



## **News Release**

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### **TEXAS CHRISTIAN UNIVERSITY** **PUBLIC INFRACTIONS REPORT**

#### **A. INTRODUCTION.**

On December 8, 2007, officials from Texas Christian University (TCU) and the former head men's tennis coach ("former head coach") along with his legal counsel appeared before the Division I Committee on Infractions to address allegations of NCAA violations in the men's tennis program.

The violations consisted of 105 impermissible phone calls made by members of the men's tennis coaching staff to 24 prospective student-athletes during the four years from summer of 2002 through the spring of 2006. More than 70 of the calls were made by the former head coach. At the hearing he acknowledged his awareness of Bylaw 13.1.3.1, which provides in part that athletics staff members shall not make more than one telephone call per week to prospects. Nonetheless, he offered various justifications--none persuasive--for making more calls than allowable, including an assertion that some repeat calls were made after the initial connection was "dropped."

According to phone records supplied by the institution, 12 calls were redialed to the same number within three minutes of a permissible call being made to that number. All 12 of the calls were made to international prospects and, according to the former head coach, were made after a previous connection was broken or he was otherwise unsuccessful in reaching the prospect. His position, shared by the enforcement staff, was that those calls should be considered "continuations" of the previous, permissible calls. He also felt that all repeat calls made within an hour of the original call should also be considered "continuations" and not violations. The committee recognizes the reality of "dropped" calls and understands that the situation may well occur, particularly when connecting to someone overseas. In this case, however, there was no documentation regarding the circumstances of the follow-up calls. Moreover, Bylaw 13.1.3.1 is clear that no more than one call per week may be made to prospects, and this committee has no authority to create an exception to the rule. There exist other methods for communicating with prospects and any changes or exceptions made to NCAA bylaws must come through the legislative process. Even had the committee entertained the claim that "continuation"

calls are not violations, the committee still would have found the calls to be violations because of the absence of documentation.

Regarding student-athletes 17 and 22, two of the three prospects to whom the most impermissible calls were made, the former head coach asserted that the majority of the calls made to the young men were permissible because the prospects had already signed National Letters of Intent and/or institutional financial aid agreements. In such instances, unlimited calls are permissible pursuant to Bylaw 13.1.3.3.3. However, even though letter of intent and financial aid paperwork had been provided to the young men prior to the calls being made, a diligent search turned up no evidence that the necessary paperwork had been signed by the prospects prior to any of the impermissible calls being made.

The institution's failure to monitor the tennis program allowed the violations to continue for a number of years before being discovered. During the 2002-03 and 2003-04 academic years, the institution's coaches were required to maintain logs of recruiting calls in their offices. Compliance personnel visited the coaches' offices occasionally to check the records but no cross-checking with institutional phone bills was done. This resulted in the former head coach's impermissible calls (which he had not recorded) going undetected. Beginning in 2004-05 the coaches were expected to submit their phone logs to the compliance office for review. However, the former head coach kept, at best, insufficient information regarding phone calls and neither had a system for tracking them nor submitting information concerning them to the compliance staff. The violations were discovered following the 2005-06 academic year when a member of the compliance staff was performing a year-end review of all phone records.

The institution came before the committee as a repeat-violator pursuant to Bylaw 19.5.2.3. On September 22, 2005, major penalties were imposed as a result of the committee's findings in Case No. M240. The institution correctly pointed out that the violations in the present case began in July 2002, well before the imposition of the penalties in Case No. M240. However, the present violations are multiple secondary violations that collectively constitute a major violation (see Bylaw 19.02.2.1) and continued to occur after September 22, 2005. More than 20 impermissible calls were made after that date. Whether viewed as a continuation of a major violation that began in 2002 or standing alone, the calls after September 22, 2005, are a major violation that occurred within five years of the start of the penalties in Case No. M240.

A member of the Mountain West Conference, the university has an enrollment of approximately 8,800 students. The university sponsors nine men's and 11 women's intercollegiate sports. This is the university's fourth major infractions case; it previously appeared before the committee in 2005 for a case involving the men's and women's track

program and also had previous infractions cases in 1986 (football) and 1981 (men's basketball).

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

### **1. IMPERMISSIBLE PHONE CONTACTS. [NCAA Bylaws 13.1.3.1 and 13.1.3.1.6]**

From the summer of 2002 through the spring of 2006, the former head coach and members of the men's tennis staff made 105 impermissible telephone calls to 24 prospective student-athletes or their parents.

#### **Committee Rationale**

The enforcement staff and institution were in substantial agreement with the facts of this finding and that violations of NCAA legislation occurred. The former head coach agreed that some of the findings were violations but thought that others should not be characterized as violations. The enforcement staff believed this violation to be major standing alone and the institution did not dispute this. The former head coach believed that the violations he acknowledged were secondary. The committee finds that the violations occurred and they are major.

