



News Release

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BAYLOR UNIVERSITY **PUBLIC INFRACTIONS REPORT**

I. INTRODUCTION.

On April 15 and 16, 2005, officials from Baylor University along with the former head men's basketball coach (henceforth, "the former head coach") and two former men's assistant basketball coaches (henceforth, "former assistant coaches A and B", respectively) appeared before the NCAA Division I Committee on Infractions to address allegations of serious and widespread rules violations in the men's basketball program.

At the hearing, the former head coach described his activities as "despicable." He and his staff committed multiple, intentional and serious violations of NCAA rules from May 2002 into the summer of 2003. As the violations were discovered, they engaged in an egregious attempt to cover their indiscretions. The institution's president reported that the problems arose because the men's basketball staff brought student-athletes of dubious character into the program. He stated that many of those student-athletes were incapable of doing the academic work and were involved in "rampant drug use and serious criminal activity." Following the tragic death of one men's basketball student-athlete, the violations were brought to light.

Of the five prospects signed and brought to campus by the former head coach in 2002-03, four were academically marginal. When the former head coach became concerned that several of the young men would not qualify academically, he recruited two other prospective student-athletes (henceforth, "student-athletes 1 and 2, respectively") as "insurance" in the event that the incoming students did not qualify academically. When all five young men qualified, there were not enough scholarships. The former head coach kept both student-athletes 1 and 2 on campus without institutionally administered athletically related aid, eventually paying their tuition from his personal funds in May 2003 when their bills were due.

Upon the disappearance of student-athlete 2, the former head coach engaged in a protracted attempt to cover up the violations he and his staff had committed. He told

student-athlete 1 to lie to university investigators and he flew to the young man's hometown to personally assist the young man's mother in formulating a false story about tuition payments to give to the institution. Upon his return to Waco from that trip, he sent the mother false financial records designed to help her convince the institution that she had paid her son's tuition bills. Regarding student-athlete 2, the former head coach tried to get other student-athletes to portray the young man as a drug dealer so as to explain how he had been able to pay his tuition (See Finding II-L). In an interview, the former head coach admitted he had suggested that individuals act out their parts in preparation for interviews with the NCAA and he gave them tape machines so they could practice their deception.

Other members of the coaching staff were complicit in many of the violations and subsequent attempts to conceal them. Former assistant coach A, who had worked with the former head coach for many years, was by all accounts well versed in NCAA rules. Yet he knowingly falsified meal receipts referred to in Finding II-B-5 to hide violations and he purposely did not consult the compliance director on the situation resulting in Finding II-C because he knew it was a "gray area" and the former head coach did not want to hear that certain contributions to an AAU basketball program could not be made. Former assistant coach B joined the staff in May 2002 and was committing major NCAA rules violations in the recruitment of student-athlete 2 (who transferred from assistant coach B's former institution) before either one of them had arrived on campus and before former assistant coach B had officially begun his duties. Additionally, not only did former assistant coach B lie in his interviews with the NCAA staff, he admitted at the hearing before the Committee on Infractions that he had lied in his response to the allegations, which was filed only six weeks prior to the hearing. Another former assistant men's basketball coach (henceforth, "former assistant coach C") who did not file a response to the allegations or appear at the hearing, devised a method that allowed student-athletes 1 and 2 to take meals at the training table impermissibly and he provided cash payments, free meals and transportation to student-athlete 1 (See Findings II-A-1-b, II-A-2-a and II-K-2). Early in the fall 2002 semester, former assistant coach C acted as the former head coach's "bag man" by personally delivering \$900 cash to student-athlete 1's mother and instructing her to provide him with three nonsequential \$300 checks that could be deposited at the institution in intervals so as to make it appear that she was covering her son's expenses. (See Finding II-A-1-c).

At the hearing, both former assistant coaches A and B spoke of committing the violations and engaging in the subsequent cover-up out of loyalty to the former head coach. Their sense of propriety and loyalty was misguided at best and will never excuse or mitigate willful violations of NCAA legislation. Their displaced loyalty was destructive to their own careers, the student-athletes entrusted to their care and the institution that employed them. In the end, the former head coach and his assistants' blatant disregard for NCAA

rules brought incalculable disgrace to themselves, the university and intercollegiate athletics as a whole.

This is the institution's third major infractions case in the last 10 years. In 1995 the men's basketball staff was engaged in widespread academic fraud which triggered a national investigation involving many institutions and resulted in a period of two years probation for the university and federal felony convictions of three assistant coaches for mail fraud, wire fraud and conspiracy. Additionally, the institution was placed on probation on December 21, 2000, for two years as a result of major infractions in the men's tennis program. Since the violations in this case occurred within five years of the starting date of the probation in the tennis case, the institution is subject to enhanced penalties under the provisions of NCAA Bylaw 19.5.2.3 as a repeat violator.

When the institution was placed on probation on December 21, 2000, it was instructed to, among other corrective measures, develop and implement a comprehensive compliance program. The progress reports filed with the committee during the two-year period of probation in the tennis case indicated that the institution considered its compliance program to be adequate and effective. However, in its response to the present allegations, the institution acknowledged that for a period of years its compliance system was not sufficient to provide adequate oversight. Indeed, in the present case there were numerous signs that should have alerted the institution to possible problems in the men's basketball program. The deficiencies in the compliance system led the committee to find that the institution failed to monitor and control its athletics program. Those failures included:

--Student-athlete 2 was recruited as a transfer. He had been a starter at his former institution and garnered some all-conference recognition. Yet no questions were raised when he enrolled as a walk-on and failed to make any tuition payments for almost the entire academic year;

--The coaching staff intervened with the financial aid office at the beginning of the second semester of 2002-03, to override the "hold" on the account of student-athlete 2 so that he could register for the second semester. In April 2003, student-athlete 2 made a partial tuition payment with twenty \$100 bills. It was the first payment made on the account all year. Approximately one month later, former assistant coach B delivered seven \$1,000 money orders and \$132 cash to the institutional cashier as another partial tuition payment for the young man. No one ever raised any questions about the delinquent account or the unusual method of payment by a third party who was an employee of the institution.

