

**[THE FORMER HEAD MEN'S BASKETBALL COACH APPEALED THE FINDINGS AND PENALTIES IN THIS REPORT BUT THEY WERE CONFIRMED AND UPHELD BY THE DIVISION I INFRACTIONS APPEAL COMMITTEE. THE FULL TEXT OF THE APPEALS COMMITTEE'S REPORT FOLLOWS THE INFRACTIONS COMMITTEE'S REPORT.]**

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**UNIVERSITY OF MINNESOTA, TWIN CITIES**  
**PUBLIC INFRACTIONS REPORT**

INDIANAPOLIS, INDIANA---This report is organized as follows:

- I. Introduction.
- II. Findings of violations of NCAA legislation.
- III. Committee on Infractions penalties.

**I. INTRODUCTION.**

The University of Minnesota, Twin Cities, appeared before the Division I Committee on Infractions on August 11, 2000. The university, a member of the Big Ten Conference, has an enrollment of approximately 38,000 students and sponsors 12 men's and 12 women's intercollegiate sports. The university appeared before the committee previously in March of 1988 and again in March of 1991. The 1988 case involved men's basketball; both cases resulted in findings of lack of institutional control.

On March 10, 1999, an article in the St. Paul, Minnesota, *Pioneer Press* broke a story regarding possible academic fraud at the University of Minnesota. The university promptly self-reported the information and began an internal investigation.

The case primarily related to men's basketball and involved violations of NCAA bylaws governing academic fraud, extra benefits, academic eligibility, unethical conduct and lack of institutional control. The focal point of the case involved three individuals whose actions,

when combined with concomitant acts of commission and omission by those charged with institutional oversight of intercollegiate athletics and responsibility for academic issues, including members of the faculty, resulted in the violations reported and found in Part II-A and provide context for the remaining major violations alleged and found. The three individuals were, at the time of the commission of these violations:

- A. A secretary in the athletics academic counseling office (hereinafter referred to as “secretary”) who also was employed as a tutor in the men’s basketball program in the winter quarter of 1998;
- B. An academic counselor with responsibility for men’s basketball (hereinafter referred to as “academic counselor”); and
- C. The head men’s basketball coach (hereinafter referred to as “head coach”).

None currently are employed by the university.

#### Former Secretary in Athletics Academic Counseling Office

From 1994 to 1998, the secretary was involved in preparing approximately 400 pieces of course work of various lengths, including theme papers, homework assignments and take-home exams, for at least 18 men’s basketball student-athletes. Her involvement varied by student-athlete and course and ranged from doing substantive course work for student-athletes to assisting them to complete course work to typing substantive work prepared by them. She did this work during study hall sessions in the basketball offices or at her home. The secretary provided a limited response to the letter of official inquiry sent her by the enforcement staff. Although her response neither denied the allegations naming her nor provided substantive information relating to the merits of any allegation, the secretary did admit to her involvement as documented in this report during the course of numerous interviews with the enforcement staff and the university.

#### Former Academic Counselor Assigned to Men’s Basketball

The secretary’s academic fraud was arranged primarily by the academic counselor assigned to men’s basketball. He had frequent and recurring contact with the secretary, kept current and informed about her activities, and was actively complicit in the violations committed. Among other things, the academic counselor identified the student-athletes with whom the secretary was to work and was instrumental in focusing her attention on particular courses and alerting her to particular academic problems. The academic counselor refused to be interviewed by the university and the enforcement staff and did not respond to the letter of official inquiry sent him by the NCAA. By failing to respond, the academic counselor waived his right to appeal findings made against him.

### Former Head Coach

The head coach was knowledgeable about and complicit in the academic fraud in which the secretary and academic counselor engaged. The head coach knew of the secretary's involvement with student-athletes and her preparation of course work on their behalf. Similarly, he knew of the activities of the academic counselor in arranging and directing the work that the secretary did with and for men's basketball student-athletes. By his overall control of the men's basketball program and the environment thereby fostered, the head coach facilitated the activities of both the academic counselor and the secretary. His support of their activities included special benefits provided them by him or by the men's basketball program. Among the benefits to the secretary was a trip to Hawaii with the team and \$3000 paid to her from the personal funds of the head coach. Among the benefits to the academic counselor was a car lease paid for a period of six years by the head coach from his personal funds. The head coach provided three separate and detailed responses to the letter of official inquiry sent him by the enforcement staff, responses that are discussed in this report in the context of particular allegations involving him. The head coach's final response was provided two days prior to the hearing with the specific authorization of the chair. The head coach did not appear at the hearing before the committee. See Appendix Three for an account of his requests with regard to his presence at the hearing and the committee response.

### Nature and Consequence of Violations

The numerous violations found by the committee are among the most serious academic fraud violations to come before it in the past 20 years. The violations were significant, widespread and intentional. More than that, their nature -- academic fraud -- undermined the bedrock foundation of a university and the operation of its intercollegiate athletics program. By purposeful acts of commission, and, through the absence of effective oversight, serious acts of omission, these violations damaged the academic integrity of the institution. The immediate and direct consequence to the university was that its men's basketball team competed very successfully with ineligible student-athletes in each year from 1994 through 1999.

## **II. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.**

### **A. ACADEMIC FRAUD; UNETHICAL CONDUCT; PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 10.1-(b), 10.1-(c), 16.02.3, 16.3.3-(a) and 16.12.2.1]**

From 1994 to 1998, the secretary violated the NCAA Principles of Ethical Conduct when she prepared numerous pieces of course work for at least 18 men's basketball student-athletes. The course work performed by the secretary included typing,

composing theme papers, completing homework assignments and preparing take-home exams. Her involvement with the course work preparation was arranged primarily by the academic counselor, who identified for the secretary the student-athletes with whom she worked during study hall sessions or at her home and was aware of the improper assistance provided by her. Further, the head coach knew of the secretary's preparation of course work on behalf of the student-athletes identified by the academic counselor. The head coach also knew that her work constituted academic fraud. Finally, as a result of this academic fraud, the men's basketball team competed with ineligible student-athletes in each year from 1994 through 1999.

### **Committee Rationale:**

The committee agreed with the university and enforcement staff on the facts contained in this finding as summarized in Part I and as set forth in Appendix Two. The committee also agreed with the university and enforcement staff that violations of NCAA legislation occurred. The head coach denied knowledge of the continuous and significant course work assistance provided by the secretary with the knowledge and connivance of the academic counselor. Whether the head coach knew and was involved in the academic fraud were the only issues in dispute. The following nine factors, identified by the enforcement staff and agreed to by the university, led the committee to conclude that the head coach knew and was complicit in the activities of the secretary and the academic counselor.

1. The \$3,000 payment: The most telling evidence that the head coach knew of the academic fraud is that on June 25, 1998, he paid the secretary \$3,000 from his personal funds and then denied making the payment in separate formal interviews conducted first by the university and then by the enforcement staff. The head coach did not admit the payment until July 2000 which was two months after providing the enforcement staff a summary of checking account records showing a \$3000 check (triggering staff requests for the canceled check). Moreover, the head coach's provision of the checking account summaries came only after several requests over many months by the university and enforcement staff. The secretary reported the \$3,000 payment when she first disclosed the academic fraud and said it was payment for her work with student-athlete B. The committee found that the \$3,000 payment, the head coach's denials, and the circumstances surrounding those denials were sufficient to prove his knowledge and complicity without regard to additional and cumulative evidence in the record.
2. Evidence from the secretary in addition to the \$3,000 payment: Except for one semester when the secretary was hired to tutor a student-athlete, she was not a tutor and was not employed by men's basketball. Consequently, she should have had no interaction with student-athletes. Nonetheless, contact of which the head coach was aware occurred during the entire time the secretary worked in the athletics department. Moreover, on several occasions beginning on May 7, 1998, and including June 25, 1998, the head coach was directed by his superiors to ensure that

the secretary had no contact with student-athletes. Yet, in direct flouting of that directive, on June 25, 1998, the same day that the head coach claimed to be complying, he wrote a check for payment of \$3,000 as compensation for the secretary's work with student-athlete B. Finally, the secretary said that she had several conversations with the head coach in which he demonstrated that he knew she was providing academic assistance to student-athletes, including more than one conversation when he demonstrated he knew academic fraud was occurring. For example, on one occasion the head coach cautioned the secretary that the papers being written "can't be too good," and on another occasion, after a student-athlete admitted receiving help from the secretary to the associate director of athletics for compliance, the head coach apologized to the secretary for "not getting to the student-athlete soon enough" to tell him to "keep his mouth shut."

3. Other direct evidence: Student-athlete O recounted a conversation with the head coach in which he told the coach that the secretary was working with him on his course work. In addition, the head coach was copied on a letter from the academic counselor to the father of a student-athlete in which there was outlined the course work the student-athlete needed to complete to remain eligible and there was included the statement, "Must call (the secretary) and ask her to help him put together the work (the student-athlete) started."
4. Special benefits provided by the head coach to the secretary: Several times the head coach provided benefits to the secretary. As the secretary was not an employee in the men's basketball offices she should not have warranted special favors. These favors included a trip to Hawaii with the men's basketball team. In addition, the head coach wrote a letter of recommendation for the secretary describing her as a "mentor" and commending her as "a motivator of students," thus demonstrating that he knew her well.
5. Evidence showing it was common knowledge that the secretary was tutoring men's basketball student-athletes: Former assistant men's basketball coaches, student-athletes and a former academic counselor all said that it was well known that the secretary tutored men's basketball student-athletes. Moreover, she was frequently seen at study hall sessions where she had no reason to be present.
6. The secretary's credibility: The committee identified numerous instances when the secretary provided very specific information that was verified by documented evidence or testimony of others. A prime example was the \$3,000 payment described above.
7. The head coach's lack of credibility: The committee found several instances in which the head coach was caught in falsehoods or inconsistencies. Among these was the \$3,000 payment described above, a payment the head coach admitted making only when he provided checking account records confirming the payment. The committee noted that these records were provided only after numerous requests over

many months made by both the university and the enforcement staff. Further, the committee noted that the head coach not only was required to cooperate with the investigation pursuant to Bylaw 10.1 (a), but he also was bound contractually under the terms of his more than \$1.5 million university buyout agreement to “cooperate fully” with institutional, conference, and NCAA investigations. The committee found the head coach’s credibility further undermined by his inconsistent statements regarding his relationship with the secretary and her interaction with student-athletes. On the one hand, on more than one occasion after the allegations of academic fraud surfaced, the head coach pretended no acquaintance with the secretary, including referring to her as “that woman” in a locker room meeting with the team the day after the story broke. On the other hand, in a later interview with the enforcement staff and the university, the head coach attempted to explain the benefits provided the secretary by describing her as “part of the family.”

In addition, there was confirming evidence in the record with regard to the head coach’s general attitude toward issues of academic fraud. As far back as 1986 an academic counselor wrote a memorandum to the director of athletics academic counseling office, in which he quoted the head coach as saying, “If someone doing a paper for a student-athlete would allow him the opportunity to be eligible to compete and therefore succeed, we need to do the paper for him.”

8. The tight control exerted by the head coach over the academic counselor: In practice, if not in formal reporting lines, the head coach supervised the academic counselor and directed his activities. For example, the academic counselor wrote in a memorandum to the head coach, “(the director of athletics academic) is technically my boss, but the reality is that I report to you and am fiercely loyal to you.” The secretary reported her observation that the head coach knew everything that the academic counselor did and that he would not have arranged the academic fraud unless it first was cleared either by the head coach or an assistant coach.
9. The tight control exerted by the head coach over all aspects of the men’s basketball program: The former university vice-president for student development and athletics, the former director of the academic counseling office, student-athletes and others all described the head coach as having complete control over all aspects of the men’s basketball program. One student-athlete described the control as follows “He ran everything. He controlled everything, everything, I mean, basketball, extracurricular activities, on court, off court, everything went through him.” According to the secretary, “there was very little, if anything, that went on in men’s basketball that the coaching staff did not know about.”

The head coach attempted to refute, one-by-one, each piece of evidence described above as well as other evidence in the record. This approach ignores the fact that evidence cannot be evaluated in an informational vacuum independent of any other evidence and that, when viewed collectively and linked together, the cumulative effect of the evidence evaluated by the committee leads inexorably to the very firm

conclusion that the head coach knew about and supported the activities of secretary and academic counselor. More fundamentally, this approach ignores the fact that several pieces of evidence on which the committee relied are independently highly probative once a decision is made regarding the relative credibility of the head coach as against those who contradict him. For example, the secretary's statement that the head coach told her that the papers she wrote "can't be too good" is conclusive on the question of his knowledge and complicity once the credibility question is resolved in her favor. As described above, the committee found the circumstances surrounding the \$3000 payment and the protracted period of time during which he denied the truth of the secretary's account sufficient in themselves to prove the knowledge of the head coach.

**B. ACADEMIC FRAUD; UNETHICAL CONDUCT; PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 14.01.3.3, 16.02.3, 16.3.3-(a) and 16.12.2.1]**

During the 1996-97 and 1997-98 academic years, a sister of the secretary was a tutor in the men's basketball program. The academic counselor arranged for the tutor to provide impermissible assistance to men's basketball student-athletes A, B and G resulting in their competing while ineligible. Specifically, during the 1996 fall quarter, the tutor wrote at least 32 papers for student-athlete A. During the 1997 summer session she wrote 14 papers for student-athlete G and during the 1998 winter quarter she typed two papers for student-athlete B.

