylaw 16.2.2.1]

During the 1985-86, 1986-87 and 1987-88 academic years, athletics department staff members did not exercise appropriate institutional control in monitoring the men's basketball complimentary admission lists; further, several members of the men's basketball team identified individuals as recipients of complimentary admissions for regular-season and Atlantic Coast Conference postseason men's basketball contests in exchange for cash or other items (a total value in excess of \$1,000). Specifically:

a. During the 1985-86, 1986-87 and 1988-89 academic years, certain student-athletes received cash (as much as \$150 per admission), stereo equipment and other items of value in exchange for these admissions.

b. Some men's basketball team managers, at the direction of several student-athletes, circumvented institutional procedures by deleting and adding the names of individuals on the complimentary admissions lists immediately prior to men's basketball contests; further, there were numerous instances [Page 6] during these years when individuals on the student-athletes' complimentary admissions lists were identified as family members, relatives and full-time students when, in fact, this information was false; further, on a number of occasions during these years, individuals were identified as family members and relatives of other student-athletes on the team; further, as a result of these practices, members of the men's basketball team provided complimentary admissions to individuals to whom NCAA rules did not permit them to provide complimentary admissions; further, although the institution had procedures in place to administer the complimentary admissions, monitoring activities were inadequate to ensure that the information contained on the lists was accurate, and athletics department staff members did not question the managers' actions when they amended the lists, and finally, the university had notice of the need to monitor the handling of complimentary admissions in the men's basketball program as a result of violations that the institution had detected in this area during the 1985-86 academic year and had reported to the NCAA.

2. [NCAA Constitution 2.1, 2.5.1 and 6.01.1, and Bylaw 16.12.2]

During the 1984-85, 1985-86, 1986-87 and 1987-88 academic years, the institution's athletics department and members of the men's basketball staff did not exercise appropriate institutional control concerning the use of basketball shoes by student-athletes in the sport of men's basketball. Specifically, excessive numbers of shoes were made available to members of the men's basketball team during this period, particularly in the 1984-85 and 1985-86 academic years; further, numerous student-athletes sold the basketball shoes that were issued to them to student-athletes in other sports at the university, as well as to other university students; further, several student-athletes exchanged the university's basketball shoes (an approximate value of \$75) for both athletics shoes and apparel of equal value at a local sporting goods store, and finally, even though records were kept of the number of pairs of basketball shoes issued to each member of the men's basketball team, no monitoring activities occurred in order to ensure that the young men did not sell or exchange their shoes as described.

3. [NCAA Constitution 2.1, 2.5.1 and 6.01.1, and Bylaw 16.12.2]

The lack of adequate institutional control also is reflected in the following isolated incidents, which individually would be regarded by the committee as secondary in nature but in the context of the other violations found in this case are evidence of shortcomings in institutional control. Specifically: (a) on two occasions, representatives of the university's athletics interests provided one night's lodging and meals at the representatives' homes to student-athletes [reference: Bylaw 16.12.2.1]; (b) on [Page 7] several occasions during the 1986-87, 1987-88 and 1988-89 academic years, representatives of the university's athletics interests provided local automobile transportation and purchased meals for student-athletes [reference: Bylaw 16.12.2.1], and (c) in October 1986, during the official paid visit to the university's campus of a prospective student-athlete, a men's assistant basketball coach transported the young man a short distance off campus to meet with a former student-athlete in the sport of men's basketball [reference: Bylaw 13.01.5.1].