--Student-athlete 1 was a late recruit who made an official paid visit to the institution and started some games as a freshman. Yet no one questioned his claim that he was a walk-on or asked why he failed to make a single tuition payment throughout the entire 2002-03

academic year. He too was allowed to register for the second semester by overriding a "hold" on his account, and no questions were asked when former assistant coach B delivered a \$9,132 cashiers check and 10 money orders (eight in the amount of \$1,000 and two of odd amounts) to pay the young man's bills in May 2003.

--No one noticed that two training table lists were submitted by the men's basketball coaching staff on August 27, 2002. One list contained the names of student-athletes 1 and 2 while the other did not.

--The former head coach submitted an expense reimbursement form for what was listed as an "emergency recruiting trip" to the hometown of student-athlete 1. The trip took place during a quiet period. No one questioned the reimbursement request.

--Former assistant coach C reported that no one seemed to be watching what the coaches were doing. Consequently, the coaching staff openly observed pick-up games in which prospects were participating. They sometimes invited boosters to watch and at times members of the public and/or media were present.

--The former head coach told the former director of athletics that three student-athletes failed an August 28, 2002, drug test. However, the former director of athletics did not receive official notice from the athletic training staff and therefore never forwarded the results to institutional authorities, in violation of institutional policy.

The reasons for the failures in the compliance system and the resulting violations were numerous, including a depleted compliance staff, a failure to require the coaching staff to attend rules education regularly, and the mistaken impression by the institution that it had remedied deficiencies in its system following previous infractions cases. The institution reported in its response that the main reason that the former head coach and his staff were able to commit these violations and have them go undetected for so long was that great deference was paid to the former head coach based on his history of being a long-time successful Division I coach with a clean record and good reputation. At the hearing, the university's president stated that the former head coach was a frequent speaker for The Fellowship of Christian Athletics. Administration, faculty, university staff and boosters all deferred to him in matters related to his program, thereby failing to monitor his program and creating an environment wherein coaches believed they could commit major infractions undetected.

Based upon the serious nature of the violations, the number of violations, the long time frame over which they occurred, the failure of the institution to control or monitor its athletics program and the institution's status as a repeat violator, the institution is subject to the so-called "death penalty" of NCAA Bylaw 19.5.2.3.2 (a). That bylaw section allows the committee to prohibit "some or all outside competition in the sport involved in

the latest major violation for one or two sport seasons..." It is a sanction that has only been levied once by the Division I committee, almost twenty years ago in a situation involving monthly payments to student-athletes by institutional staff members using money supplied by a representative of the institution's athletics interests. That case is similar to the present matter with one notable, and crucial, exception; once that institution was placed on probation, certain key athletics department staff members conspired with the same booster (who by then had been disassociated) to continue making impermissible payments to student-athletes. The cheating for which the institution had been initially penalized continued unabated, even while the institution was asking for relief from penalties imposed earlier. The arrangement was concealed by staff members who were committed to achieving athletics success through deliberate and flagrant continued violations of NCAA rules. As a result, the institution's football program was prohibited from all outside competition for a one-year period. During a second year, the institution was limited to seven games, none of which were to be "home" contests.

The violations in the present matter are as serious as those committed in the case referenced above. However, in contrast to that case, once the violations finally came to light Baylor University took decisive and meaningful action to stop the violations and to punish itself and the involved individuals, including replacing the entire men's basketball coaching staff, implementing a postseason ban, forfeiting conference tournament revenue and reducing official paid visits, recruiting opportunities and scholarships. The institution also successfully petitioned the NCAA on behalf of the remaining student-athletes for a waiver of the transfer residence requirement. Despite these laudable actions, the violations were so widespread and egregious that significant sanctions still must be imposed regardless of the cooperation from the institution following the discovery of the violations.

A member of the Big XII Conference, the university has an enrollment of approximately 13,600 students. The university sponsors eight men's and nine women's intercollegiate sports. This was the university's fifth major infractions case, the most recent being the 2000 men's tennis case previously mentioned. The university also had previous infractions cases in 1995 (Men's Basketball), 1986 (Men's Basketball) and 1956 (Football).

II. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.

- A. IMPERMISSIBLE BENEFITS. [NCAA Bylaws 13.7.5.5.2, 15.01.2, 15.01.3, 15.5.4.1 (2001-02 NCAA Manual), 16.01.1, 16.12.2.1, 16.12.2.2 and 16.12.2.3-(a)]**

During the 2001-02 and 2002-03 academic years, the former head coach and former assistant coaches B and C provided student-athletes 1 and 2 and another men's basketball student-athlete (henceforth, "student-athlete 3") impermissible extra benefits in the form of cost-free housing, meals, round-trip airline tickets, cash, a loan, special assistance securing the purchase and repair of a vehicle from a local dealership; and payments for tuition, fees and books. Further, as a result of the former head coach's payment of student-athletes 1 and 2's educational expenses, the men's basketball program exceeded the annual limit of initial counters (five) by two. Additionally, several men's basketball student-athletes received impermissible free meals when prospective student-athletes were in town on official paid visits to the institution's campus. Specifically:

1. Concerning student-athlete 1, during the 2002-03 academic year, the young man was provided with extra benefits totaling more than \$20,000. (Note: Student-athlete 1 enrolled at the institution in August 2002 as a recruited walk-on and did not receive any institutionally administered athletically related financial aid.) As a result of these violations, student-athlete 1 participated in intercollegiate competition during the 2002-03 season while ineligible. Specifically:
 - a. During each month of the 2002-03 academic year, the former head coach and former assistant coach C provided student-athlete 1 spending money in varying amounts. During September, former assistant coach C and the former head coach provided student-athlete 1 with small amounts of cash to help him purchase food and everyday items he needed to live. In October, November and December, former assistant coach C provided student-athlete 1 with checks for \$300 each month. These checks were obtained in September when former assistant coach C, at the direction of the former head coach, flew to student-athlete 1's home and requested that student-athlete 1's mother furnish him with three nonsequential checks from her personal checkbook made out to student-athlete 1 in the amount of \$300 each. Former assistant coach C gave student-athlete 1's mother an envelope containing \$900 cash to cover the checks, which was provided by the former head coach. Former assistant coach C brought the checks with him from Buffalo to Waco, and delivered them to student-athlete 1 at the beginning of October, November and December. Additionally, from January through May, the coaching staff provided student-athlete 1 with small amounts of cash and purchased groceries for him. The total value of cash and groceries student-athlete 1 received was less than \$300 per month.