**Committee Rationale**

The committee agreed with the university and enforcement staff on the facts contained in this finding and that violations of NCAA legislation occurred.

**C. ACADEMIC FRAUD; UNETHICAL CONDUCT; PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 10.1-(b), 10.1-(c), 16.02.3, 16.3.3-(a) and 16.12.2.1]**

In the fall of 1995, impermissible academic assistance was provided to men's basketball student-athletes G and O. Further, the academic counselor and the head coach were told that assistance had been provided to student-athlete G. Specifically:

1. In late October or early November 1995 a candidate for a job tutoring men's basketball student-athletes met with the academic counselor at his office during a study hall session. As part of the interview process, the prospective tutor helped student-athlete G with his homework. The prospective tutor did the assignment herself after concluding that the young man was incapable of doing it. Immediately following the session the prospective tutor met with the academic counselor and the head coach and told them she had written the assignment but would be unwilling to write another paper for a student-athlete. The prospective tutor was not hired.

2. During the 1995 fall quarter, a tutor worked with student-athlete O and reported that on at least one occasion she edited a writing assignment for him.

### **Committee Rationale**

Regarding paragraph one, the committee agreed with the university and enforcement staff on the facts set forth and that violations of NCAA legislation occurred. The head coach reported that he did not remember meeting the prospective tutor and claimed that the prospective tutor neither wrote the homework assignment nor said that she did.

The committee found the prospective tutor to be credible and noted that, contemporaneous with her tutorial session with the student-athlete and independent of this inquiry, she told two others that she wrote the assignment. One of them reported that the prospective tutor also told her she spoke to the head coach about it. The other saw the prospective tutor working with the student-athlete and said they were together for a considerable period of time. The committee also found both that the prospective tutor said she wrote the assignment and that her description of what she did constituted writing the assignment. Finally, the committee identified no plausible reason for the prospective tutor to lie.

Regarding paragraph two, which was reported by the tutor, the committee agreed with the staff and the university on the facts set forth and that violations of NCAA legislation occurred.

#### **D. FAILURE TO COMPLY WITH ELIGIBILITY REQUIREMENTS; IMPERMISSIBLE SPECIAL ARRANGEMENT. [NCAA Bylaws 14.01.3, 16.02.3 and 16.12.2.1]**

During final examination week in mid-December 1995, the academic counselor along with student-athlete G and another male associated with the men's basketball program, confronted the course instructor for course GC (General College) 1112 (Ecological Evaluations of Environmental Problems) in her office and without an appointment. They explained that the student-athlete needed a passing grade to remain eligible. The instructor refused their request that she grade the exam in their presence. They returned later the same day and were told that the student-athlete's exam was the worst in the class and that he would receive a grade of "F." They then asked the instructor to give the student-athlete an interim grade of "Incomplete" and extra time to complete past-due assignments and do extra-credit work with the expectation he could earn a grade of "C".

The instructor said that she agreed because she felt intimidated. The student-athlete subsequently submitted the additional work and received the "C" grade.



### **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, that the special arrangement constituted a violation of NCAA legislation, and that its consequence was to preserve the student-athlete's competition eligibility for the 1996 winter quarter.

#### **E. FAILURE TO COMPLY WITH ELIGIBILITY REQUIREMENTS; IMPERMISSIBLE SPECIAL ARRANGEMENT. [NCAA Bylaws 14.01.3, 16.02.3 and 16.12.2.1]**

In December 1995 near the end of the fall quarter, the academic counselor made a special arrangement with a biology professor for men's basketball student-athlete O to submit an extra term paper in BIOL 1101 (Heredity and Human Society) so that he could raise his grade to a "C" and thereby remain eligible for athletic competition. As a result of this intervention the professor allowed the student-athlete to submit the extra term paper and awarded him a grade of "B."

### **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the special arrangement constituted a violation of NCAA legislation.

#### **F. FAILURE TO COMPLY WITH ELIGIBILITY REQUIREMENTS; IMPERMISSIBLE SPECIAL ARRANGEMENT. [NCAA Bylaws 14.01.3, 16.02.3 and 16.12.2.1]**

On January 25, 1999, the academic counselor arranged for men's basketball student-athlete C to be enrolled in both GC (General College) 1172 subsequent to the "add" deadline and to be dropped from GC 1511 with no penalty assessed. Specifically, upon a request by the academic counselor, an associate academic advisor in the College of Education and Human Development backdated the student-athlete's registration form to reflect an enrollment date of January 16, 1999, the last day to add classes for the 1999 winter quarter. At the same time, the associate academic advisor backdated the student-athlete's "drop" of GC 1511 from January 25 to January 16 thereby avoiding a "W" on the student-athlete's transcript.

### **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the special arrangement constituted a violation of NCAA legislation.

**G. FAILURE TO COMPLY WITH ELIGIBILITY REQUIREMENTS; IMPERMISSIBLE SPECIAL ARRANGEMENT. [NCAA Bylaws 14.01.3, 16.02.3 and 16.12.2.1]**

During the 1997 fall quarter, the academic counselor arranged for two late grade-base changes for men's basketball student-athlete B. Specifically:

1. On December 9, 1997, the academic counselor asked an office specialist in the registrar's office to make a grade-base change from a letter scale of A/F to S/N (satisfactory/not satisfactory) for the student-athlete in GC (General College) 1422 (Writing Lab – Communications) even though the deadline for student-generated grade-base changes had passed and the request did not have the required approvals of the course instructor and the General College administrator. The office specialist complied.
2. During the latter part of the 1997 fall quarter the academic counselor asked a general college advisor to process a late grade-base change in GC 1111 (Science in Context: Weather and Climate) for the same student-athlete. The advisor complied, in part because the academic counselor provided the false information that the student-athlete would lose his athletics scholarship and be forced to leave the university if his grade-point average dropped below a 2.00.

**Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the special arrangement constituted a violation of NCAA legislation.

**H. FAILURE TO COMPLY WITH ELIGIBILITY REQUIREMENTS; IMPERMISSIBLE SPECIAL ARRANGEMENT. [NCAA Bylaws 14.01.3, 16.02.3 and 16.12.2.1]**

During the 1997 fall quarter, a special arrangement resulted in the admission of men's basketball student-athletes S and T into the university's Inter-College Program (ICP). Student-athlete S was in his fourth year of residence and needed admission to a specific degree program to remain eligible under institutional policies. Student-athlete T needed to complete a degree program by the end of the spring quarter of his fourth year to be eligible for competition in his fifth year. In each instance, their status as student-athletes affected the decision to permit their enrollment in ICP.

## **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the special arrangements constituted violations of NCAA legislation.

### **I. IMPERMISSIBLE SPECIAL ARRANGEMENT. [NCAA Bylaws 16.02.3 and 16.12.2.1]**

During June 1993 and January 1994 the director of the university's Inter-College Program (ICP) made special arrangements for men's basketball student-athletes J and U by approving a late admission to ICP for student-athlete J and by allowing student-athlete U to retroactively withdraw from courses. Specifically:

1. Regarding student-athlete J, in January 1994 the ICP director approved his admission to the ICP for the 1994 winter quarter. The approval for late admission was processed approximately three months after the latest date for admission to the program for that quarter and was motivated at least in part by an interest in preserving the student-athlete's competition eligibility and his athletics grant-in-aid.
2. Regarding student-athlete U, the ICP director retroactively approved withdrawal from three classes in which the student-athlete was enrolled. Specifically, on June 11, 1993, the director retroactively approved withdrawal from Afro-American Studies 5145 and Business and Marketing Education 5305. This retroactive withdrawal was processed more than one month after the deadline to withdraw classes and absent any of the necessary justifications (e.g., family or medical emergency, increased work hours, or other circumstances beyond the student's control). The director noted on the petition that it was "Approved because of circumstance related to (athletic) eligibility (discussed with student)." During the 1994 spring quarter the director also approved a retroactive withdrawal from Speech 1102, a class never attended by the student-athlete. The three retroactive withdrawals were the only ones ever approved by the director.

## **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that these special arrangements constituted violations of NCAA legislation.

**J. UNETHICAL CONDUCT; RECRUITING INDUCEMENT; VIOLATION OF ELIGIBILITY/TRANSFER REQUIREMENTS. [NCAA Bylaw 10.1-(c), 13.2.7, 14.01.3 and 14.5.4.4.2]**

In August or September 1995, before the fall quarter began, the academic counselor arranged for the secretary to tutor men's basketball prospective student-athlete F in two correspondence courses that he needed to pass to be admitted and be eligible for athletic competition during the 1995-96 academic year. Specifically, after learning that the student-athlete needed eight additional credits to be certified as eligible for the 1995-96 academic year, the academic counselor arranged for the secretary to help with two courses offered through the university's department of independent study: HIST 3812 (Civil War, Reconstruction) and HIST 3910 (A Century of American Immigration). The student-athlete subsequently received eight credits for the courses.

**Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the special arrangement constituted violations of NCAA legislation. The committee viewed this violation as particularly serious because the student-athlete was, by all accounts, quite talented and immediately contributed to the success of the team. Had the academic counselor not arranged for impermissible academic assistance, the student-athlete likely would not have met the institution's admissions requirements and would have enrolled elsewhere.

**K. PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 16.02.3 and 16.12.2.1]**

From the 1995-96 through the 1997-98 academic years, institutional staff members provided extra benefits to men's basketball student-athletes A, H and P. Specifically:

1. During the 1995-96 academic year, the secretary paid an \$85 photocopying charge for student-athlete H and subsequently was reimbursed by the academic counselor from funds he obtained from the university by filing a false claim for reimbursement.
2. From June to September 1997 a tutor (and sister of the secretary) provided student-athlete A with no-cost or reduced rate lodging and cash (\$20.00). Both the tutor and the secretary also provided the use of their cars free of charge.

3. From January to March 1995 the secretary provided student-athlete P with no-cost lodging and meals and from July to August 1994, she also provided the use of her car free of charge.

### **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the provision of the extra benefits constituted violations of NCAA legislation.

#### **L. RECRUITING INDUCEMENT. [NCAA Bylaws 13.2.1 and 13.2.2-(h)]**

During the summer of 1996 and prior to his full-time enrollment at the university, then prospective men's basketball student-athlete A received no-cost lodging at the apartments of men's basketball student-athletes. Specifically, he resided at the apartment of men's basketball student-athletes M and V and subsequently at the apartment of men's basketball student-athletes F and G.

### **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the provision of the recruiting inducements constituted violations of NCAA legislation.

#### **M. PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 16.02.3 and 16.12.2]**

From the 1994-95 through the 1998-99 academic years, members of the men's basketball coaching staff, arranged for the parents and friends of men's basketball student-athletes A, B, E, G and V to stay at a local Ramada Plaza Hotel (until August 1986 a Radisson Hotel) at the substantially discounted rate of approximately \$30 per night. [Note: The September 1999 minimum daily room rate was \$79 and the maximum daily rate was \$139.] The head coach arranged a standing rate with the hotel's general manager and an administrative assistant. The student-athletes or their parents were required to make their own reservations.

### **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, and that the provision of the extra benefits constituted violations of NCAA legislation. The head coach denied that he arranged a standing discounted rate and in any event disagreed that the facts constituted an extra benefit. Instead, he contended that a discounted room rate could be negotiated by anyone. The committee concluded that the head coach violated NCAA extra-benefit legislation as his involvement in effect guaranteed a reduced rate for student-athletes and thereby freed them of the need to pursue other means to obtain a reduced rate. Moreover, the committee concluded that the head coach should have been particularly knowledgeable regarding the contours of extra-benefit legislation as it applied to hotel accommodations because, during his tenure at another institution, he had been found by the committee to have violated NCAA legislation for his involvement in arranging impermissible hotel accommodations.

**N. RECRUITING INDUCEMENTS. [NCAA Bylaws 13.01.6, 13.02.12, 13.1.1, 13.1.2.1, 13.1.2.3-(h), 13.2.1 and 13.2.4]**

During the 1995-96 academic year, the head coach and two representatives of the university's athletics interests provided recruiting inducements to a men's basketball prospective student-athlete. Specifically:

1. During spring 1996 a representative of the university's athletics interests contacted a second representative and asked him to consider employing the then prospective men's basketball student-athlete. The second representative subsequently met the prospect and told him to contact the head manager at one of the restaurants owned by him and complete an employment application. The prospective student-athlete, who was a junior in high school at the time, did so and was hired on May 6, 1996. He received one paycheck before he was fired for failure to show up for work
2. During the 1995-96 academic year, and while the prospective student-athlete was a junior in high school, the head coach entertained him at dinner at the coach's home. The dinner was also attended by several members of the men's basketball team.

**Committee Rationale**

Regarding paragraph one, the committee agreed with the university and enforcement staff on the facts set forth above, and that the impermissible employment arrangements constituted violations of NCAA legislation. The head coach was not named and had no response.