The violations in this finding occurred when the former head coach and certain members of his staff made more than one phone call per week to prospects. All told, 105 impermissible calls to 24 prospects were made during a four-year period. The breakdown of the number of calls made to each prospect is as follows:

- From September 6 through 9, 2005, the former head coach placed five impermissible telephone calls from his calling card and office phone to a prospective student-athlete's ("prospect 1") phone after a permissible call was made during the same week.
- On September 21, 2004, the former head coach placed one impermissible telephone call from his office phone to a prospective student-athlete's ("prospect 2") phone after a permissible call was made during the same week.
- From December 20, 2004, through December 21, 2004, the former head coach placed two impermissible telephone calls from his calling card and office phone to a prospective student-athlete's ("prospect 3") phone after a permissible call was made during the same week.

- From August 12 through September 22, 2005, an assistant men's tennis coach placed 10 impermissible telephone calls from his office phone to a prospective student-athlete's ("prospect 4") phone after a permissible call was made during the same week.
- From June 18 through August 18, 2004, the former head coach placed eight and a former assistant men's tennis coach placed three impermissible telephone calls using the former head coach's calling card and both office phones to a prospective student-athlete's ("prospect 5") phone after a permissible call was made during the same week.
- From March 29 through 31, 2006, the former head coach placed two impermissible telephone calls from his office phone to a prospective student-athlete's ("prospect 6") phone after a permissible call was made during the same week.
- On July 29, 2002, the former head coach placed two impermissible telephone calls from his office phone to a prospective student-athlete's ("prospect 7") phone after a permissible call was made during the same week.
- On May 2, 2003, the former head coach placed one impermissible telephone call from his office phone to a prospective student-athlete's ("prospect 8") phone after a permissible call was made during the same week.
- From October 22, 2004, through April 5, 2005, the former head coach placed six impermissible telephone calls from his office and cell phone to a prospective student-athlete's ("prospect 9") phone after a permissible call was made during the same week.
- From October 30 through November 18, 2002, the former head coach placed two impermissible telephone calls from his cell phone to a prospective student-athlete's ("prospect 10") phone after a permissible call was made during the same week.
- From July 17 through 18, 2002, the former head coach placed three impermissible telephone calls from his office phone to a prospective student-athlete's ("prospect 11") phone after a permissible call was made during the same week.
- From October 31 through November 2, 2002, the former head coach placed two impermissible telephone calls from his office phone to a prospective student-

athlete's ("prospect 12") phone after a permissible call was made during the same week.

- On October 11, 2004, the former head coach placed one impermissible telephone call from his office phone to a prospective student-athlete's ("prospect 13") phone after a permissible call was made during the same week.
- From September 1 through October 26, 2005, the former head coach placed six impermissible telephone calls and an assistant men's tennis coach placed one impermissible telephone call using the former head coach's calling card and both office phones to a prospective student-athlete's ("prospect 14") phone after a permissible call was made during the same week.
- From August 8 through 9, 2005, the former head coach placed five impermissible telephone calls from his calling card and office phone to a prospective student-athlete's ("prospect 15") phone after a permissible call was made during the same week.
- On August 17, 2005, the former head coach placed one impermissible telephone call from his office phone to a prospective student-athlete's ("prospect 16") phone after a permissible call was made during the same week.
- From September 28, 2004, through November 4, 2005, the former head coach placed 20 impermissible telephone calls from his calling card and office phone to a prospective student-athlete's ("prospect 17") phone after a permissible call was made during the same week.
- From August 31 through October 17, 2005, the former head coach placed three impermissible telephone calls from his office and cell phone to a prospective student-athlete's ("prospect 18") phone after a permissible call was made during the same week.
- On March 24, 2005, the former head coach placed two impermissible telephone calls from his office phone to a prospective student-athlete's ("prospect 19") phone after a permissible call was made during the same week.
- From August 17 through September 24, 2005, the former head coach placed four and an assistant men's tennis coach placed two impermissible telephone calls using the former head coach's calling card and both office phones to a prospective student-athlete's ("prospect 20") phone after a permissible call was made during the same week.

- On September 5, 2002, the former head coach placed one impermissible telephone call from his office phone to a prospective student-athlete's ("prospect 21") phone after a permissible call was made during the same week.
- From February 6 through August 11, 2003, the former head coach placed seven impermissible telephone calls and a former assistant men's tennis coach placed one impermissible telephone call from their office phones to a prospective student-athlete's ("prospect 22") phone after a permissible call was made during the same week.
- From September 13 through 17, 2005, the former head coach placed three impermissible telephone calls from his calling card and office phone to a prospective student-athlete's ("prospect 23") phone after a permissible call was made during the same week.
- On August 6, 2005, the former head coach placed one impermissible telephone call from his office phone to a prospective student-athlete's ("prospect 24") phone after a permissible call was made during the same week.