- b. For approximately one week in the fall 2002, former assistant coach C provided free housing and meals for student-athlete 1. Former assistant coach C allowed student-athlete 1 to lodge in his home from the first night student-athlete 1 arrived in Waco, Texas, for classes until he obtained housing in a dormitory on campus, and former assistant coach C provided student-athlete 1 with free meals, which included food from various fast food restaurants, as well as meals in former assistant coach C's home.
 - c. During the 2002-03 academic year, student-athlete 1 was provided with one free training table meal every day from an off-campus restaurant valued at a cost of approximately \$7 per meal.
 - d. In December 2002, former assistant coach C provided student-athlete 1 with a round-trip airplane ticket between Waco and Buffalo for travel during the institution's Christmas break. Former assistant coach C obtained the ticket through the Southwest Airlines Rapid Rewards program with a voucher.
 - e. In May 2003, former assistant coach C purchased a one-way airplane ticket from Waco to Buffalo for travel on May 13 so student-athlete 1 could return home at the end of the academic year.
 - f. On May 28, 2003, the former head coach made payments totaling \$17,821 to the institution's cashier to pay part of the balance owed on student-athlete 1's student account. The former head coach gave these payments, which consisted of a \$9,132 cashier's check and 10 money orders totaling \$8,689, to former assistant coach B, who delivered them to the cashier's office. Student-athlete 1's account was \$18,641 in arrears from unpaid tuition, housing, books and fees.
2. Concerning student-athlete 2, during the 2002-03 academic year the young man was provided with extra benefits totaling more than \$10,000. (Note: Student-athlete 2 enrolled at the institution in August 2002 as a recruited walk-on and did not receive any institutionally administered athletically related financial aid.) Specifically:
 - a. On May 13, 2003, the former head coach made payments totaling \$7,132 to the institution's cashier to pay part of the balance owed on student-athlete 2's student account. The former head coach

gave these payments, consisting of seven money orders, to former assistant coach B, who delivered them to the cashier's office. (Note: Student-athlete 2's account had been \$9,132 in arrears from unpaid tuition, housing, books and fees. Student-athlete 2 made a \$2,000 cash payment on the account in April 2003. The cash also came from the former head coach).

- b. In August and September 2002, the former head coach intervened on behalf of student-athlete 2 with an automobile dealership and located a used 1996 Chevrolet Tahoe for him. The former head coach called the dealership and inquired whether they had any used sport utility vehicles in a given price range. The former head coach then visited the automobile dealership and viewed the vehicle on behalf of student-athlete 2, who subsequently purchased the vehicle.
 - c. In January 2003, the former head coach arranged for student-athlete 2's Tahoe to be released from the automobile dealership after repairs had been made, despite the repair bill having not yet been paid. Student-athlete 2 owed \$1,131 for the repairs and was not allowed to take the vehicle until payment had been made; however, the former head coach called the owner of the dealership who also was a representative of the institution's athletics interests, and assured him that student-athlete 2 would make monthly payments on the repairs from his athletics stipend. As a result of this conversation with the former head coach, the owner of the dealership released the Tahoe to student-athlete 2.
 - d. During the 2002-03 academic year, student-athlete 2 was provided with one free training table meal every day from an off-campus restaurant valued at a cost of approximately \$7 per meal.
 - e. In March 2003, former assistant coach B bought lunch for student-athlete 2 and a friend at a Waco restaurant.
3. Concerning the institution exceeding the limit of initial counters, during the 2002-03 academic year, seven recruited men's basketball student-athletes entered the institution in the fall term and received athletically related financial aid for that year. Specifically, in August 2002, student-athletes 1 and 2 and five other then men's basketball student-athletes (henceforth, "student-athletes 4, 5, 6, 7 and 8", respectively) enrolled at the institution, and all but student-athletes 1 and 2 were provided athletics

grants-in-aid. In May 2003, the former head coach paid tuition, books and fees for student-athletes 1 and 2 for the 2002-03 academic year. The addition of student-athletes 1 and 2's receipt of athletics aid brought the total number of initial counters for the academic year to seven, exceeding the limit by two.

4. Concerning impermissible free meals to several student-athletes, during the 2001-02 and 2002-03 academic years when prospective student-athletes made official paid visits to the institution's campus, more than one student host per prospect was provided a free meal at a restaurant. On several occasions, the coaching staff invited multiple student-athletes to eat with the prospects and paid for their meals. Student-athlete 2 and five other men's basketball student-athletes (henceforth, "student-athletes 9, 10, 11, 12 and 13", respectively) received at least one free meal when they were not serving as student hosts. Former assistant coach A wrote the names of men's basketball coaches he knew were not present for these meals on the receipt from the restaurant to justify the cost of the meal to the institution's business office. Former assistant coach B and, less frequently, the former head coach and former assistant coach C, were also present when the impermissible meals were provided to the student-athletes.

Finally, the institution's failure to detect the provision of the extra benefits detailed in the allegation demonstrated a lack of institutional control as discussed in Finding II-M.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of these violations and that those facts constituted violations of NCAA legislation. The former head coach agreed with most of this finding, although he denied arranging for the release of student-athlete 2's Tahoe as described in subparagraph 2-c and he believed the violations in subparagraphs 2-b and 4 were secondary in nature. The staff believed they were major. The committee finds that the violations occurred and that they are major as part of the cumulative case.