Regarding paragraph two, the committee agreed with the university and enforcement staff on the facts set forth above, and that hosting a dinner for a prospect, who was high school junior at the time, constituted a violation of NCAA recruiting legislation. The head coach, contended however, that the circumstances did not constitute a violation because his relationship with the prospective student-athlete met the established family friend exception of Bylaw 13.1.2.2-(d). The head coach provided no specifics of his relationship, and the committee concluded that it would not meet the exception because it was derived from the recruiting context in that the young man was a highly talented men's basketball prospect.

**O. PROVISION OF EXTRA BENEFITS; UNETHICAL CONDUCT. [NCAA Bylaws 10.1-(c), 16.02.3 and 16.12.2.1]**

On several occasions during the 1995-96 and 1996-97 academic years, the head coach provided cash to men's basketball student-athletes B and M. In addition, student-athlete A received money from a member of the men's basketball coaching staff. Specifically:

1. At a meeting in the head coach's office during the 1997 Christmas holiday, the head coach gave student-athlete B \$200 because his wallet had been stolen.
2. In the summer of 1995 the head coach gave student-athlete M \$220 to pay his rent. Further, on several occasions during the 1995-96 and 1996-97 academic years the head coach gave the student-athlete \$100 to \$200.
3. In December 1996 a member of the men's basketball coaching staff gave student-athlete A at least \$200.

### **Committee Rationale**

Regarding paragraph one, the committee agreed with the university and the enforcement staff on the facts set forth and that violations of NCAA legislation occurred. The head coach admitted that he gave the student-athlete \$200 but said it was a loan that was repaid out of wages from the head coach's summer camp. The committee found that the head coach provided the money outright as stated by the student-athlete, both because of the specifics in the student-athlete's account that underscored his credibility and because the credibility of the head coach had been seriously undermined by the false information he provided with regard to other allegations.

Regarding paragraph two, the committee agreed with the university and the enforcement staff on the facts set forth above and that violations of NCAA legislation occurred. Although the head coach denied giving money to student-athlete M, the committee resolved the credibility question in favor of the student-athlete because he provided detailed information regarding the cash given him, because certain specifics of his information were confirmed by others, and because the credibility of the head coach was seriously undermined by the false information he provided with regard to other allegations.

Regarding paragraph three, the committee agreed with the university and the enforcement staff on the facts set forth above and that violations of NCAA legislation occurred.

### **P. VIOLATION OF SUPPLEMENTAL PAY PROVISIONS. [NCAA Bylaws 11.3.1 and 11.3.2.2]**

From 1993 to June 1999 the head coach paid a monthly car lease for the academic counselor without the knowledge of university administrators. The head coach began making these payments after the senior associate director of men's athletics denied his request to provide a courtesy car to the academic counselor.



## **Committee Rationale**

The committee agreed with the university, the enforcement staff, and the head coach on the facts set forth above. The committee, university and enforcement staff - but not the head coach - also agreed that the facts constituted a violation. The head coach contended that his conduct did not violate the supplemental pay prohibition. The committee concluded that while the head coach correctly interpreted the supplemental pay provision to require both payment by an outside source and payment to an employee of the athletics department, he was wrong in his claim that the car payments met neither criterion.

The committee found that the academic counselor was, in fact, an employee of the athletics department. The committee noted that the university acknowledged that he was an employee of the athletics department for purposes of Bylaw 11.3.1 and further noted the ease with which this bylaw could be circumvented should the head coach's interpretation prevail. Moreover, the academic counselor's salary was paid with funds generated by the men's athletics department and his work efforts were focused exclusively on student-athletes. The committee also found that the payments of the head coach constituted payment from an outside source both because they came from his personal funds and not from the university and because the university specifically declined to pay for a car lease for the academic counselor. The committee agreed with the enforcement staff that the seriousness of this violation was magnified by the fact that the head coach made the car payments after being told by the associate director that it was inappropriate for the academic counselor to be provided a car.

The committee also noted that the owner of the dealership from which the car was leased refused to cooperate with the investigation. The committee found this troubling in the context of institutional control, particularly since the dealer is a representative of athletics interests through his providing cars to the athletics department pursuant to its "Wheels Club" program.

### **Q. UNETHICAL CONDUCT. [NCAA Bylaws 10.01, 10.1-(c) and 10.1-(d)]**

The head coach failed to deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics and violated the principle of ethical conduct by: (1) committing the violations alleged against him in this report; (2) providing false and misleading information during interviews with the university and enforcement staff; and (3) directing the four men's basketball student-athletes named in the *Pioneer Press* to give false and misleading information to the university regarding their involvement in the academic fraud.

1. Regarding his involvement, the head coach knowingly committed the violations as set forth in findings II-A, II-C, II-O and II-P of this report.

2. Regarding his providing false and misleading information, the head coach was interviewed on June 22, 1999, by the university and on March 22, 2000, by the enforcement staff, an interview at which the coach's lawyer was present. At both interviews the head coach denied paying \$3000 to the secretary in June 1998.

However, in his July 12, 2000, response to the letter of official inquiry, the head coach acknowledged that in June 1998 he wrote a personal check to "cash" for \$3,000 and that, as noted on the check, the money was paid to the secretary. He also described cashing the check and giving the cash to the academic counselor who gave the money to the secretary for tutoring student-athlete B during the 1998 spring quarter.

3. Regarding his instructions to student-athletes to provide false and misleading information, on March 10, 1999, while the men's basketball team was in Seattle to compete in the 1999 NCAA Division I Men's Basketball Championship, the head coach told the team that university representatives would be interviewing student-athletes B, C, K and M about course work allegedly prepared for them. The head coach then had a separate meeting with the four student-athletes and told them to say that they had done all of their own academic work and that the secretary had not prepared course work for them. He also told student-athlete B to deny being tutored by the secretary during the 1998 spring quarter, and that, if asked about going to her house, to say only that he went there for occasional dinners. During their Seattle interviews with university general counsel, the associate general counsel and the former associate director of athletics for compliance, the student-athletes denied that the secretary prepared course work for them. Further, student-athlete B denied that he ever had been to the secretary's house.

### **Committee Rationale**

The committee agreed with the enforcement staff on the facts set forth above and that violations of NCAA ethical conduct legislation occurred. The university agreed with the facts at least as they pertained to student-athletes B and M, and also agreed that these violations occurred. The head coach denied providing false and misleading information as found in paragraph two or instructing student-athletes to do so as found in paragraph three.

Regarding paragraph two, the head coach agreed with the facts but contended that there was no violation because the truthful information provided in his July 12, 2000, response to the letter of official inquiry constituted his correction of previously provided misinformation pursuant to Bylaw 32.3.9. The committee found that Bylaw 32.3.9 does not so immunize false and misleading information earlier reported. If it did, then the consequence would be to permit an individual to lie with impunity because, in the event he is caught in a lie, he could

then simply recant. If Bylaw 32.3.9 is so interpreted there would be little left to an ethical conduct bylaw and, indeed, an NCAA enforcement process, that depends on truthful cooperation. The committee noted that the head coach had had two formal interview opportunities and many months in which to provide truthful information on the question of the \$3,000 payment but did so only after providing financial records that he was obliged to provide by NCAA Bylaw 10.1(a) and his contractual buyout.

Regarding paragraph three, the committee concluded that the head coach met with the four student-athletes and coached them as to what they would say in their interviews with the university. The committee also concluded that, while the evidence was not fully consistent, its clear weight supported the conclusion that the head coach did so instruct them. Among the evidence relied on was the relative credibility of the four student-athletes as demonstrated by other evidence in the record, the lack of credibility of the head coach and the reports by the student-athletes of what was said at the meeting. Student-athlete M said that the head coach told them to lie by saying that they did their own academic work and that the secretary did no course work for them. Student-athlete B said that while the head coach told them to “tell the truth,” he seemed to be trying to orchestrate their responses. This same student-athlete reported that after the secretary was fired in spring 1998, but continued to tutor student-athletes, the head coach told him to deny receiving academic assistance from her should he ever be questioned. Student-athlete L reported that the head coach told them to “Tell (the investigators) what happened.” He also reported, however, that the head coach “kind of coached us what to say,” and instructed them, “Just don’t go in there and tell them she (the secretary) did your work.” This student-athlete thought the latter remark was “sarcasm.” Student-athlete C reported only that the head coach told all four to tell the truth. The committee concluded that the clear weight of the evidence showed that the head coach attempted to influence the four young men to provide false and misleading information and, in so doing, violated NCAA standards of ethical conduct. Moreover, his attempt to influence them was initially successful as all four denied receiving academic assistance from the secretary. Student athletes B and M later admitted that they lied while student-athlete K modified his statement to acknowledge typing assistance.

**R. UNETHICAL CONDUCT; FAILURE TO COOPERATE. [NCAA Bylaws 10.01, 10.1-(a), 10.1-(b), 10.1-(c), 19.01.3 and 32.3.11]**

The academic counselor failed to deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics and violated the principles of ethical conduct by: (1) committing the violations found against him in this report; and (2) failing to cooperate with the investigations of institution and enforcement staff.

1. Regarding his involvement, the academic counselor knowingly committed the violations set forth in findings II-A, II-B, II- C, II-D, II-E, II-F, II-G, II-J and II-K of this report.

2. Regarding his failure to cooperate, the academic counselor refused to answer questions posed by the university at a June 14, 1999, interview, reporting that on the advice of counsel, he would assert his Fifth Amendment privilege. On October 7, 1999, the university renewed its attempts to interview the academic counselor. Through his lawyer the academic counselor set forth interview parameters that university policy precluded it from accepting. The academic counselor did, however, provide a response in a letter published in the *Pioneer Press* on October 30, 1999.

Regarding his failure to cooperate with the enforcement staff, on April 25 and May 8, 2000, the academic counselor, through his lawyer, received requests for an interview via facsimile. Neither he nor his lawyer responded.

### **Committee Rationale**

The committee agreed with the university and the enforcement staff on the facts contained in this finding and that the academic counselor's involvement in findings II-A, II-B, II-C, II-D, II-E, II-F, II-G, II-J and II-K constituted unethical conduct as did his failure to cooperate with investigations conducted by the university and the NCAA.

### **S. PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 16.02.3, 16.5.2.2.3 and 16.12.2.1]**

From the 1996-97 to 1999-00 academic years, numerous football and basketball student-athletes resided in Roy Wilkins Hall although ineligible under institutional guidelines. Specifically, although residence in this dorm was available only to students who had earned at least 90 hours of degree credit, student-athletes could employ a special waiver policy permitting them to reside in the dorm upon completion of 72 credit hours.

### **Committee Rationale**

The committee agreed with the university and the enforcement staff on the facts contained in this finding and that violations of NCAA legislation occurred.

### **T. VIOLATION OF RULES COMPLIANCE PRINCIPLE; PROVISION OF EXTRA BENEFIT. [NCAA Constitution 2.8.1, and Bylaws 16.02.3, 16.3.3-(a) and 16.12.2]**

During the 1997-98 academic year, an assistant education specialist assigned to football typed a paper for football student-athlete W. Further, the university's academic counseling staff failed to follow athletics academic counseling department procedure for reporting the suspected violations to the compliance office.

Specifically, a senior academic advisor for football student-athletes saw the assistant education specialist typing the paper and reported it to the director of athletics academic counseling office. There is no record of a compliance report and no report was made to the NCAA.

## **Committee Rationale**

The committee agreed with the university and enforcement staff on the facts set forth above, that the provision of the recruiting inducements constituted violations of NCAA legislation, and that typing the paper constituted a secondary violation. The committee agreed with the enforcement staff that failure to report the violation to the NCAA is more significant than the violation itself because it reflects a failure to monitor.

### **U. LACK OF INSTITUTIONAL CONTROL. [NCAA Constitution 2.1.1; 2.1.2; 2.8.1 and 6.01.1]**

The scope and nature of the violations set forth in this report demonstrate a lack of appropriate institutional control and monitoring in the conduct and administration of the university's athletics programs in that it: (1) failed to control the men's basketball program and in particular its head coach; (2) failed to monitor the activities of the academic counselor and the secretary; and (3) failed to take adequate action to investigate possible academic fraud prior to publication of the story in the *Pioneer Press*. Specifically:

1. Regarding the university's failure to control the men's basketball program, the Assembly Committee for Intercollegiate Athletics (ACIA) and the men's athletics department, among others, allowed the head coach to control all facets of his program, creating the environment in which the academic misconduct described in this report occurred and escaped detection. For example, the head coach succeeded in persuading the men's faculty athletics representative and the administration of the men's athletics department to assign an academic counselor to men's basketball who did not report to the athletics academic counseling office. The separation from academic counseling accelerated and expanded the opportunity for the head coach more effectively to implement his philosophy of academics, with the result that the lode-star of men's basketball academic counseling was eligibility maintenance rather than academic achievement no matter the price paid in the loss of honesty and academic integrity and the compromising of proper ethical behavior.
2. Regarding the university's failure to monitor the activities of the academic counselor and secretary, information provided the senior associate director of men's athletics (later the men's director of athletics), the university vice-president for student development and athletics, the ACIA, the director of the academic counseling office and others should have prompted closer supervision of the academic counselor and the secretary. However, no action was taken to monitor either the academic counselor or the secretary.