### III. Committee on Infractions penalties.

For the reasons set forth in Part I of this report, the Committee on Infractions determined that this case involved a major violation of NCAA legislation that occurred after September 1, 1985. Accordingly, NCAA Bylaw 19.4.2.2, as adopted by the Association's membership, requires prescribed minimum penalties, "subject to exceptions authorized by the Committee on Infractions in unique cases on the basis of specifically stated reasons," that include: (a) a two-year probationary period (including a periodic, in-person monitoring system and written institutional reports); (b) the elimination of all expense-paid recruiting visits to the institution in the involved sport for one recruiting year; (c) a requirement that all coaching staff members in the sport be prohibited from engaging in any off-campus recruiting activities for one recruiting year; (d) a requirement that all institutional staff members determined by the Committee on Infractions knowingly to have engaged in or condoned a major violation be subject either to termination of employment, suspension without pay for at least one year or reassignment of duties within the institution to a position that does not include contact with prospective or enrolled student-athletes or representatives of the institution's athletics interests for at least one year; (e) one year of sanctions precluding postseason competition in the sport; (f) one year of sanctions precluding television appearances in the sport, and (g) institutional recertification that the current athletics policies and practices conform to all requirements of NCAA regulations.

However, the Committee on Infractions also has determined that this case is unique in some respects for the following reasons:

- a. When public allegations of possible violations in the men's basketball program were made, the university contacted the NCAA enforcement staff immediately, requested a review of the institution's men's basketball program, and cooperated with the NCAA in the conduct of the investigation and processing of the case.
- b. The university acknowledged the existence of the violations of NCAA rules described in this report, including its failure to have an adequate system for institutional control of its intercollegiate athletics programs. [Page 8]

c. The university has taken significant action to reorganize its athletics administration and to self-impose penalties on its men's basketball program, including: (1) reorganization of its athletics department to create a position for a full-time compliance officer, reassignment of responsibilities of some existing personnel, and separation of the positions of athletics director and men's head basketball coach; (2) revision of procedures for student-athletes in men's basketball to utilize complimentary admissions, including limiting such admissions only to members of the student-athlete's family who must be identified to and cleared by the department before the student-athlete may request an admission for such person; (3) revision of procedures for issuing basketball shoes to team members to require the student-athlete to account and pay for shoes issued if they are not returned, whatever the reason, when replacement equipment is obtained; (4) increasing information on NCAA rules for men's basketball team members, university booster groups and local merchants; (5) adoption of institutional requirements relating to academic performance by student-athletes; (6) adoption of an institutional drug-testing policy with mandatory testing and sanctions, and (7) imposition of penalties on its men's basketball program, which include: (a) no off-campus recruiting and no official paid visits during the 1989-90 academic year, (b) a limitation on athletics grants in men's basketball to a total of 12 for the 1990-91 and 1991-92 academic years, and (c) reduction in the men's basketball coaching staff for the 1989-90 and 1990-91 academic years to one head coach, two assistant coaches and one of the two other coaches permitted by NCAA legislation.

Accordingly, the committee did not apply the full scope of the prescribed penalties for major violations, but rather imposed the following additional penalties.

A. The university shall be publicly reprimanded and censured, and placed on probation for a period of two years from the date these penalties are imposed, which shall be the date the 15-day appeal period expires or the date the institution notifies the executive director that it will not appeal, whichever is earlier, or the date established by NCAA Council subcommittee action as a result of an appeal by the university to the Council, it being understood that should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Further, North Carolina State University shall be subject to the provisions of NCAA Bylaw 19.4.2.3 concerning repeat violators for a five-year period beginning on the effective date of the penalties in this case.

B. During this period of probation, the institution shall: (1) develop and implement a system for administrative control and monitoring to ensure compliance with NCAA legislation, which shall include, but not be limited to, economic audits of student-athletes in men's [Page 9] basketball to ensure that improper benefits are not being obtained through use of complimentary admissions or issuance of equipment; (2) design and implement a comprehensive educational program (e.g., seminars and testing) to instruct coaches and athletics department personnel on NCAA legislation, and (3) develop a system for monitoring the institution's compliance with NCAA rules, which includes appropriate checks and balances and oversight by appropriate faculty and/or administrative representatives from outside the department of intercollegiate athletics -- a preliminary written report to be submitted to the enforcement staff by August 15, 1990, that sets forth a general review of its system for administrative control and institutional compliance with NCAA legislation, a schedule for establishing this compliance and educational program, and a

final written report to the enforcement staff at the end of the probationary period. Such reports shall give particular emphasis to the administration of complimentary admissions to student-athletes and control of uniforms and equipment issued to student-athletes.