Former assistant coach B was not in substantial agreement with the facts. Although he acknowledged delivering envelopes to the cashier's office for the former head coach in the spring of 2003, he denied knowing that they contained tuition payments as referenced in subparagraphs II-A-1-(f) and II-B-5-(e). The staff believed that former assistant coach B knew that the envelope contained tuition payments. At the hearing, the former head

coach stated that former assistant coach B was aware that the tuition was being paid. Former assistant coach B is in substantial agreement with all other facts of the finding and that those facts constitute violations of NCAA legislation. The committee finds that the violations occurred.

Finally, former assistant coaches A and C were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA legislation. Regarding their involvement, the committee finds that the violations occurred.

Regarding the former head coach's involvement with student-athlete 2's vehicle, the former head coach admitted calling the dealership on behalf of the young man and inquiring about the availability of a used sport utility vehicle. He stopped by the dealership and viewed the vehicle; shortly thereafter, student-athlete 2 came in and purchased it. In January 2003, student-athlete 2 had repairs totaling \$1,160 performed on the vehicle and was unable to pay the bill. The dealership does not release vehicles until repair bills have been paid in full. The father and son who run the dealership both stated that after the vehicle had sat at the dealership for approximately one month, the former head coach called the son, who said that the vehicle would not be released until the bill was paid. The former head coach then called the father and assured him that the bill would be paid out of student-athlete 2's "stipend." Relying on his assurance, the dealership then released the vehicle to student-athlete 2. The committee is convinced that the dealership would not have deviated from its normal policy unless the former head coach had intervened as the owners described.

Findings II-A-2-b and II-A-2-c as well as II-A-4 are major. They were not inadvertent; all agree that they were done knowingly. Nor were they isolated, but were instead part of an ongoing pattern of providing recruiting inducements and extra benefits to prospects and enrolled student-athletes.

As set forth in this and subsequent findings, former assistant coach B engaged in a pattern of multiple, willful NCAA rules violations starting even before he began his official duties at the institution. These many violations establish that his attitude was one of disregard for the rules. Regarding Findings II-A-1-f and II-B-5-e, former assistant coach B was well aware of student-athlete 2's status; he received an e-mail from the financial aid office on March 5, 2003, stating that student-athlete 2 owed a balance of \$9,132 and that he would not be able to register for summer classes until the balance was paid. Former assistant coach B was the primary contact with the financial aid office for student-athlete 2, and he admitted in his interviews his awareness that student-athlete 2 did not qualify for loans. Having been with him at his previous institution, former assistant coach B was close to student-athlete 2 and counseled him regarding his financial problems. Additionally, former assistant coach B had spoken with a financial aid officer in the fall of 2002 and learned that student-athlete 2 did not qualify for non-athletics aid.

Upset that the young man was not on scholarship, former assistant coach B visited with the former head coach about the matter and was told that "everything's going to be taken care of." He acknowledged making deliveries of envelopes to the cashier twice on the instruction of the former head coach.

The former head coach implicated himself and former assistant coach B in the violations. After he was unable to find any source of assistance for student-athlete 2's tuition, the former head coach provided student-athlete 2 with \$2,000 cash in April 2003. The next month he purchased seven money orders in \$1,000 increments and had former assistant coach B deliver them, along with \$132 cash, to the cashier on May 13. Before doing so, the former head coach had student-athlete 2 sign the money orders as if the young man had purchased them. Once they were signed, the former head coach called former assistant coach B to his office and told him what to do. The former head coach could not recall if he actually showed the money orders to former assistant coach B, but he was clear that they discussed what they were doing and that former assistant coach B did as he was asked, which was "take these to the cashier and pay (student-athlete 2's) tuition."

On May 28, approximately two weeks after the staff impermissibly paid the bills of student-athlete 2, the former head coach gave \$17,821 to former assistant coach B for the purpose of paying the tuition and fees of student-athlete 1. Like student-athlete 2, student-athlete 1's account was in arrears since he had not been given a scholarship upon his arrival on campus. Former assistant coach B acknowledged delivering the payment for student-athlete 1 - which consisted of a \$9,132 cashier's check and 10 money orders totaling \$8,689 - to the cashier but, as with the situation involving student-athlete 1's payments, denied knowing that the envelope he delivered contained impermissible financial aid. The committee finds the former head coach's candor to be persuasive and notes that the conduct described is consistent with former assistant coach B's pattern of violations and admitted willingness to loyally follow directions given by the former head coach.

B. IMPERMISSIBLE INDUCEMENTS. [NCAA Bylaws 13.02.4, 13.1.1.3, 13.2.1, 13.2.2-(b), 13.2.2-(e), 13.2.2-(f), 13.2.2-(g), 13.2.2-(h), 13.8.2.1, 13.12.1, 13.16.1 and 30.11.1 (2001-02 and 2002-03 NCAA Manuals)]

From 2000 through 2003, the former head coach, former assistant coach B and other members of the men's basketball coaching staff provided student-athletes 1, 2, 5 and 9 (while they were prospective student-athletes) and three other prospective student-athletes (henceforth, "prospects A, B and C") with recruiting inducements in the form of cash, cost-free travel arrangements, airline tickets, lodging, meals, transportation, apparel and long-distance telephone calls, moving

and storage expenses, the purchase of personal items, and tuition for a community college course. Specifically:

1. Regarding student-athlete 1, on August 25, 2002, during an NCAA quiet period, the former head coach visited student-athlete 1 at his home for the purpose of escorting him to the institution's campus so that he could enroll at the institution. Additionally, the former head coach purchased a one-way airplane ticket for student-athlete 1 to travel August 26 from Buffalo, New York to Austin, Texas. The ticket was valued at approximately \$275.
2. Regarding student-athlete 2, between May and August 2002, the coaching staff provided the young man with several recruiting inducements. Additionally, some of the inducements resulted in in-person, off-campus contacts with student-athlete 2 that took place during an NCAA quiet period (May 1 to July 7). Specifically:
 - a. In April 2002, former assistant coach B contacted student-athlete 2, who was then a men's basketball student-athlete at another institution, prior to obtaining permission from that institution.
 - b. On May 3, 2002, the former head coach made in-person, off-campus contact with student-athlete 2. The former head coach met with student-athlete 2 at the airport in Albuquerque, New Mexico, where they talked for approximately 10 minutes.
 - c. On May 5-7, 2002, during student-athlete 2's official paid visit to the institution's campus, the coaching staff provided student-athlete 2 three Baylor University (Baylor) men's basketball T-shirts.
 - d. On May 8, 2002, former assistant coach B purchased a meal for student-athlete 2, student-athlete 2's girlfriend and one of student-athlete 2's friends at a restaurant in Albuquerque. Further, this contact occurred during an NCAA quiet period.
 - e. On May 12, 2002, former assistant coach B had in-person, off-campus contact with student-athlete 2 during a quiet period when he rode with student-athlete 2 in student-athlete 2's vehicle from Albuquerque to Dallas, Texas (a one-way distance of 650 miles). Student-athlete 2 traveled to Dallas for the purpose of flying from the Dallas airport to Cleveland, Ohio, on May 19. Further, from May 12-19, 2002, former assistant coach B arranged for cost-free