- (a) The numerous incidents during the academic counselor's employment pointing to questions regarding the quality and timeliness of advice he was providing to men's basketball student-athletes.
  - (b) The circumstances and tenor of the academic counselor's interaction with faculty, particularly those in whose classes men's basketball student-athletes were enrolled.
  - (c) ACIA reviews that questioned whether the men's basketball program under the academic counselor was directing student-athletes to courses that moved them toward degrees or was only attempting to maintain their academic eligibility.
  - (d) The refusal of the academic counselor to adhere to goals and objectives outlined by his supervisor, the director of athletics academic counseling.
3. Regarding the university's failure to monitor the secretary, most of the course work that the secretary did for and with men's basketball student-athletes was done from March 1993 to January 1998 while she was employed in the academic counseling office under the direct supervision of the director of the office. However, the director failed to control the secretary's workday activities or to monitor her open and extensive involvement with the men's basketball program, an involvement for which there was no explanation arising from her job responsibilities and official duties. Two senior academic counselors noticed and reported to the director several instances of suspicious activity. On at least 10 to 12 occasions one or the other of them saw the secretary apparently working with men's basketball student-athletes at her computer terminal. Both reported that when they approached the secretary and the student-athletes in these instances, or when the secretary thought she was being observed, she took measures to conceal the text on her computer screen. Except for discussions among academic counselors at staff meetings, there is no evidence that the director of the academic counseling office took steps to discover the reason why so many men's basketball student-athletes were visiting and otherwise interacting with the secretary. The director also failed to stop the activity.
4. Regarding the university's failure adequately to investigate, the associate director of athletics for compliance reported that on accepting the position his predecessor told him that the secretary was too close to the basketball program. Further, there were numerous instances when the academic work of basketball student-athletes was questioned as well as numerous instances involving the apparent manipulation of academic policies by the academic counselor. Notwithstanding these and other indicators of a problem, no comprehensive review was undertaken by the athletics compliance office, the

academic counseling office, faculty oversight committees, or the men's athletics administration. While the committee acknowledged that several expressions of general dissatisfaction were reported by, among others the director of athletics academic counseling office, the committee noted that no concrete and effective action was taken.

Similarly, while the committee acknowledged that investigations of specific allegations concerning men's basketball were conducted by the associate director of athletics for compliance, the committee concluded that these investigations were inadequate. Denials of improper activity by those allegedly involved were accepted with minimal or no investigation. Conflicting information was treated as a case not proved rather than a signal for follow-up and an expanded scope for the investigation. At least three of the matters investigated by the associate director of athletics for compliance were self-reported by the university during this inquiry yet the associate director found no violations. Further, the associate director of athletics for compliance periodically received information suggesting that impermissible academic assistance was being provided by the secretary, but he failed either effectively to pursue this information or to uncover the continuous and significant course work assistance documented in this report.

### **Committee Rationale**

The committee agreed with the university and the enforcement staff on the facts contained in this finding and that violations of NCAA legislation occurred. These violations involve institutional responsibility only; no staff member was named.



## **SECONDARY VIOLATIONS**

**[NCAA BYLAWS 13.4.2, 13.11.2, 13.11.3, 14.01.2.1, 14.01.3, 16.02.3, 16.12.2.1]**

The following secondary violations of recruiting, eligibility and extra benefit legislation were reported:

1. During the 1995-96 academic year, a tutor for student-athlete N purchased a tape recorder for him at a cost of \$25 to \$30 and told the academic counselor of the purchase. [NCAA Bylaws 16.02.3 and 16.12.2.1]
2. In June 1996 the head coach, gave a basketball to student-athlete A for his friend as thanks for transporting student-athlete A from his home to the university for summer enrollment. [NCAA Bylaws 16.02.3 and 16.12.2.1]
3. In early September 1996 the Office of the Vice-President for Student Development and Athletics (OSDA) provided preferential treatment to a football student-athlete so that he would be eligible to compete in the football team's opening game on September 7, 1996. Specifically, the associate vice-president for OSDA released a hold on the student-athlete's fall registration even though the student judicial officer had refused to do so because the student-athlete had not satisfied requirements for lifting a hold. The associate vice-president reported she was motivated to lift the hold in part because she felt pressured by the associate director of athletics and the academic counselor for football. [NCAA Bylaws 16.02.03, 16.12.2.1 and 14.01.2.1]
4. During the summer of 1997 an assistant men's basketball coach transported student-athlete A from the home of a tutor for the men's basketball program (and sister to the secretary) for the first day of orientation at a center where the student-athlete worked. [NCAA Bylaws 16.02.3 and 16.12.2.1]
5. On December 8, 1997, the senior scholastic committee representative for the college of liberal arts approved a late grade-base change from "A/F" to "S/N" (satisfactory/not satisfactory) for a men's ice hockey student-athlete in one of his fall quarter courses to assure competition eligibility in the 1998 winter quarter. Specifically, a committee representative reported that during the 1997 fall quarter the athletics academic counselor for men's ice hockey told her that the ice hockey student-athlete was having difficulty in GC 0631 (Intermediate Algebra II) and incorrectly stated that a poor grade would put him under a 2.00 cumulative grade point average and result in loss of eligibility. The committee representative approved the grade-base change on December 8 well after the six-week deadline had passed for student-generated grade-base changes. The student-athlete was awarded a final grade of "N" rather than a "D+." [NCAA Bylaws 14.01.3, 16.02.3 and 16.12.2.1]

6. On October 29, 1999, the current head men's basketball coach showed a Power Point computer recruiting presentation to a men's basketball prospective student-athlete during his official paid visit. [NCAA Bylaw 13.4.2]
7. In October 1999 a university official made impermissible comments about a prospective student-athlete which were published in a local newspaper. Further, in March 2000 the head women's basketball coach and the current head men's basketball coach were separately interviewed during the television broadcasts of the Minnesota State High School League Girl's And Boys Basketball Tournaments. [NCAA Bylaws 13.11.2 and 13.11.3]

### **III. COMMITTEE ON INFRACTIONS PENALTIES.**

For the reasons set forth in Parts I and II of this report, the Committee on Infractions found as alleged the commission of major infractions involving widespread academic fraud as well as impermissible special arrangements and benefits provided by the university's faculty and academic and athletics administrators over a protracted period of time.

#### **A. CORRECTIVE ACTIONS TAKEN AND PENALTIES SELF-IMPOSED BY THE UNIVERSITY.**

In determining the appropriate penalties to impose, the committee considered the following self-imposed penalties and corrective actions to its men's basketball program imposed (or proposed) by the university:

1. The university sought and obtained the resignation of the head coach and did not renew the contracts of his assistants.
2. The university imposed a post-season ban following the 1999-00 season for the men's basketball team.
3. For the 1999-00 academic year, the total number of athletics scholarships were reduced by three (from 13 to 10). Further, over the course of the next three academic years (2001-04) the university proposed to reduce the total number of athletics scholarships by a total of four, with a reduction of at least one in each academic year so that at the end of the four-year period there would be a total reduction of seven scholarships.
4. For each of the next three academic years (2000-01 to 2002-03), the university proposed to reduce the number of official visits from 12 to eight.

5. For each of the next three academic years (2000-01 to 2002-03), the university proposed to reduce the number of evaluation days from 50 to 40.
6. For each of the next three academic years (2000-01 to 2002-03), the university proposed to reduce the number of in-person recruiting contacts for each prospect from five to four.
7. For each of the next three summers (2000-02), the university proposed to reduce the number of coaches permitted to evaluate off-campus during the summer evaluation period from three to two.
8. For each of the next three summers (2000-02), the university proposed to reduce the number of July evaluation days from 23 to 18.
9. Pursuant to Bylaw 31.2.2.5, the university decided to return to the NCAA an amount equal to 90 percent of the monies it has received or is scheduled to receive from the Big Ten Conference for participation in the 1994, 1995 and 1997 NCAA Division I Men's Basketball Championships. In each of these tournaments the university competed with ineligible student-athletes as identified by institutional and NCAA investigation.

**B. ADDITIONAL PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.**

The Committee on Infractions agreed with and approved of the corrective actions taken by the university and the penalties self-imposed. In this regard, the committee noted that the university had taken prompt and decisive action in response to the reported violations. To assure institutional control, the NCAA enforcement process depends on the cooperation of its member institutions, including the comprehensiveness and integrity of investigations conducted, complete and accurate self-reporting, willingness to accept responsibility, and the commitment to undertake critical self-examination and restructuring to avoid repeat violations. In all these areas the university performed in exemplary fashion. Nonetheless, this case involved numerous and repeated violations that occurred over many years and whose nature, academic fraud, strikes at the heart of institutional integrity. Furthermore, the academic fraud clearly violated the principles relating to the educational welfare of student-athletes and the maintenance of sound academic standards as set forth in NCAA Constitution 2.2.1 and 2.5. The seriousness of the violations was compounded both because they involved the active complicity of the head coach and because they involved a men's basketball program for which the university previously had been cited for a failure of institutional control. Finally, and most troubling to the committee, was the significant lack of institutional control evidenced by the facts supporting these allegations.

The widespread academic fraud involved in this case was uncovered not by the university through its monitoring processes, but by a newspaper. This underscores the point that the responsibility of member institutions involves more than vigorous investigation and self-imposed corrective and punitive measures undertaken after violations surface and more than self-critical evaluation, however thorough and intense. A university must have in place a system reasonably calculated to uncover violations. It must have clear reporting lines and an ethic of vigorous pursuit of suspected violations, particularly when the potential violations involve academic integrity and the very significant competitive advantage achieved when a university competes with student-athletes who are academically ineligible. The committee concluded that this aspect of institutional control was lacking in marked degree as it found numerous instances of faculty and staff, in and outside of athletics, who possessed information that should have been reported and was not, or was not reported to the appropriate individual, or was not reported in a timely and full fashion. The committee found that inadequacies in reporting were compounded by what appeared to the committee to be a division of authority and responsibility that exacerbated the lack of effective monitoring by limiting opportunities to see trends in information or to evaluate the full scope of a problem. Moreover, to the extent information reached those with operational authority to act, the action taken, and investigation pursued, was inadequate. In fact, the university's very thorough and commendable efforts post-discovery of violations unfortunately contrasted with its significant failure to monitor pre-discovery. Because of this, because of the scope and severity of the violations and because in its 1991 case the university received significant penalty concessions in recognition of its thorough investigation, the committee concluded that additional penalties were warranted. Due to the nature, level, and scope of the corrective measures undertaken by the university and as well as the nature, level and scope of the penalties self-imposed, the committee chose not to impose all the presumptive penalties of Bylaw 19.6.2.1. In this light, the committee commends the university and in particular its president for taking decisive action and withholding the four student-athletes from the university's first round game of the 1999 NCAA men's basketball tournament when this case first surfaced. The committee considered seriously the imposition of a post-season ban in men's basketball for the 2000-01 season but ultimately concluded that the president's action, combined with the very extensive scope of the institutional investigation, militated against imposition of such a ban. The additional penalties imposed by the committee are:

1. Public reprimand and censure.
2. Four years of probation from October 24, 2000 [the date of the report release].
3. The number of grants-in-aid for men's basketball will be reduced by a total of five for the 2001-02, 2002-03 and 2003-04 academic years with a reduction of at least one (from 13 to 12) scholarships in each of the three

academic years. [Note: The university proposed a reduction of four scholarships over the three academic years, with a reduction of at least one scholarship each year.]

4. Official paid visits in men's basketball shall be reduced by six for the 2001-02 and 2002-03 academic years, limiting the university to six official visits under current rules. [Note: The university proposed to limit itself to eight visits for each of the next three academic years (2000-01 to 2002-03). However, the committee noted that, over the past four academic years, the university had only averaged eight official paid visits in men's basketball.]
5. For each of the next three academic years (2000-01 to 2002-03) the number of evaluation days will be reduced by 25% from the maximum number allowed (rounded to the nearest whole number). [Note: The university had proposed that, for each of the next three academic years (2000-01 to 2002-03) the number of evaluation days be reduced from 50 to 40 with the number adjusted to reflect future changes in NCAA legislation governing evaluation days.]
6. Regarding the 1994, 1995 and 1997 NCAA Division I Men's Basketball Tournaments, and the 1996 and 1998 National Invitational Tournaments (NIT), and pursuant to NCAA Bylaw 19.6.2.2-(e)-(2), the university will vacate its team record as well as the individual records of any student-athlete who engaged in academic fraud as set forth in this report. Further, the university's records regarding men's basketball as well as the record of the former head coach will be reconfigured to reflect the vacated records and so recorded in all publications in which men's basketball records for the 1993-94 through the 1998-99 seasons are reported, including, but not limited to university media guides and recruiting material and university and NCAA archives. Further, any public reference to tournament performances won during this time shall be removed, including, but not limited to, athletics department stationery and banners displayed in public areas such as the arena in which the men's basketball team competes.
7. The former head coach and the former academic advisor will be informed in writing by the NCAA that, due to their involvement in certain violations of NCAA legislation found in this case, if they seek employment or affiliation in an athletically-related position at an NCAA member institution during a seven-year period (October 24, 2000, to October 23, 2007), they and any involved institution shall be requested to appear before the Committee on Infractions to consider whether the member institution(s) should be subject to the show-cause procedures of Bylaw 19.6.2.2-(l), which could limit athletically-related duties of the head coach and academic advisor at any such institution for a designated period.