The former head coach asserted that prospects 17 and 22 had already signed institutional financial aid agreements prior to the majority of the calls being made and, therefore, the calls were permissible. On September 1, 2005, the former head coach requested that a letter of intent/financial aid contract be sent to prospect 17. It appears that a contract was generated on that date. However, a signed copy of a financial aid agreement bearing a date between September 1 and September 15 (the last date it could be signed before being rendered void) has never been located or presented to the committee. On November 4, 2005, a second aid contract was issued to prospect 17. Noted above the date of issue was that this second contract "replaces contract of September 1, 2005." It is the position of the former head coach that the notation proves that the first contract was signed back in September, but it only offers definitive proof that an agreement was issued at that time. The earliest financial aid agreement signed by prospect 17 was issued on November 4, 2005, and signed by him on November 14. No impermissible calls were made to him after the issuance of the second contract.

On April 11, 2003, a tennis administrative assistant sent prospect 22, an international prospect, a National Letter of Intent (NLI) and institutional financial aid contract. The assistant e-mailed prospect 22 three days later with instructions for completing the documents. In his interview during the investigation, the young man stated that he signed the documents and returned them personally to the former head coach, who visited him in May. While the NLI was arguably valid when signed, once prospect 22 held it beyond two weeks it became void based on the language contained therein. Regardless, the committee recognizes that a NLI must be appropriately executed to be

valid and that returning the document to the issuing institution within a prescribed timeframe is part of the execution process. This position is consistent with the language contained in the NLI.

**2. IMPERMISSIBLE PHONE CONTACTS. [NCAA Bylaw 13.1.1.3]**

From June 1 to August 11, 2005, an assistant men's tennis coach made impermissible contact with prospect 4 by placing 23 telephone calls from his telephone to prospect 4's telephone prior to obtaining written permission from the director of athletics of prospect 4's former institution to make contact with prospect 4.

**Committee Rationale**

The enforcement staff and institution were in substantial agreement with the facts of this finding and that violations of NCAA legislation occurred. No response was requested or given by the former head coach. The committee finds that the violations occurred.

The assistant men's tennis coach referenced in this finding coached prospect 4 at the prospect's previous institution before being hired as an assistant coach at Texas Christian June 2005. Texas Christian received written permission to contact the prospect on August 12, 2005, after the 23 impermissible calls were made to him. There apparently was a miscommunication between the former director of compliance and the former head coach regarding whether the assistant coach's preexisting relationship with prospect 4 allowed him to speak with the young man before obtaining the previous institution's permission. The assistant coach believed that he was allowed to maintain contact.

These violations were not discovered until spring 2006 and form part of the basis for Finding B-3.

**3. FAILURE TO MONITOR. [NCAA Constitution 2.8.1]**

The scope and nature of the violations detailed in Findings B-1 and B-2 demonstrated that from summer 2002 through spring 2006, the institution and the former head coach failed to monitor the men's tennis program regarding telephone contacts with prospective student-athletes.

### **Committee Rationale**

The institution agreed that Finding B-1 demonstrated a failure by the institution and the former head coach to monitor his telephone contacts; however, the institution believed that Finding B-2 should not be included in the failure to monitor allegation. The former head coach denied that he failed to monitor telephone calls to prospects. The committee finds that the violations occurred.

The former head coach had no effective monitoring system for tracking his and his staff's telephone contacts. In an interview during the investigation he acknowledged he had been informed by the compliance office that he was expected to keep phone logs. At one point the tennis coaches taped a sheet of paper to each prospect's folder and recorded calls on the sheet, but when the policy changed and coaches were required to keep and submit logs to the compliance office, the former head coach failed to do so because no one "harped" on him about it. His system, such that it was, was not adequate to track the calls that were made.

From August 2002 through December 2003, the former compliance director, who was responsible for monitoring coaches' telephone contacts, conducted periodic "spot checks" of coaches' telephone logs kept in each coach's office. However, no cross checking with institutional telephone records occurred, thus the checks did not detect the impermissible calls, which were not recorded on the logs. From December 2003 through May 2006, coaches were expected to submit telephone recruiting logs to the compliance office for review by the compliance staff; however, as mentioned previously, no telephone recruiting logs were submitted to the compliance office by any member of the men's tennis coaching staff and the compliance staff did not follow up to obtain them. When the former head coach's phone information from the 2005-06 academic year was finally collected in the spring of 2006 and checked against institutional phone records, the violations became apparent. By neglecting to collect the former head coach's phone information throughout the four-year period, the institution failed to discover how inadequate was the phone information maintained by the former head coach. That failure, and the resultant failure to cross-check the former head coach's information against the institutional phone records, establishes that Texas Christian failed to monitor the tennis program.