lodging for student-athlete 2 in Dallas at the home of former assistant coach B's friend. During this time period, former assistant coach B allowed student-athlete 2 to make long-distance telephone calls from former assistant coach B's cellular telephone and purchased meals for the young man, including a dinner at a local restaurant on May 15 and another local restaurant on May 16.

- f. In May 2002, the former head coach arranged for student-athlete 2 to travel to and lodge in Cleveland, Ohio, at no cost to the young man for the purpose of playing open-gym basketball with other men's basketball student-athletes at Gund Arena, the facility of the Cleveland Cavaliers. The former head coach called the then head coach of the Cavaliers, whose son was a men's basketball student-athlete at the institution, requesting that student-athlete 2 be allowed to participate in open-gym play organized by the Cavaliers' coach. Further, on May 16 a one-way airplane ticket costing \$321.50 was purchased for student-athlete 2 to travel from Dallas to Cleveland on May 19; the ticket was reserved by a member of the men's basketball staff and the cost was covered by the former head coach. Finally, a member of the men's basketball staff arranged lodging for student-athlete 2 from May 19-24 at a hotel located across the street from Gund Arena. Student-athlete 2 stayed in the hotel without paying; the cost of \$566.80 was covered by the former head coach.
- g. On May 16, 2002, former assistant coach B purchased two one-way airplane tickets for student-athlete 2. On May 24, student-athlete 2 traveled from Cleveland, where he had been playing basketball, to Oakland, California, where his mother, stepfather and sister lived. On May 27, student-athlete 2 used the second ticket to travel from Oakland to Dallas. The cost of the tickets was \$411.50 and \$324, respectively. Former assistant coach B subsequently was reimbursed by the former head coach.
- h. On June 28, 2002, during a quiet period, former assistant coach B and student-athlete 2 moved some of the young man's personal belongings from Albuquerque to Waco in a U-Haul truck rented and driven by former assistant coach B. The total cost of the rented truck, which former assistant coach B also used to also move his belongings to Waco, was \$390.

arranged with the intention that prospect A would remain in Waco through August when he enrolled for the 2002 fall semester. Additionally, former assistant coach B arranged for prospect A to live with student-athlete 2, who was residing in an apartment on the institution's campus, at no cost to prospect A. Former assistant coach B instructed prospect A to live with student-athlete 2, whom prospect A had never met. Prospect A was not told to pay rent to student-athlete 2, nor did he. Further, the coaching staff gave prospect A cash to use as pocket money while he was in Waco. The total amount of cash former assistant coach B gave prospect A was approximately \$300, while another coach gave prospect A at least \$50. Finally, in late July when it became apparent that prospect A would not be certified by the NCAA Initial-Eligibility Clearinghouse as initially eligible, the former head coach purchased prospect A a plane ticket from Austin to Oakland so the young man could return home.

Additionally, in late July or early August 2002, the men's basketball coaching staff shipped prospect A's personal belongings from Waco to prospect A's home. Prospect A was unable to carry all of his belongings on the airplane with him, and the coaches subsequently shipped the items to him.

- c. On July 5 and 6, 2002, former assistant coach B transported prospect A from Waco to Dallas and back (a round-trip distance of 230 miles). While in Dallas, former assistant coach B provided a meal for prospect A at a restaurant, paid for his haircut and arranged for prospect A to lodge in the home of former assistant coach B's friend. Throughout the same time frame former assistant coach B provided small amounts of cash to prospect A and in July, 2002, former assistant coach C purchased a meal for prospect A at a local restaurant.
4. Concerning prospect C, on July 12, 2003, former assistant coach B provided the young man with one-way transportation from the institution's campus to an Amateur Athletic Union (AAU) basketball tournament being held 120 miles away. Former assistant coach B was recruiting at and prospect C's brothers were playing in the event. Additionally, former assistant coach B provided prospect C a snack during the trip.
5. Regarding student-athlete 5, on February 26 and March 3, 2002, the coaching staff provided an impermissible number of complimentary

admissions for the institution's men's basketball games to student-athlete 5's mother. On each occasion, six admissions were given to student-athlete 5's mother.

6. Regarding student-athlete 9, in October 2000, the coaching staff provided student-athlete 9 a Baylor men's basketball T-shirt and hat. Student-athlete 9 called the men's basketball coaches' offices and requested the apparel to wear when he signed his National Letter of Intent, and the coaches mailed a T-shirt and hat to him. The coaching staff also provided student-athlete 9 with a T-shirt during his official paid visit to the institution's campus.

Committee Rationale

The enforcement staff and institution were in substantial agreement with the facts of this finding and that the facts constituted violations of NCAA legislation.

The former head coach was in substantial agreement with the facts of this finding and that the facts constituted violations of NCAA legislation, but he believes his contact with student-athlete 2 at the Albuquerque airport (Finding II-B-2(b)) and the provision of an excessive number of complimentary admissions for the family of student-athlete 5 (Finding II-B-5) were secondary violations. The committee finds them to be major as part of the cumulative case.

Former assistant coach B was in substantial agreement with most of the facts of this finding and that violations of NCAA legislation occurred, but he disagreed that he committed the violations set forth in Finding II-B-2-a and II-B-2-g and paid for prospect A's haircut as set forth in Finding II-B-3-c. The committee finds that the violations occurred.