8. The former secretary will be informed in writing by the NCAA that, due to her involvement in certain violations of NCAA legislation found in this case, if she seeks employment or affiliation in an athletically-related position at an NCAA member institution during a five-year period (October 24, 2000, to October 23, 2005), she and any involved institution shall be requested to appear before the Committee on Infractions to consider whether the member institution should be subject to the show-cause procedures of Bylaw 19.6.2.2-(l), which could limit her athletically-related duties at any such institution for a designated period.
9. The university shall show cause why it should not be penalized further if it fails to disassociate from its athletics program the owner of a local automobile dealership, who is also a representative of the university's athletics interests, based upon his refusal to cooperate with the investigation as set forth in finding II-P. The length of the disassociation shall be for at least the university's probationary period and shall include:
  - a. Refraining from accepting any assistance from him including aid in the recruitment of prospective student-athletes, the support of enrolled student-athletes or providing benefits for athletics department personnel;
  - b. Refusing his financial assistance or contributions (in cash or in kind) to the university's athletics program;
  - c. Ensuring that no athletics benefits or privilege, including preferential tickets, are provided to him, either directly or indirectly, that are unavailable to the public at large; and
  - d. Implementing other actions that the university determines to be within its authority to eliminate his involvement in the university's athletics program.
10. During this period of probation, the university shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all university staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
  - b. Submit a preliminary report to the director for the NCAA infractions committees by December 15, 2000, setting forth a schedule for establishing this compliance and educational program; and

- c. File with the committee's director annual compliance reports indicating the progress made with this program by September 1 of each year during the probationary period. Particular emphasis should be placed on monitoring programs and educational measures designed to enhance academic integrity within the institution's athletics programs. The reports must also include documentation of the university's compliance with the penalties (adopted and) imposed by the committee as well as copies of current men's basketball media guides and other published material.
11. At the conclusion of the probationary period, the university's president shall provide a letter to the committee affirming that the university's current athletics policies and practices conform to all requirements of NCAA regulations.

As required by NCAA legislation for any institution involved in a major infractions case, the University of Minnesota, Twin Cities, shall be subject to the provisions of NCAA Bylaw 19.6.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case [October 24, 2000].

Should the university or the former head coach who participated in the processing of this case appeal either the findings of violations or penalties in this case to the Division I NCAA Infractions Appeals Committee, the Division I Committee on Infractions will submit a response to the members of the appeals committee, with a copy to any party who may appeal. This response may include additional information in accordance with Bylaw 32.10.5.

The Division I Committee on Infractions wishes to advise the university that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods, and any action contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the university's probationary period, as well as imposing more severe sanctions in this case.

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 Division I Committee on Infractions. Should any actions by NCAA legislative bodies 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.

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NCAA COMMITTEE ON INFRACTIONS  
Richard J. Dunn  
Jack H. Friedenthal (chair)  
Frederick B. Lacey  
Gene A. Marsh

James Park Jr.  
Josephine R. Potuto  
Thomas E. Yeager



## APPENDIX ONE

### CASE CHRONOLOGY.

March 9, 1999 - The St. Paul (Minnesota) *Pioneer Press*, notified the office of the university's president that, on the following day, it would publish the following day an article detailing alleged academic misconduct involving the university's men's basketball program. On that day, the team departed for Seattle, Washington, for its first-round game in the NCAA Division I Men's Basketball Championship.

March 10 - The Pioneer Press article appeared and contained information that a former secretary in the athletics academic counseling office, had completed over 400 papers for at least 20 men's basketball student-athletes during the period 1993 to 1998. The article named four student-athletes who were then participating on the team as individuals who had received impermissible academic assistance from the former academic secretary. The four young men were interviewed regarding the matter in Seattle, on March 10, by the then associate director of athletics for compliance and individuals from the university's general counsel's office. The university withheld them from competition in the team's game the following day.

March 11 - The university notified the NCAA enforcement staff that serious allegations related to academic misconduct had been made against the men's basketball program and that four student-athletes would be withheld from playing in the NCAA tournament the next day.

March 24 - The university president announced retention of outside legal counsel Bond, Schoeneck and King, LLP, and Halleland Lewis Niland Sipkins and Johnson, PA, to investigate the allegations.

April 9-11 - The university and enforcement staff conducted initial interviews of the former secretary. Over the next seven months, the institution continued its internal investigation. The enforcement staff participated in several key interviews.

November 19 - The university forwarded to the enforcement staff a self-report of violations of NCAA legislation in men's basketball, football and ice hockey.

November 22 - The enforcement staff met with university officials at the national office to discuss the self-report and at that time presented a letter addressed to the university president notifying him that the NCAA had begun a preliminary investigation.

April 6, 2000 - The enforcement staff wrote the university president that its letter of official inquiry might include allegations predating the onset of the four-year statute of limitations for this case (March 11, 1995).

May 16 - The enforcement staff issued a letter of official inquiry and also sent notification letters to the former head coach, the former men's basketball academic counselor and the former academic secretary.

July 12 - A response to the letter of official inquiry was received from the university and the former head coach.

July 18 - A prehearing conference was held at the national office with the university.

July 20 - A prehearing conference was held at the national office with the former head coach.

July 24 - Based on new information contained in the former head coach's response, the enforcement staff forwarded to him and the university an amendment to Allegation No. 17 of the letter of official inquiry.

July 27 and 31 - The university and the former head coach, respectively, submitted their responses to the amended allegation.

August 11 - The university appeared before the Division I Committee on Infractions.

October 24 - Infractions Report No. 176 is released.

## APPENDIX TWO

### SUMMARY OF PAPERS KNOWN TO HAVE BEEN PREPARED BY THE SECRETARY AND STORED ON HER COMPUTER

1. Student-athlete A

Quarter	Course	No. of Papers
Unknown		5
Fall 1996	Introduction to Indian Studies (AMIN 1771)	1
	Art: General Arts (GC1311)	1
Spring 1997	Multicultural Relations (GC 1851)	4
Fall 1997	People and Problems (GC 1211)	12
	Psychology of Personal Effectiveness (GC 1701)	9
	Orientation of Leisure and Recreation (REC 1520)	5
Winter 1998	Ecological Evaluation of Environmental Problems (GC 1112)	1
	Literature: Reading Short Stories (GC 1371)	3

2. Student-athlete B

Quarter	Course	No. of Papers
Winter 1998	Art: General Arts (GC1311)	5
	Multicultural Relations (GC 1851)	5
	Introduction to Kinesiology (KIN 1871)	5
Spring 1998	Career Planning (GC 1076)	4
	Ecological Evaluation of Environmental Problems (GC 1112)	8
	People and Problems (GC 1211)	11
	Active Wellness: Individuals and Communities (KIN 1999)	13

3. Student-athlete C

Quarter	Course	No. of Papers
Spring 1998	Collective Bargaining and Labor Relations (IR 3007)	1
	Orientation of Leisure and Recreation (REC 1520)	1

4. Student-athlete D

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		1
Winter 1994	American Race Relations (SOC 1004)	2
	Introduction to Criminal Behavior (SOC 3102)	1
Spring 1994	Topics in Afro-American/African Studies (AFRO 3910)	1
Fall 1994	Plants Useful to Humans (P BIO 1012)	1
Winter 1995	Topics in Afro-American/African Studies (AFRO 3910)	2
	Black Families in Comparative Perspectives (AFRO 5352)	3
Fall 1995	Fundamentals of Speech-Communications: Oral Communications (SPCH 1101)	14
Spring 1996	Black Music: A History of Jazz (AFRO 3108)	3
	African-American Literature (GC 1816)	2
	Psychology of Coaching (KIN 5136)	2
Fall 1996	Lifetime Fitness and Health (KIN 3001)	1
Winter 1997	Afro-American History (AFRO 3865)	3
Spring 1997	Writing in Your Profession (RHET 3562)	3

5. Student-athlete E

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		2
Winter 1995	Art: General Arts (GC1311)	4
	African-American Literature (GC 1816)	1
	Social Problems (SCO 1003)	2
Summer Session I 1996	Introduction to Mass Communications (JOUR 1001)	1

6. Student-athlete F

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		3
Summer Session II 1995	Civil War and Reconstruction (HIST 3812)	6
	Topics in American History (HIST 3910)	4
Fall 1995	People and Problems (GC 1211)	1

## Student-athlete F (continued)

	Recreation and Park Area Facilities (REC 3530)	2
Winter 1996	American Government and Politics (POL 1001)	6
	Recreation Programming (REC 3540)	1
Spring 1996	Park and Recreation Administration (REC 3550)	4

	Financing Leisure Services (REC 5250)	4
	Recreational Sports (REC 5455)	1
Summer Session II 1996	Fundamentals of Management (MGMT 3001)	3
Fall 1996	Introductory to Child Psychology (CPSY 1301)	3
	Introduction to Sports Studies (SPST 1700) Organization & Management of Sport (SPST 3143)	5
	Sport Psychology (SPST 3610)	3
	Sport Programs (SPST 3630)	1
Winter 1997	Sport Facilities (SPST 311)	2
	Sport & Sociology (SPST 3500)	2

7. Student-athlete G

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		1
Spring 1996	Introduction to African-American Studies (AFRO 1011)	2
	World History (GC 1251)	1
Summer Session I 1996	Gangs, Drugs, Justice (GC 1298)	2
Summer Session II 1996	Coaching of Basketball (KIN 5740)	1
Fall 1996	The Music of Black Americans (AFRO 3301)	1
	Contemporary Literature: International Perspectives (GC 1367)	2
	Multicultural Oral Communications (GC 1463)	2
Winter 1997	People and Problems (GC 1211)	4
	Musical Heritage (GC 1211)	2
	Introduction to Kinesiology (KIN 1871)	2
	Theory and Practice of Weight Training and Conditioning (PE 1415)	1
Spring 1997	Topics in Afro-American Studies (AFRO 3910)	1

8. Student-athlete H

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		9
Summer Session I 1995	Psychology of Human Development (GC 1283)	1
Fall 1995	American Government and Politics (POL 1001)	2
	Orientation to Leisure and Recreation (REC 1520)	3
Winter 1996	Recreation Programming (REC 3540)	3
Spring 1996	Park and Recreation Administration (REC 3550)	7
	Financing Leisure Services (REC 5250)	3
	Community Leisure Services and Persons with Disabilities (REC 5270)	3
Summer Session I 1996	Introduction to Law, the Law of Contracts and Sales Contracts (BLAW 3058)	2

9. Student-athlete I

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		1
Winter 1994	American Race Relations (SOC 1004)	6
	Introduction to Criminal Behavior and Social Control (SOC 3102)	5
Spring 1994	Topics in Afro-American/African Studies (AFRO 3910)	3
	Cultural Pluralism in American History (HIST 1305)	8
Fall 1994	The Music of Black Americans (AFRO 3301)	1
	African-American Literature (GC 1816)	1
	Plants Useful to Humans (PBIO 1012)	1
Winter 1995	Topics in American Indian Studies (AMIN 3960)	1

10. Student-athlete J

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		1
Spring 1994	Topics in Afro-American/African Studies (AFRO 3910)	9
	Cultural Pluralism in American History (HIST 1305)	7
Summer Session I 1994	Psychology of Coaching (KIN 5136)	5
	Competitive Sports (KIN 5375)	6
Summer Session II 1994	Nutrition (KIN 5141)	1
Fall 1994	The Development and Treatment of Childhood, Aggressive and Antisocial Behavior (CAPY 5627)	1
	Drugs & Pregnancy (PUBH 5634)	1

11. Student-athlete K

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Winter 1995	Discourse and Society (CSCL 1301)	2
Fall 1996	Literature in American Minorities (ENGL 1591)	1
Winter 1997	Afro-American History (AFRO 3865)	2

12. Student-athlete L

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Winter 1995	Discourse and Society (CSCL 1301)	1

13. Student-athlete M

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Fall 1997	Writing in Your Profession (RHET 3562)	1

14. Student-athlete N

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		1
Fall 1996	Orientation to Leisure and Recreation (REC 1520)	1
Winter 1997	Introduction to Kinesiology (KIN 1871)	1
Spring 1997	American History (HIST 1302)	1

15. Student-athlete O

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Fall 1994	The Development and Treatment of Childhood, Aggressive Antisocial Behavior (CAPY 5627)	1
	Drugs and Pregnancy (PUBH 5634)	1
Winter 1995	People and Problems (GC 1211)	1
	World History (GC 1251)	1
	Writing in Your Profession (RHET 3562)	5
Fall 1995	Hereditry and Human Society (BIOL 1101)	1
	Introduction to Broadcasting Production (SPCH 3201)	2
Winter 1996	Fundamentals of Speech-Communication: Oral Communication (SPCH 1101)	
Spring 1996	Persuasive Speaking (SPCH 3605)	5
Winter 1997	Afro-American History (AFRO 3865)	1