C. The institution's men's basketball team shall end its 1989-90 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition, including a foreign tour, following that season.

D. The institution's men's basketball team shall not be eligible to appear on any "live" telecast (as defined by Bylaw 19.4.2.5.2) during the 1989-90 season. [NOTE: This penalty is immediately and completely suspended based upon the mitigating factors set forth above.]

E. As noted, the committee adopts the university's actions of self-imposed restrictions on the number of athletics grants-in-aid it may award during the 1990-91 and 1991-92 academic years. In this regard, the institution shall award no more than 12 athletically related grants-in-aid that are countable under Bylaw 15.02.3 in the sport of men's basketball; further, this limitation would not permit the university to terminate athletics aid for any current recipient who otherwise remains eligible for intercollegiate competition during the period of this penalty.

F. The institution shall eliminate all off-campus recruiting activities in the sport of men's basketball for a one-year period. [NOTE: Because the university has self-imposed an equivalent penalty on its men's basketball program, the committee adopts the institutional penalty in lieu of action specified in Bylaw 19.4.2.2-(c), it being understood that the institutional prohibition shall remain in effect for the period September 1, 1989, to August 31, 1990, and shall have the same force and effect as if the provisions of Bylaw 19.4.2.2-(c) had been applied.] [Page 10]

G. The institution shall be prohibited from providing any expense-paid visit to the institution for prospective student-athletes in the sport of men's basketball for a one-year period. [NOTE: Because the university has self-imposed an equivalent penalty on its men's basketball program, the committee adopts the institutional penalty in lieu of action specified in Bylaw 19.4.2.2-(b), it being understood that the institutional prohibition shall remain in effect for the period from September 1, 1989, to August 31, 1990, and shall have the same force and effect as if the provisions of Bylaw 19.4.2.2-(b) had been applied.]

H. Bylaw 19.4.2.2-(d) of the minimum penalty provisions requires action with respect to the athletically related employment responsibilities of institutional employees "determined by the committee knowingly to have engaged in or condoned a major violation . . . ." In this regard, the university has taken action to restructure its athletics department in order to achieve a higher level of understanding of, and compliance with, NCAA legislation. The university has separated the positions of director of athletics and men's head basketball coach, established a new position for a compliance officer and reassigned the duties of other individuals. Additionally, to ensure that the athletics program has sufficient time to educate its coaches on NCAA rules and regulations, the university has limited the size of its men's basketball staff for the 1989-90 and 1990-91 academic years to no more than a head coach, two assistants and one additional coach (who will be either a volunteer coach or a part-time coach as permitted by NCAA legislation).



[NOTE: The committee adopts this institutional action in lieu of action specified in Bylaw 19.4.2.2-(d), it being understood that any changes in the university's restructuring of its athletics department from the plans presented to the committee will be reported to the committee; further, the committee reserves the right to reconsider the penalties in this case and to take further action in light of such changes.]

[NOTE: Should North Carolina State University appeal either the findings of violations or proposed penalties in this case to the NCAA Council subcommittee of Division I members, the Committee on Infractions will submit an expanded infractions report to the members of the Council who will consider the appeal. This expanded report will include additional information in accordance with Bylaw 32.8.5. A copy of the committee's report would be provided to the institution prior to the institution's appearance before the Council subcommittee and, as required by Bylaw 32.8.6, would be released to the public.

Also, the Committee on Infractions wishes to advise the institution that when the penalties in this case become effective, the institution should take every precaution to ensure that their terms are observed; further, the committee intends to monitor the penalties during their effective [Page 11] periods, and any action contrary to the terms of any of the penalties shall be considered grounds for extending the institution's probationary period, as well as to consider imposing more severe sanctions in this case, and finally, should any actions by NCAA Conventions directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.]

#### NCAA COMMITTEE ON INFRACTIONS

Roy F. Kramer

Beverly E. Ledbetter

Thomas J. Niland Jr.

John E. Nowak

Milton R. Schroeder (acting chair)

MRS:cg