The committee also determined that Findings II-B-2-b and II-B-5 are major as part of the cumulative pattern of willfully violating NCAA rules.

Regarding Finding II-B-2-a, former assistant coach B's own statements establish the violation. During his interview with the enforcement staff and institution in 2003 he said there were a "couple of weeks" between the time he accepted a coaching position and his official start date at the institution; his official starting date at the institution was May 1, meaning that he had accepted the position in approximately mid-April. In his response to the Notice of Allegations he indicated that in April he was helping student-athlete 2 evaluate his options, yet the record established that he did not receive a release from the former institution to speak with the young man until May 1. At the hearing he stated that

in April he "talked to (student-athlete 2) about coming to Baylor" and in the 2003 interview he stated that before he made any recruiting contact with student-athlete 2 he had to "run it by" the former head coach and former assistant coach A. Finally, at the hearing he stated that when he mentioned to the former head coach that student-athlete 2 would be leaving his present institution, the former head coach responded that "it would be good to bring him in." Therefore, according to his own words, he spoke to student-athlete 2 about possibly attending the institution after he had been hired by Baylor and had visited with other staff members about the young man. The conversation took place before he had received permission from the former institution. The committee notes that former assistant coach B had coached student-athlete 2 at his former institution and, according to former assistant coach B himself, had a close relationship with him, making it even more likely that he had spoken to the young man about what school he might attend next.

Regarding Finding II-B-2-g, the evidence is persuasive that former assistant coach B purchased the airline tickets on May 16 as alleged. As set forth in Finding II-B-2-e, former assistant coach B had traveled by car with student-athlete 2 from Albuquerque to Dallas on May 12 so that the young man could fly to the open gym activities in Cleveland a week later. From May 12-19 student-athlete 2 stayed rent-free with a friend of assistant coach B and long-distance calls were made by the young man from the cell phone of former assistant coach B. Also, former assistant coach B purchased meals for student-athlete 2 on both May 15 and May 16, the day the tickets were purchased and a day they were together in Dallas. It is clear that former assistant coach B was taking care of student-athlete 2's needs during this time.

Additionally, the information provided by former assistant coach B on this issue was inconsistent. In interviews on both August 16, 2003, and July 19, 2004, he denied any involvement in arranging the trips. However, in his written response to the Notice of Allegations he acknowledged for the first time that he called the travel agency and requested flight schedules. In contrast, the former head coach admitted that he contacted the Cleveland Cavaliers coach about student-athlete 2 taking part in the open gym session. The Cavaliers coach did not supply an airline ticket for student-athlete 2, so the former head coach told former assistant coach B to purchase the tickets and he would be reimbursed later by the former head coach.

Regarding the haircut referenced in Finding II-B-3-c, former assistant coach B claimed no recollection of anyone getting a haircut during the relevant timeframe. Prospect A indicated that assistant coach B paid for his haircut and the girlfriend of student-athlete 2 confirmed that prospect A got his hair cut, though she had no knowledge of who paid for it.

C. IMPERMISSIBLE FINANCIAL ASSISTANCE TO PROSPECTIVE STUDENT-ATHLETES. [NCAA Constitution 6.5.1 and Bylaws 13.9.2; 13.16.1]

During 2002 and 2003, the former head coach arranged financial assistance for the Houston Superstars Foundation (Houston Superstars), a Texas Amateur Athletic Union (AAU) basketball program, to pay for travel expenses and equipment costs associated with participation in summer basketball tournaments throughout the country. The former head coach solicited donations from 17 representatives of the institution's athletics interests and two members of the institution's Board of Regents who were members of the 6th Man Club, a basketball-specific booster group at the institution whose Excellence Fund was used in part for recruiting. The donations totaled at least \$87,000, and the former head coach delivered the money to the director of the Houston Superstars. The former head coach requested the donations both individually and during meetings attended by multiple men's basketball boosters and allowed money donated to the Houston Superstars to be paid in lieu of 6th Man Club annual dues.

Additionally, in 2002, the former head coach solicited and received \$1,050 in donations from representatives of the institution's athletics interests for the Columbus Avenue Baptist Church summer basketball team, a Waco, Texas, program comprised of prospective student-athletes.

Further, between June 2002 and May 2003, the former head coach made personal contributions to several AAU teams and failed to disclose these contributions on NCAA Financial Disclosure Forms. The former head coach donated at least \$28,600 to five AAU teams in amounts ranging from \$1,000 to \$16,600. The former head coach disclosed only one \$5,000 donation on the institution's 2002-03 disclosure form.

Finally, the institution's failure to detect and prevent the impermissible financial assistance to prospects demonstrated a lack of institutional control, as discussed in Finding II-M.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding. The institution agreed that the former head coach committed violations when he solicited donations on behalf of the Houston Superstars and made donations to AAU teams other than the Columbus Avenue Baptist Church summer basketball team. The

institution did not agree that the donations that the former head coach solicited for the Columbus Avenue Baptist Church team constituted a violation because the former head coach's son played on that team. The former head coach was in substantial agreement as to the facts of this finding but disagreed that those facts constituted violations of NCAA legislation. The committee finds that the violations occurred.

NCAA Bylaw 13.16.1 provides in relevant part that an institution may not provide or arrange financial assistance, directly or indirectly, to pay any part of a prospect's expenses for any period prior to initial enrollment. Additionally, Bylaw 13.9.2 states that arrangements by an institution that involve material benefits for any individual responsible for directing an activity in which a prospect is involved are prohibited. A prospect is a student who has started classes for the ninth grade (Bylaw 13.02.9). According to the plain language of the bylaws, the violations occurred.

It is undisputed that the members of the Houston Superstars and Columbus Avenue Baptist Church AAU teams were prospects. Also acknowledged is that the former head coach solicited substantial donations from boosters of the institution totaling at least \$87,000 and made large personal donations of at least \$28,000 to these two and other AAU programs. The activities appear to have begun in the fall of 2002, when in October the former head coach met with a booster of the institution to request that his company provide a \$50,000 donation to the Houston Superstars. The former head coach represented that the donation would be used to offset travel expenses incurred by traveling Houston Superstar AAU basketball teams and would help the institution recruit prospects who participated on those teams. At the request of the former head coach, the booster wrote him two \$25,000 checks. The former head coach passed them on to the head of the Houston Superstars Foundation.