16. Student-athlete P

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Unknown		1
Spring 1994	Art: General Arts (GC 1311)	1
Winter 1994	American Race Relations (SOC 1004)	5
	Introduction to Criminal Behavior and Social Control (SOC 3102)	2
Spring 1994	Topics in American Indian Studies (AMIN 3960)	4
	Intervention/Prevention of Emotional-Behavioral Difficulties Within Schools: Family- and School-Based Intervention Approaches (CAPY 5638)	1
	Civil War and Reconstruction (HIST 3812)	5
	Writing in Your Profession (RHET 3562)	11
Fall 1994	Racism: Social And Psychological Consequences for Black Americans (AFRO 3072)	1

Student-athlete P (continued)

	Directed Studies (AFRO 5970)	3
	Managerial Communications (RHET 5170)	6
Winter 1995	Topics in Afro-American/African Studies (AFRO 3910)	1
	Humanities: Agricultural Heritage (RHET 3375)	4



	Humanities: 20 <sup>th</sup> Century Culture (RHET 3381)	4
Spring 1995	Discourse and Society (CSCL 1301)	1
	Humanities: Technology, Self and Society (RHET 3390)	7
	Interviewing Dynamics (RHET 5258)	9
Summer Session I 1995	Communication, Discussion in Small Group Decision Making (RHET 3266)	9

17. Student-athlete Q

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Fall 1994	People and Problems (GC 1211)	1
Spring 1995	Civil War and Reconstruction (HIST 3812)	6
	Topics in American History (HIST 3910)	3

18. Student-athlete R

<b>Quarter</b>	<b>Course</b>	<b>No. of Papers</b>
Fall 1994	Writing Laboratory: Communicating in Society (GC 1422)	1
Winter 1995	Social Problems (SOC 1003)	1

### **APPENDIX THREE**

The former head coach provided three detailed written responses to the allegations that were directed at him. The last of these responses was received two days prior to the hearing and with the specific authorization of the chair of the Committee on Infractions. The former head coach initially indicated that he would participate in the hearing, but ultimately decided on the advice of counsel not to attend because of a perceived risk that his appearance might affect him adversely in a Federal grand jury proceeding that he believed potentially might involve him. He then requested that the committee hearing be bifurcated and that the part of the hearing relevant to him be held subsequent to the end of the criminal proceeding or, in the alternative, that his attorney attend the hearing while he did not.

The committee reviewed NCAA bylaws governing infractions hearings and concluded that they permit an attorney to accompany an individual appearing before it but do not permit an attorney to appear alone. Moreover, the committee noted that it is not an unknown phenomenon for a civil matter to precede a criminal proceeding whose focus relates to issues litigated in the civil matter. For the reasons set forth in a letter dated August 7, 2000, from the chair of the committee to the attorney for the former head coach, the committee denied both the request to bifurcate and the request for counsel presence in the absence of client.

FOR RELEASE:  
Friday, April 6, 2001

CONTACT:  
Katherine Noble  
NCAA Infractions Appeals Committee

**FORMER HEAD MEN’S BASKETBALL COACH**

**UNIVERSITY OF MINNESOTA, TWIN CITIES**

**PUBLIC INFRACTIONS APPEALS COMMITTEE REPORT**

INDIANAPOLIS, INDIANA

This report is filed in accordance with NCAA Bylaw 32.11 and is organized as follows:

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I. **INTRODUCTION.**

This appeal by the former head men’s basketball coach at the University of Minnesota, Twin Cities (hereinafter referred to as Minnesota) requested the NCAA Division I Infractions

Appeals Committee overturn all of the findings and vacate the penalties levied against him by the NCAA Division I Committee on Infractions. In this report, the Infractions Appeals Committee addresses the issues raised by the former head men's basketball coach (hereinafter referred to as head coach or former head coach).

## **II. BACKGROUND.**

On October 24, 2000, the Committee on Infractions issued Infractions Report No. 176 in which the committee found violations of NCAA legislation in Minnesota's men's basketball program. On the basis of those findings, the Committee on Infractions determined that this was a major infractions case and imposed penalties accordingly. [Reference: November 6, 2000, edition of the *NCAA News*, page 11.]

This case primarily involved the men's basketball program at Minnesota and involved violations of NCAA bylaws governing academic fraud, extra benefits, academic eligibility, unethical conduct and lack of institutional control. The case centered around three individuals, one of whom was the former head coach, whose actions resulted in the violations found by the Committee on Infractions. There were also secondary violations in several sports programs at the university.

After the Committee on Infractions issued its report, the former head coach filed a timely Notice of Appeal on November 6, 2000, and his written appeal on December 6, 2000. The Committee on Infractions filed its response on January 11, 2001. The former head coach filed a rebuttal to the Committee on Infractions Response on January 29, 2001.

## **III. VIOLATIONS OF NCAA LEGISLATION AS DETERMINED BY THE COMMITTEE ON INFRACTIONS.**

### **II-A. ACADEMIC FRAUD; UNETHICAL CONDUCT; PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 10.1-(b), 10.1-(c), 16.02.3, 16.3.3-(a) and 16.12.2.1]**

From 1994 to 1998, the secretary violated the NCAA Principles of Ethical Conduct when she prepared numerous pieces of course work for at least 18 men's basketball student-athletes. The course work performed by the secretary included typing, composing theme papers, completing homework assignments and preparing take-home exams. Her involvement with the course work preparation was arranged primarily by the academic counselor, who identified for the secretary the student-athletes with whom she worked during study hall sessions or at her home and was aware of the improper assistance provided by her. Further, the head coach knew of the secretary's preparation of course work on behalf of the student-athletes identified by the academic counselor. The head coach also knew that her work constituted academic fraud. Finally, as a result of this academic fraud, the men's basketball team competed with ineligible student-athletes in each year from 1994 through 1999.

II-C. ACADEMIC FRAUD; UNETHICAL CONDUCT; PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 10.1-(b), 10.1-(c), 16.02.3, 16.3.3-(a) and 16.12.2.1]

In the fall of 1995, impermissible academic assistance was provided to men's basketball student-athletes G and O. Further, the academic counselor and the head coach were told that assistance had been provided to student-athlete G. Specifically:

1. In late October or early November 1995 a candidate for a job tutoring men's basketball student-athletes met with the academic counselor at his office during a study hall session. As part of the interview process, the prospective tutor helped student-athlete G with his homework. The prospective tutor did the assignment herself after concluding that the young man was incapable of doing it. Immediately following the session the prospective tutor met with the academic counselor and the head coach and told them she had written the assignment but would be unwilling to write another paper for a student-athlete. The prospective tutor was not hired.

II-M. PROVISION OF EXTRA BENEFITS. [NCAA Bylaws 16.02.3 and 16.12.2]

From the 1994-95 through the 1998-99 academic years, members of the men's basketball coaching staff, arranged for the parents and friends of men's basketball student-athletes A, B, E, G and V to stay at a local Ramada Plaza Hotel (until August 1986 a Radisson Hotel) at the substantially discounted rate of approximately \$30 per night. [Note: The September 1999 minimum daily room rate was \$79 and the maximum daily rate was \$139.] The head coach arranged a standing rate with the hotel's general manager and administrative assistant. The student-athletes or their parents were required to make their own reservations.

II-N. RECRUITING INDUCEMENTS. [NCAA Bylaws 13.01.6, 13.02.12, 13.1.1, 13.1.2.1, 13.1.2.3-(h), 13.2.1 and 13.2.4]

During the 1995-96 academic year, the head coach and two representatives of the university's athletics interests provided recruiting inducements to a men's basketball prospective student-athlete. Specifically:

1. During the 1995-96 academic year, and while the prospective student-athlete was a junior in high school, the head coach entertained him at dinner at the coach's home. The dinner was also attended by several members of the men's basketball team.

II-O. PROVISION OF EXTRA BENEFITS; UNETHICAL CONDUCT. [NCAA Bylaws 10.1-(c), 16.02.3 and 16.12.2.1]

On several occasions during the 1995-96 and 1996-97 academic years, the head coach provided cash to men's basketball student-athletes B and M. In addition, student-athlete A received money from a member of the men's basketball coaching staff. Specifically:

1. At a meeting in the head coach's office during the 1997 Christmas holiday, the head coach gave student-athlete B \$200 because his wallet had been stolen.
2. In the summer of 1995 the head coach gave student-athlete M \$220 to pay his rent. Further, on several occasions during the 1995-96 and 1996-97 academic years the head coach gave the student-athlete \$100 to \$200.
3. In December 1996 a member of the men's basketball coaching staff gave student-athlete A at least \$200.

II-P. VIOLATION OF SUPPLEMENTAL PAY PROVISIONS. [NCAA Bylaws 11.3.1 and 11.3.2.2]

From 1993 to June 1999 the head coach paid a monthly car lease for the academic counselor without the knowledge of university administrators. The head coach began making these payments after the senior associate director of men's athletics denied his request to provide a courtesy car to the academic counselor.

II-Q. UNETHICAL CONDUCT. [NCAA Bylaws 10.01, 10.1-(c) and 10.1-(d)]

The head coach failed to deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics and violated the principle of ethical conduct by: (1) committing the violations alleged against him in this report; (2) providing false and misleading information during interviews with the university and enforcement staff; and (3) directing the four men's basketball student-athletes named in the *Pioneer Press* to give false and misleading information to the university regarding their involvement in the academic fraud.

1. Regarding his involvement, the head coach knowingly committed the violations as set forth in findings II-A, II-C, II-O and II-P of this report.
2. Regarding his providing false and misleading information, the head coach was interviewed on June 22, 1999, by the university and on March 22, 2000, by the enforcement staff, an interview at which the coach's lawyer was present. At both interviews the head coach denied paying \$3000 to the secretary in June 1998.

However, in his July 12, 2000, response to the letter of official inquiry, the head coach acknowledged that in June 1998 he wrote a personal check to "cash" for \$3,000 and that, as noted on the check, the money was paid to the secretary. He also described cashing the check and giving the cash to the academic counselor who gave the money to the secretary for tutoring student-athlete B during the 1998 spring quarter.

3. Regarding his instructions to student-athletes to provide false and misleading information, on March 10, 1999, while the men's basketball team was in Seattle to compete in the 1999 NCAA Division I Men's Basketball Championship, the head coach told the team that university representatives would be interviewing student-athletes B, C, K and M about course work allegedly prepared for them. The head coach then had a separate meeting with the four student-athletes and told them to say that they had done all of their own academic work and that the secretary had not prepared course work for them. He also told student-athlete B to deny being tutored by the secretary during the 1998 spring quarter, and that, if asked about going to her house, to say only that he went there for occasional dinners. During their Seattle interviews with university general counsel, the associate general counsel and the former associate director of athletics for compliance, the student-athletes denied that the secretary prepared course work for them. Further, student-athlete B denied that he ever had been to the secretary's house.

#### SECONDARY VIOLATION [NCAA BYLAWS 16.02.3, 16.12.2.1]

The following secondary violation which involved the former head coach was reported:

In June 1996, the head coach gave a basketball to student-athlete A for his friend as thanks for transporting student-athlete A from his home to the university for summer enrollment. [NCAA Bylaws 16.02.3 and 16.12.2.1]

#### **IV. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.**

The Committee on Infractions imposed additional penalties because of the seriousness of the violations and "because they involved the active complicity of the head coach and because they involved a men's basketball program for which the university previously had been cited for a failure of institutional control." The penalties in which the former head coach were cited are:

- III-B-6. Regarding the 1994, 1995 and 1997 NCAA Division I Men's Basketball Tournaments, and the 1996 and 1998 National Invitational Tournaments (NIT), and pursuant to NCAA Bylaw 19.6.2.2-(e)-(2), the university will vacate its team record as well as the individual records of

any student-athlete who engaged in academic fraud as set forth in this report. Further, the university's records regarding men's basketball as well as the record of the former head coach will be reconfigured to reflect the vacated records and so recorded in all publications in which men's basketball records for the 1993-94 through the 1998-99 seasons are reported, including, but not limited to university media guides and recruiting material and university and NCAA archives. Further, any public reference to tournament performances won during this time shall be removed, including, but not limited to, athletics department stationery and banners displayed in public areas such as the arena in which the men's basketball team competes.

III-B-7. The former head coach and the former academic advisor will be informed in writing by the NCAA that, due to their involvement in certain violations of NCAA legislation found in this case, if they seek employment or affiliation in an athletically-related position at an NCAA member institution during a seven-year period (October 24, 2000, to October 23, 2007), they and any involved institution shall be requested to appear before the Committee on Infractions to consider whether the member institution(s) should be subject to the show-cause procedures of Bylaw 19.6.2.2-(I), which could limit athletically-related duties of the head coach and academic advisor at any such institution for a designated period.

## **V. ISSUES RAISED ON APPEAL.**

In his written appeal, the former head coach asserts that the findings of violations against him be set aside because the committee's findings are clearly contrary to the evidence presented to the committee; the facts found by the committee do not constitute a violation of the Association's rules; and that several procedural errors affected the reliability of the information that was utilized to support the committee's findings. (NCAA Bylaw 32.10.2) He further requests that the penalties be vacated because they are excessive and inappropriate.

## **VI. APPELLATE PROCEDURE.**

In considering the appeal of the former head coach, the Infractions Appeals Committee reviewed the appellant's Notice of Appeal; the transcript of the August 11, 2000, hearing before the Committee on Infractions; and the several submissions by the former head coach and the Committee on Infractions referred to in Section II of this report.