Finding B-2 also is part of the failure to monitor. The miscommunication between the former head coach and the compliance director resulted in the violations comprising Finding B-2. The institution then failed to detect that phone calls were being made to the prospect prior to written permission being obtained from his previous institution.

**C. SECONDARY VIOLATION:**

**NCAA Bylaws 13.02.5.2-(b) and 13.1.2.2-(f)**

Starting in the spring of 2005 and ending in the late fall of 2005, prospect 3 (who was by then a student-athlete) made impermissible telephone contact with two prospective student-athletes when he served as an interpreter for the former head coach during conversations the former head coach was having with the two prospective student-athletes.

**D. PENALTIES.**

For the reasons set forth in Parts A and B of this report, the Committee on Infractions finds that this case involved major violations of NCAA legislation. Over a span of four years the men's tennis coaching staff made more than 105 impermissible phone calls to prospects, and during the same time frame the institution did not detect the violations due to a lack of monitoring. This institution is a repeat-violator and the committee noted that, as in the previous case (M240), the violations in this case involved at least in part a failure to monitor international student-athletes. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] The penalties imposed in this case are as follows, with the institution's self-imposed penalties, as listed, adopted by the committee as its own:

1. Public reprimand and censure.
2. Two years of probation commencing on February 28, 2008, and expiring on February 27, 2010.
3. The institution discontinued all international expense-paid recruiting visits for the period of May 27, 2006, through May 27, 2007.
4. The institution discontinued all international off-campus recruiting activities for the period of May 27, 2006, through May 27, 2007.
5. The institution discontinued all domestic off-campus recruiting activities except for evaluation purposes only (no in-person contact) for the period of May 27, 2006, through May 27, 2007.

6. The institution reduced financial aid awards for the 2006-07 academic year to 3.5 equivalencies from a maximum allowable equivalency of 4.5.
  7. Pursuant to NCAA Bylaw 19.5.2.2 (k), the former head coach is prohibited from serving on any committees of the Association for two years from the date of the release of this report.
  8. During this period of probation, the institution 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 office of the Committees on Infractions by April 30, 2008, setting forth a schedule for establishing this compliance and educational program; and
    - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by December 15 of each year during the probationary period. Particular emphasis should be placed on monitoring international prospects and the establishment of a comprehensive system for tracking all recruiting contacts. The reports must also include documentation of the university's compliance with the penalties adopted and imposed by the committee.
  9. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
  10. At the conclusion of the probationary period, the institution'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.
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As required by NCAA legislation for any institution involved in a major infractions case, Texas Christian University shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, February 28, 2008.

Should Texas Christian University appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals Committee, the Committee on Infractions will submit a response to the members of the appeals committee.

The Committee on Infractions advises the institution 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 institution'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 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.

#### NCAA COMMITTEE ON INFRACTIONS

Paul T. Dee  
Richard Dunn  
Eileen K. Jennings  
Alfred J. Lechner, Jr.  
Edward (Ted) Leland  
Andrea Myers  
Josephine R. Potuto, chair  
Dennis E. Thomas

## APPENDIX ONE

### CASE CHRONOLOGY.

#### 2006

May and June – The institution conducted an internal investigation.

July -- The enforcement staff requested additional information from the institution, including a request for all telephone records for the men's tennis staff from August 2002 through May 2006.

August – The institution provided the enforcement staff with all requested information.

September – The student-athlete reinstatement staff processed a reinstatement request for prospective student-athlete 3.

#### 2007

January 12 – The enforcement staff and the institution conducted additional interviews.

May 1 – The enforcement staff issued a notice of inquiry to the institution.

May 17 – The enforcement staff issued a notice of allegations to the institution and the former head coach.

July 17 – The Committee on Infractions granted a one-month extension for the submission of the institution's and the former head coach's responses to the notice of allegations.

September 17 – The institution and the former head coach submitted their responses to the notice of allegations.

October 9 – The enforcement staff conducted a prehearing conference with the institution. A separate prehearing conference was also conducted with the former head coach and his attorney.

October 26 – The enforcement staff conducted a follow-up prehearing conference with the former head coach and his attorney.

December 8 – The institution appeared before the NCAA Division I Committee on Infractions.

#### 2008

February 28 - Infractions Report No. 281 is released.

## **APPENDIX TWO**

### **CORRECTIVE ACTIONS AS LISTED IN THE INSTITUTION'S September 15, 2007, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

1. Collaborated with former head men's tennis coach to relinquish his position as head men's tennis coach and to discontinue his employment with the institution, effective July 25, 2006.
2. Reprimanded assistant director of compliance.
3. Recertified departmental compliance policies and practices by external review.