The circumstances and timing surrounding receipt of the two \$25,000 contributions by the Houston Superstars Foundation are dubious. The former head coach stated in his interview that he did not trust the individual who ran the Superstars (henceforth, "the director"). At the same time, the former head coach was recruiting one of the Superstar players; that prospect was accompanied by the director when the young man made his official paid visit to the institution on October 25, 2002. The first \$25,000 check is dated October 26 and was deposited into a Houston Superstars account by the director on November 7. The prospect signed a national letter of intent on November 13. The second check is also dated October 26 and was deposited on December 13. Four individuals from the Superstars eventually enrolled at the institution.

The former head coach continued soliciting contributions for the Houston Superstars into the spring and summer of 2003, targeting members of the 6th Man Club, a men's basketball booster organization. One member reported that he was one of a group of six individuals asked to attend a "get together" with the former head coach in early June

2003. The 6th Man Club member stated in a letter to the institution that: "Our support would make him (the former head coach) able to get recommendations from these coaches about talented players to evaluate and make the players and their families feel that Baylor and Waco were committed to the kids that might consider Baylor in the future." This particular member, along with at least 14 other boosters, provided the former head coach with checks made out to the Houston Superstars in the amounts of \$2,000 to \$5,000 from April through July 2003.

The same booster reported that he had previously been asked by the former head coach to provide funds for the Columbus Avenue Baptist Church AAU team. He was not the only one, as in the summer of 2002 five boosters made contributions to the program totaling approximately \$1,000. The institution's position that these contributions were not violations because they were made to a team for which the former head coach's son competed is incorrect. There is no exception that allows institutions to solicit donations for an AAU program because the son of the solicitor participates on the team and as stated above, the bylaw expressly prohibits such assistance.

The former coach's assertion that he solicited and made contributions to the Columbus Avenue Baptist Church team only to cover his son's expenses was not persuasive. At the time the donations were solicited, the former head coach was being paid over a half-million dollars per year. He had no need for others to pay his son's bills.

Further, in the summer of 2003, the former head coach only listed \$5,000 of the more than \$25,000 he contributed to various AAU organizations on his financial disclosure form; when the NCAA inquired, he stated that the money was to cover his son's travel expenses. Such contributions are within the rules. However, at no time did he correct the form to reflect the full amount of his contributions. A corrected form would have shown that he was contributing far more than needed for his son. Finally, the contributions of the former head coach were dispersed to AAU programs across the state. The committee concludes that the purpose of the solicitations and personal contributions was to provide impermissible financial assistance to the prospects so as to put the former head coach in an advantageous position to recruit prospects from the various AAU teams.

That the former head coach felt the need to hide the solicitations/contributions is further supported by the statement of former assistant coach A. The former head coach relied on his long-time assistant for guidance on NCAA rules. Yet when former assistant coach A told him that the activities were a "gray area" that might constitute NCAA rules violations, the former head coach instructed former assistant coach A to not ask the compliance officer about the propriety of the contributions. Also, the former head coach had his attorney friend, who was also a representative of the institution's athletics interests, reassure prospective contributors that the activities were within NCAA rules.

This was the same individual who was involved in the violations set forth in Findings II-F-2 and II-H-1.

The former head coach asserted that his activities were not covered by Bylaw 13.16.1 because the prohibitions contained in two sub-paragraphs of that bylaw, sections 13.16.1.2 and 13.16.1.2.1, are directed specifically toward solicitations on behalf of high-school athletics programs. Therefore, according to the former head coach, the entire bylaw should be read as solely a prohibition against fund-raising for high schools. Such a reading is incorrect. The more specific nature of the two sub-paragraphs does not limit the general language of Bylaw 13.16.1, which precedes them, and NCAA Membership Services confirmed that sections 13.16.1.2 and 13.16.1.2.1 were incorporated into 13.16.1 from an official interpretation after the Membership Services staff responded to a specific inquiry regarding high school programs. The bylaw applies to AAU programs the same as it does to high-school athletics programs.

D. FAILING TO FOLLOW PROCEDURES FOR REPORTING BANNED DRUG USE. [NCAA Bylaw 10.2]

During the 2002 fall semester, the institution failed to follow its procedures for dealing with the reporting of drug tests. Specifically, on August 28, 2002, the men's basketball coaching staff elected to have drug tests conducted on the men's basketball team, and three student-athletes tested positive for marijuana, a banned substance as defined by NCAA Bylaw 31.2.3.1. The institution's internal procedures require that formal notification of a positive drug test be sent from the director of sports medicine to the director of athletics, who in turn forwards it to the Judicial Affairs and Legal Services office (Judicial Affairs) for disciplinary action and notation on the student's permanent record. Despite the institution's policy regarding formal notification, the director of sports medicine verbally reported the results of these tests to the coaching staff and the institution's former director of athletics, but no notice (verbal or otherwise) was sent to Judicial Affairs.

Further, the institution's failure to follow its own drug testing procedures demonstrated an instance of a lack of institutional control, as discussed in Finding II-M.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that those facts constituted a violation of NCAA legislation and contributed to a lack of institutional control. In his opening remarks at the hearing, the president of

the institution characterized drug use among the members of the men's basketball team as "rampant." It could not have helped the matter that when three student-athletes tested positive for a banned substance they faced no consequences. The director of sports medicine failed to send a written notice to the director of athletics as required, though he did give him oral notice. Nonetheless, there was no follow-up with the young men after the positive tests and they were never disciplined pursuant to institutional policy.