The appeal was submitted on the written record in accordance with procedures adopted by the Infractions Appeals Committee pursuant to NCAA legislation. The appeal was considered by the Infractions Appeals Committee on February 8, 2001 in Chicago, Illinois.



The chair of the Infractions Appeals Committee recused himself from this matter after the notices of appeal were filed because he represented the University of Minnesota in an earlier infractions case while a partner in the law firm which currently represents the institution. In addition, another member of the Infractions Appeals Committee recused himself from this matter due to his past service as the Faculty Athletic Representative at the University of Minnesota. Neither member took any part in the consideration or decision of the appeal. In the absence of the chair, the Infractions Appeals Committee was chaired by another member.

## **VII. INFRACTIONS APPEALS COMMITTEE'S RESOLUTION OF THE ISSUES RAISED ON APPEAL**

In this appeal the Infractions Appeals Committee is faced with a number of issues. These issues may be divided into two major categories: A. Whether the Committee on Infraction's findings of violations should be set aside; and B. Whether the penalties imposed by the committee are excessive or inappropriate and should be set aside.

### **A. Whether the Committee on Infraction's Findings of Violations Should be Set Aside.**

Bylaw 32.10.2 provides that:

A finding of violation by the Committee on Infractions may be set aside on appeal only if the Infractions Appeals Committee determines that:

1. The finding is clearly contrary to the evidence presented to the committee;
2. The facts found do not constitute a violation; or
3. A procedural error affected the reliability of the information that was used to support the finding.

There are really four general issues raised by the former head coach on appeal in his effort to support his position that findings of violations by the Committee on Infractions should be set aside:

1. Whether alleged procedural errors in the investigation and the decision by the Committee on Infractions adversely affected the former head coach's rights;
2. Whether the evidence was sufficient to sustain the findings on issues of academic integrity by the Committee on Infractions;
3. Whether the evidence was sufficient to sustain the findings on issues of unethical conduct by the Committee on Infractions; and

4. Whether the evidence was sufficient to sustain the findings on other issues by the Committee on Infractions. Each of these issues will be dealt with in this section of our opinion.

### **1. Procedural Matters**

The former head coach raises the issue of whether alleged procedural errors in the investigation and the decision by the Committee on Infractions adversely affected his rights. In resolving this issue, we begin by addressing the former head coach's allegations that certain aspects of the investigation and the hearing before the Committee on Infractions significantly prejudiced his rights.

#### *a. Access to pertinent documents during the investigation.*

The former head coach alleges that the NCAA failed to comply with its own bylaws by failing to produce certain documents – chiefly, transcripts and audio tapes of witness interviews – in a timely fashion prior to the Committee on Infractions hearing. Bylaw 32.5.4 provides, in pertinent part, that, “within 30 days following the filing of an official inquiry in an infractions case, the enforcement staff shall make available to the member institution and to the involved individuals reasonable access to all pertinent evidentiary materials, including tape recordings of interviews and documents, upon which the inquiry is based.”

At the outset, we note that the former head coach alleges no specific prejudice and we perceive none. Simply to say, for example, as the former head coach does that certain statements were provided to him “just four days” before his response was due to the Committee on Infractions is insufficient. For us to find a violation of Bylaw 32.5.4, we must conclude that former head coach was denied “reasonable access” to these materials. A respondent in former head coach's position has the burden of showing that he was denied reasonable access. If, for example, a respondent could show that he first received the statement of a witness four days before his response was due, that the witness's statement or involvement was pertinent to the charges or defenses, that the respondent was unable to communicate with the witness in a meaningful way before the response was due, that a timely request for a delay in filing his response was made and denied, and that as a result the respondent was actually unable to present certain pertinent information to the Committee on Infractions, we would be in a position to decide whether the respondent was in fact denied reasonable access to the materials described in the bylaw. The former head coach attempts no such showing here, and thus we conclude that he was not denied the reasonable access guaranteed by Bylaw 32.5.4.

#### *b. Contact between the NCAA and federal law enforcement authorities.*

The former head coach devotes a considerable portion of his rebuttal to an allegation that a member of the enforcement staff spoke to an attorney in the U.S. Department of Justice and several FBI agents on February 28, 2000, in reference to possible federal law enforcement interest in the allegations of impropriety in the University of Minnesota basketball program.

The former head coach contends that he “just recently discovered” an internal NCAA memorandum of this conversation and that he was prejudiced in that he “should have been allowed to delay” the Committee on Infractions hearing, which was held on August 11, 2000 “pending the completion of the federal investigation.”

There are several difficulties with this contention. First, it is made for the first time in the former head coach’s rebuttal, filed on January 29, 2001, ten days before the Infractions Appeals Committee met to consider this appeal, and there is no showing of when the former head coach first learned of this February 28, 2000 conversation. The former head coach’s contention that he “just recently discovered” the memorandum is vague. It also does not address whether he was aware of the substance of the contact apart from the memorandum itself. We note that the former head coach’s attorney was well aware of federal interest in these events prior to the hearing by the Committee on Infractions: on July 31, 2000 his attorney notified the Director of the Committee on Infractions that the former head coach would not appear at the August 11 hearing “based on a pending federal criminal investigation.”

Even if we give the former head coach the benefit of the doubt on both of these points, he has not met the new evidence requirement. In order for new evidence to be considered on appeal, it must not only be “evidence that could not reasonably be ascertained” prior to the hearing by the Committee on Infractions (Bylaw 19.02.3); it must also be “directly related to the findings in the case” (Bylaw 32.10.7). The former head coach has not shown how this conversation is related, directly or indirectly, to any of the findings of the case.<sup>1</sup>

We have in the past made an exception to these standards when the alleged new evidence was not made available to the Committee on Infractions and the material was both “directly related to the findings of the case” and “[could] be considered favorable” to the respondent. [See Baylor University, May 20, 1996, at 8.] Even assuming here, however, that the memorandum itself was not made known to the Committee on Infractions, it meets neither of the other two criteria. The fact that federal authorities may have had an interest in the events giving rise to these proceedings, and that they may have spoken to NCAA representatives about the NCAA investigation establishes very little. Indeed, the former head coach asserts only that this conversation, if earlier known, would have justified a delay in the hearing

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<sup>1</sup>We note that the memorandum appears simply to have recorded an exploratory inquiry from the Department of Justice (hereinafter “DOJ”) and the FBI “about the scope of the case and about the time frame of the investigative staff’s investigation.” According to the memorandum, the DOJ attorney gave “some indication that the Justice Department was seriously considering an investigation.” Considering the extensive publicity surrounding these events (which were first disclosed nearly a year earlier in the St. Paul *Pioneer-Press*), the fact that federal authorities expressed a general interest in the NCAA’s investigation and some inclination to investigate for themselves seems to us neither surprising nor especially significant. To date, we are not aware that there has been any formal action by the Justice Department nor, for that matter, any other public agency.

pending the conclusion of the federal investigation. But there is no indication that there was any formal federal investigation (e.g., a grand jury proceeding) and, more importantly, no showing of why, had there been, it would have demanded a delay in the Committee on Infraction's hearing. We perceive no prejudice or unfairness in the fact (if it is a fact) that the former head coach did not learn until after the Committee hearing that there had been incidental contact between the NCAA enforcement staff and law enforcement authorities on February 28, 2000.

*c. Participation in the hearing by the former head coach's attorney alone.*

On July 31, 2000, prior to the Committee on Infractions hearing, the former head coach's attorney notified the Committee on Infractions that the former head coach would not attend the hearings, but that his attorneys would. On August 1, 2000 the chair of the Committee on Infractions replied that the attorneys would not be allowed to attend the hearing unless they accompanied the former head coach. The former head coach now argues that this was error.

We disagree. Bylaw 32.7.4.1 states that institutional officials who have been requested to appear at a Committee on Infractions hearing "are expected to appear in person and may be accompanied by personal legal counsel." There is no provision for appearance by attorneys alone. In his appeal, the former head coach notes that Bylaw 32.7.2 allows "a member" to "have representatives appear" before the Committee on Infractions, and he argues that the same rule should apply to individuals. But this bylaw simply recognizes the obvious: an institution by its nature can "appear" only by sending representatives, such as its president or athletic director. There is no reason to apply this rationale to individual respondents.

If, as his attorneys said at the time, the former head coach was unwilling to appear at the hearing because of a pending criminal investigation (an indirect reference, we assume, to his unwillingness to risk that his testimony at the hearing might be used against him in a subsequent criminal proceeding), his proper course of conduct was to come to the hearing with his attorneys and then to invoke his concerns about self-incrimination in response to questions that might be put to him at the hearing. We emphasize that we do not have occasion, in this case, to hold that an individual's right against self-incrimination justifies his refusal to answer questions put to him at a Committee on Infractions hearing;<sup>2</sup> we hold only that his concern about possible self-incrimination does not warrant an exception to Bylaw 32.7.4.1 that would enable his attorneys to attend in his absence.

The former head coach argues that, had his attorneys attended in his absence, they would

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<sup>2</sup>Generally, courts have not read the Fifth Amendment as insulating individuals from adverse consequences if they refuse to provide testimony in proceedings unrelated to law enforcement. *See, e.g., Baxter v. Palmigiano*, 425 U.S. 308, 317-18, 96 S.Ct. 1551, 1557-58 (1976) and *S.E.C. v. Graystone Nash, Inc.*, 25 F.3d 187 (3d Cir. 1994). We leave for another day the question of what actions, if any, the Committee on Infractions or the NCAA might properly take in such a situation.

have been able to make opening and closing statements and to “discuss his response to the official inquiry” including the allegations, previously discussed here, about the production of documents. But his attorneys provided voluminous written arguments and briefs to both the Committee on Infractions and this committee, and a transcript of the Committee on Infractions hearing was promptly made available to him. We also note here that, while the bylaw states that individuals are “expected” to appear, the former head coach’s refusal to appear at the Committee on Infractions hearing was not used adversely against him. Finally, the former head coach declined the opportunity to appear, with or without his attorneys, before the Infractions Appeals Committee.

## **2. Academic Integrity**

The most serious charges against the former head coach are those that he knew of the secretary’s fraudulent assistance to student-athletes. The findings of the Committee on Infractions bear repeating here:

“The numerous violations found by the committee are among the most serious academic fraud violations to come before it in the past 20 years. The violations were significant, widespread and intentional. More than that, their nature – academic fraud – undermined the bedrock foundation of a university and the operation of its intercollegiate athletics program. By purposeful acts of commission, and, through the absence of effective oversight, serious acts of omission, these violations damaged the academic integrity of the institution.”

The Committee also found that the former head coach “knew of the secretary’s preparation of course work on behalf of the student-athletes identified by the academic counselor. [He] also knew that her work constituted academic fraud.” In support of its findings, the Committee on Infractions discussed at length the facts and circumstances that led it to conclude that the former head coach “knew and was complicit in” the fraudulent activities. These facts included the former head coach’s payment of \$3000 to the secretary (a payment he consistently denied making until he turned over a \$3000 check used for the payment, at which point he “corrected” his earlier denials); the secretary’s constant and open contact with student-athletes (including her attendance at study halls) of which the former head coach could not have been ignorant; her own admissions that she told the former head coach that she was assisting the student-athletes; his caution to her that the papers she was writing “can’t be too good”; his apology to her after a student-athlete had admitted to the associate director of athletics that she was giving him academic assistance; another student-athlete’s statement that he told the former head coach that the secretary was working with him on course work; evidence that the secretary’s assistance to student-athletes was common knowledge in the basketball program; and, evidence that the former head coach tightly controlled the academic counselor and indeed “all aspects of the men’s basketball program.”

In addition, the Committee found that the secretary was generally credible, in that much of her information was independently corroborated by other evidence, and that the former head coach’s credibility was undermined by his untruthful denials of payments to the secretary.

“When viewed collectively,” the Committee on Infractions stated, “and linked together, the

cumulative effect of the evidence evaluated by the committee leads inexorably to the very firm conclusion that the former head coach knew about and supported the activities of the secretary and academic counselor.”

The former head coach’s chief argument on appeal is that the Committee on Infractions erroneously based its findings on what the former head coach *should have* known rather than on what he actually knew. This error, he argues, violates Bylaw 10.1, which provides that unethical conduct consists among other things of “[k]nowing involvement” in academic fraud. He essentially argues that since there was no direct evidence of his “knowing” involvement in fraud, he should have been exonerated.

We disagree and uphold the Committee on Infractions’ findings and conclusions. In doing so, we make the following observations:

*a. The Committee on Infraction’s standard.*

It is clear from the Committee on Infractions’ decision that it applied the subjective standard of the former head coach’s actual knowledge and not the objective standard of what a head coach in the former head coach’s position should have known. As noted above, the Committee concluded that the former head coach “knew of the secretary’s preparation of course work” and “also knew that her work constituted academic fraud.” It stated its “very firm conclusion” that the former head coach “knew about and supported” the illicit activities. At no point in its decision does the Committee on Infractions refer to what the former head coach “should have known.”

*b. The difference between an objective and a subjective standard proven.*

At the heart of the former head coach’s argument that the Committee on Infractions applied an objective “should have known” standard is his confusion between an objective standard and a subjective standard proven by indirect or circumstantial evidence<sup>3</sup>. The applicable standard of knowledge that is an element of wrongdoing, and the means of proving that standard, are entirely separate matters.

“Knowingly” is a subjective standard, which requires that the individual actually have knowledge of the matters at issue. “Should have known” is an objective standard, that is, it

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<sup>3</sup> The former head coach’s collateral arguments on the evidence below are baseless. He argues that he has consistently denied knowing involvement in fraud, but the Committee on Infractions is not bound by that denial; it must base its findings on all the evidence. He also argues that there is no “smoking gun” in this case, but even if that were true it means only that no single, irrefutable piece of evidence conclusively proves guilt. A smoking gun is not a prerequisite to a finding of complicity, just as it is not a prerequisite to a guilty verdict even in a criminal case.

considers what a person in the individual's position should have known based on all the facts and circumstances, whether the actual respondent knew it or not. The latter is the broader standard, and both standards are familiar in criminal and civil law.

Like any other element of an offense, the standard of knowledge – objective or subjective – must be proven. Proof can be by direct evidence, or by indirect (sometimes called “circumstantial”) evidence. Direct evidence is that evidence that, in and of itself, demonstrates the requisite element. Indirect or circumstantial evidence is that evidence that properly justifies an inference that the element exists. For example, in a drunken driving case, direct evidence of intoxication would be the defendant's statement, “I am drunk” or a level of blood alcohol in excess of legal limits. Circumstantial evidence would be observations that the defendant drank a great deal before driving, was unsteady on his feet, slurred his speech and was unable to do simple tasks that sober people do easily. Circumstantial evidence is not inferior to direct evidence; it is simply a different kind.

*c. The evidence in this case.*

In this case, there was both direct and circumstantial evidence. The direct evidence consisted of the secretary's statements that she discussed with the former head coach her academic assistance, including fraudulent assistance such as the writing of papers for students, and that he warned her that her papers couldn't be “too good,” and a student-athlete's statement that he likewise discussed with the former head coach the improper nature of the secretary's academic assistance. This evidence, if credible (and the Committee on Infractions found that it was), directly establishes the former head coach's knowledge of the academic fraud. The circumstantial evidence included the former head coach's payment, without satisfactory explanation, of \$3000 to the secretary; the testimony that the coach tightly controlled the men's basketball program and that it was common knowledge in that program that the secretary was writing papers for students; the extensive and unconcealed contact between the secretary and the student-athletes, including her presence in study halls; and, the extended period (1994 to 1998) that this conduct covered. In appraising this evidence, both direct and circumstantial, the Committee on Infractions properly took into account its conclusion that the secretary was much more credible than the former head coach.

We agree with the Committee on Infractions that this evidence<sup>4</sup> satisfactorily established, both directly and by permissible inference from the circumstances, the former head coach's knowing involvement in academic fraud.

*d. An objective standard of knowledge of academic fraud.*

Although it is not necessary for us to decide whether Bylaw 10.1 permits a finding of

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<sup>4</sup>For a full account of all the evidence, see the decision of the Committee on Infractions. Our discussion of it here merely summarizes what, in our view, are the most significant facts and circumstances but it is not meant to reiterate everything the Committee found.

unethical conduct based on what a head coach should have known, we address that question in light of the former head coach's argument that the bylaw does not allow it, and also because we think the question is an important one.

First, it is not at all clear that Bylaw 10.1 requires actual knowledge of academic fraud and thus precludes a finding of unethical conduct against an individual who should have known of fraud. The bylaw states that unethical conduct "may include, but is not limited to" actual knowledge of the academic fraud. This at least leaves open the possibility that an objective standard may be applied.

We believe that the objective, "should have known" standard may well be appropriate to assess the responsibility of a person, such as the head coach of an athletics program, who is expected to know what those in the program are doing. To conclude otherwise would be to encourage coaches or others in similarly responsible positions to close their eyes and ears to what is happening in areas for which they are accountable. It would be irresponsible for this committee, the NCAA, or any member institution to tolerate, let alone encourage, such intentional ignorance.

A head coach's responsibility goes beyond merely acting upon academic fraud that comes to his attention. A coach should take reasonable steps to see that it does not happen in the first place. This is not to say that he is absolutely liable for every instance of academic fraud that might occur; it is to say, however, that his accountability should be measured by more than what he actually knew. It should be measured by what a reasonably vigilant, observant, and diligent person in his position should have known. If he does nothing to discourage academic fraud, nothing to observe those circumstances in which it might be occurring, and nothing to see that those in the program are carrying out their responsibilities honestly, he should not be shielded from accountability merely because his inaction insulates him from knowledge of what is happening. To do so would be to encourage the evasion of responsibility on the part of those of whom the institution, the NCAA, and the public expect responsibility.

It is no answer to say, as the former head coach does in this case, that the secretary who took part in illicit activities reported to an academic counselor who was not in the former head coach's direct line of command as a basketball coach. The responsibility of a head coach is not based on a chain of command; it arises from the fact that he is one of those who are responsible for the integrity of the program and, specifically, for the welfare of student-athletes in the program. Surely if the student-athletes on a basketball team were being enticed by those who would sell them drugs or bribe them to fix games, the coach could not responsibly ignore it on grounds that he cannot control, and has no authority over, the dealers or fixers. His accountability derives not from any relationship with the wrongdoers but from his relationship with his student-athletes and his responsibility for the integrity of the program.

We see no difference here. This is not a case in which a secretary provided isolated or well concealed assistance that a vigilant and responsible coach could not reasonably have been expected to uncover. The evidence was uncontroverted that her assistance was extensive,



visible and notorious. We agree with the Committee on Infractions that the evidence taken as a whole establishes that the former head coach in fact knew of it. But even if we were somehow persuaded that he lacked actual knowledge, we have no doubt that he should have known of it, and we would find in Bylaw 10.1 sufficient warrant to conclude that a head coach's unethical conduct consists not only of the academic fraud he knows of, but also that of which he clearly should have known.

### **3. Unethical Conduct**

In challenging the findings of unethical conduct made by the Committee on Infractions, the former head coach asserts that the Committee erred in finding:

1. That the former head coach provided false and misleading information regarding the \$3,000 payment to the secretary; and
2. That the former head coach gave instructions to student-athletes to provide false and misleading information to University officials on March 10, 1999, while the men's basketball team was in Seattle competing in the men's Division I basketball championship.

As to the first point, the former head coach argues that "the committee did not find that the \$3,000 payment to the secretary was a violation of NCAA rules, nor was the \$3,000 payment an indicator that the former head coach knew the secretary was involved in academic fraud."

Given that we have upheld the Committee's findings regarding academic fraud, including the fact that the former head coach was aware that the payment was being made for fraudulent purposes, there is no remaining support for the former head coach's argument that he did not provide false and misleading information regarding the secretary payment.

With regard to the second point, the former head coach offers support for his assertion that, "the overwhelming evidence was that the former head coach told the players to be truthful during their meetings with investigators, and is contrary to the findings of the Committee on Infractions." Once again, the former head coach is simply disagreeing with the weight of the factual basis supporting the Committee on Infractions' finding that the former head coach told the students to give false or misleading statements. The Committee itself had concluded that "the evidence is not fully consistent," but it found that the clear weight of the evidence showed that the former head coach attempted to influence the four young men to provide false and misleading information and, in doing so, violated NCAA standards of ethical conduct. Moreover, his attempt to influence them was initially successful as all four denied receiving academic assistance from the secretary. Student-athletes B and M [two of the four student-athletes] later admitted that they lied while student-athlete K modified his statement to acknowledge typing assistance.

The Committee on Infractions' finding in this regard is not clearly contrary to the evidence presented to the Committee.

#### 4. Other Issues

The former head coach challenges virtually every finding of the Committee on Infractions. He asserts that the following findings were clearly contrary to the evidence:

1. That he arranged hotel rooms for student-athletes and their families at a substantially discounted rate;
2. That he provided various recruiting inducements to prospective student-athletes and improper benefits to student-athletes; and
3. That he made payments on a car lease for the academic counselor in violation of NCAA rules.

Once, again, we uphold the Committee on Infractions' findings in each of these areas on the grounds that they are not clearly contrary to the evidence presented in the case.

The Committee on Infractions found that the former head coach had provided extra benefits to student-athletes and their families from 1994-1999, by helping to arrange for parents and friends of men's basketball student-athletes to stay at the Ramada Plaza Hotel at a discounted rate. The evidence certainly supports the Committee's finding in this regard, given that parents and friends of five student-athletes stayed at the Ramada Plaza Hotel at a rate of \$30 per night, which is substantially less than the \$79 per night minimum daily rate.

Similarly, the former head coach's assertion that the Committee's findings that he had provided cash to student-athletes was clearly contrary to the evidence is unfounded. In his own brief, the former head coach "admitted that he gave [the student-athlete] a \$200 loan, based on the fact that the [student-athlete's] wallet had been stolen just prior to his return home for Christmas." Bylaw 16.02.3 provides that, "An extra benefit is any special arrangement by an institutional employee or representative of the institution's athletics interests to provide a student-athlete . . . a benefit not expressly authorized by NCAA legislation." Certainly, a cash payment to a student-athlete would violate this provision. Even if this were a loan, and there is no evidence to indicate that it was a loan that was ever memorialized or paid back, it would constitute an extra benefit, because it is not "expressly authorized by NCAA legislation." By the same token, there was sufficient evidence in the record to support the committee's findings relative to the former head coach's payments to another student-athlete. This is another instance of the evidence being conflicted, but the committee's finding was not clearly contrary to existing evidence. The committee relied upon statements by the student-athlete and could legitimately find that they believed the student-athlete rather than the former head coach under these circumstances. Finally, the record was sufficient to support the committee's finding that the former head coach provided improper recruiting inducements to a prospective student-athlete by having the prospect over to his home for dinner. The former head coach asserts that the prospect was a family friend. In support of his position, the former head coach argues that the prospect "was a friend of [the former head coach's] family since he was in the 5th grade," when he first attended a

basketball camp offered by the former head coach. Given that the former head coach came to know the prospect through the basketball program and was involved in recruiting him, the committee was warranted in finding that the prospect was not a “family friend” for the purposes of the dinner.

The former head coach also contends that the evidence was insufficient to support the Committee on Infractions’s finding that the former head coach’s making of car lease payments to an academic counselor, who was an employee of the academic counseling center rather than the athletics department, was a violation of NCAA rules. Once again, the former head coach is asserting that he did not know that making the lease payments was a violation of NCAA rules. The Committee did find that the former head coach knew that he was not permitted to supplement the salary of a university employee in this manner, particularly in an instance in which the University had deemed it inappropriate for the counselor to be provided a car.

**B. Whether the Penalties Imposed by the Committee Are Excessive or Inappropriate and Should Be Set Aside.**

The Committee on Infractions noted Minnesota’s “prompt and decisive” corrective actions and self-imposed penalties. It nonetheless imposed additional penalties on Minnesota and upon the former head coach and certain other individuals. Only the penalty imposed on the coach is before us. That penalty is a seven-year period (until October 24, 2007) during which the former head coach is subject to the show-cause procedures of Bylaw 19.6.2.2-(1). He asks us to set this aside under Bylaw 32.10.2, which authorizes us to reduce or vacate a penalty that is “excessive or inappropriate based on all the evidence and circumstances.”

The former head coach’s argument is based on a number of factors, including his age, his belief that the penalty “essentially prohibits [him] from ever being able to coach at an NCAA institution again” (Br. 44), the fact that previous cases have imposed shorter periods under Bylaw 19.6.2.2-(1), the fact that the Committee on Infractions imposed lesser penalties in this case on others who were involved and his assertion (which we have rejected) that the evidence failed to establish his “knowing” violation of NCAA rules.

We have considered all these factors carefully, and we have also considered, independent of the former head coach’s arguments, whether the penalty was either “excessive” or “inappropriate” based on all the evidence and circumstances.

We affirm the penalty. We recognize, as the Committee on Infractions did, that the penalty is a serious one, but it is commensurate with the conduct that gave rise to it. We adopt the characterization of the Committee on Infractions: “[T]his case involved numerous and repeated violations that occurred over many years and whose nature, academic fraud, strikes at the heart of institutional integrity. Furthermore, the academic fraud clearly violated the principles relating to the educational welfare of student-athletes and the maintenance of sound academic standards as set forth in NCAA Constitution 2.2.1 and 2.5.”

The most severe penalties are appropriate when the academic mission of the university has been compromised. The former head coach was not the only one who bears responsibility for the damage; as the Committee on Infractions' report demonstrates, others in the program, and Minnesota itself, also failed in their responsibilities. The former head coach's appeal is the only one before us. We have no doubt that his conduct, fully established by the evidence in this case, justifies the penalty imposed.

## **VIII. CONCLUSION.**

As discussed in the preceding section, we affirm each of the findings made by the Committee on Infractions. We also affirm the penalty imposed against the former head coach.

NCAA Infractions Appeals Committee

Katherine Noble, Acting Chair  
Terry Don Phillips  
Allan A. Ryan, Jr.  
Rodney K. Smith