E. IMPERMISSIBLE TRYOUT. [NCAA Bylaws 13.12.1, 13.12.2.2 and 17.5.2.2-(f)]

On a number of occasions from 2001 to 2003, the former head coach and former assistant coaches A, B and C observed prospective student-athletes and student-athletes engaging in recreational activities during the prospects' official and unofficial visits to the institution's campus. The former head coach organized pick-up basketball games for prospective student-athletes to participate in during visits to the institution's campus, and the coaching staff observed student-athlete 10, prospect B and another prospective student-athlete (henceforth, "prospect D"), who subsequently became student-athletes at the institution -- playing in the pick-up games with current student-athletes in the institution's student recreation center, the institution's basketball arena and the basketball facility of McLennan Community College (Waco, Texas).

Additionally, some of the observations of the pick-up games by the coaching staff occurred outside of the playing season.

Finally, the institution's failure to detect and prevent the impermissible observations by the coaching staff demonstrated an instance of a lack of institutional control, as discussed in Finding II-M.

Committee Rationale

The enforcement staff, the institution, the former head coach and former assistant coaches A, B and C were in substantial agreement as to the facts of this finding and that the facts constituted violations of NCAA legislation. The committee notes that while the mere presence of coaching staff members at the pick-up games constitutes a violation of tryout legislation, the evidence clearly established that the coaches were using these occasions to evaluate prospects. According to former assistant coach C, the purpose of the staff watching the prospects was twofold: 1) it allowed the former head coach, who made the final decision regarding who was offered a scholarship, the chance to see prospects play whom he had not previously observed, and 2) it gave the former head coach a chance to

compare the prospects to student-athletes already on campus. Former assistant coach A confirmed that the decision was made to not offer a scholarship to a potential transfer once the staff observed him play in a pick-up game during the young man's official paid visit.

F. EXTRA BENEFITS. [NCAA Bylaws 16.01.1, 16.12.2.1, 16.12.2.2.1, 16.12.2.3-(a) and 16.12.2.3-(b)]

During the 2000-01 through 2002-03 academic years, the former head coach arranged for the provision of and other members of the men's basketball coaching staff provided impermissible extra benefits in the form of course registration privileges and legal assistance to student-athletes 1 and 2 and two other men's basketball student-athletes (henceforth, "student-athletes 14 and 15", respectively). Specifically:

1. Concerning student-athletes 1 and 2's receipt of extra benefits, in November 2002, the young men were permitted to register for 2003 spring semester classes despite that they had not paid their 2002 fall semester bills for housing, tuition, fees and books. Institutional policy required that students not be allowed to register for classes until their current bills had been paid in full. Specifically, student-athletes 1 and 2 were initially precluded from registering for the 2003 spring semester because of the outstanding balances on their student accounts; however, based on assurances from the former head coach and former assistant coach C that the student-athletes' bills would soon be paid, the assistant director of scholarships facilitated the removal of registration holds on the young men's student accounts by entering "phantom credits" to their accounts and calling a cashier to remove the holds. "Phantom credits" are false credits applied to a student's account resulting in artificial zero balances and allowing holds to be removed. In the cases of student-athletes 1 and 2, the entry of the phantom credits enabled the young men to enroll for the 2003 spring semester without having paid their fall semester bills. The assistant director of scholarships had previously entered phantom credits for students on two occasions; however, the assistant director of scholarships reserved this course of action for students whose families she had worked closely with and in instances when she knew a payment was forthcoming. The assistant director of scholarships did not work with the families of student-athletes 1 and 2 in this matter, and the only promise of impending payments came from the former head coach and former assistant coach C. Additionally, the amount owed on their accounts was larger than had been addressed with removals of registration holds in the past. Nonetheless, the

assistant director of scholarships waived university policy and the young men were allowed to register

2. Concerning student-athletes 14 and 15's receipt of extra benefits, on two occasions in 2001, the former head coach contacted an attorney in Waco, Texas who also is a representative of the institution's athletics interests (henceforth, "the attorney") and requested that the attorney provide legal assistance to student-athletes 14 and 15, who had been arrested in separate incidents. The attorney signed bonds on both student-athletes 14 and 15 and represented student-athlete 14 in his case. Neither student-athlete was charged for services rendered.

Finally, the institution's failure to prevent student-athletes 1 and 2 from enrolling in 2003 spring semester classes despite the institutional policy prohibiting it, demonstrated a lack of institutional control as discussed in Finding II-M.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that the facts constituted violations of NCAA legislation. Former assistant coach C agreed with the facts and acknowledged that he made general assurances to the assistant director of scholarships that student-athlete 1's bill would be paid. The former head coach agreed with the facts of the finding, but disagreed that he should be held responsible for the violation in subparagraph 2 because he did not ask the attorney to provide free legal services to the young men. The committee finds that the violations occurred.

Under these circumstances, it was a violation for the former head coach to contact the attorney and procure legal assistance for the student-athletes. The attorney is not only a booster but also a member of a men's basketball booster group, the Sixth Man Club. The former head coach arranged for the attorney to assist the young men but never followed up to assure that the representation was conducted in a manner so as to be consistent with NCAA extra benefit legislation. Additionally, the committee notes that this same attorney is involved in the violations that resulted in Findings II-C & II-H-1. The former head coach had a duty to confirm that the legal services provided were in accordance with NCAA rules.

G. RECRUITING INDUCEMENTS. [NCAA Bylaws 13.01.4, 13.1.2.1, 13.2.1, 13.2.2-(b), 13.2.2-(f), 13.2.2-(g), 13.2.2-(h) and 13.7.5.7]

During 2002 and 2003, former assistant coaches A and B provided student-athletes 2, 4, 5, 6, prospect B and another prospective student-athlete (henceforth, "prospect E") with recruiting inducements in the form of cost-free airline tickets, lodging, transportation, meals and apparel. Specifically:

1. Regarding student-athlete 2, using a Southwest Airlines Rapid Reward ticket he obtained from the former head coach, former assistant coach B paid for airline tickets for the young man to travel from: 1) Austin, Texas to San Jose, California on May 30, 2002, and 2) from Reno, Nevada to Albuquerque, New Mexico on June 24, 2002. (Note: These flights occurred during the summer prior to student-athlete 2's initial enrollment).
2. Regarding student-athlete 6, on April 19, 2002, during his official paid visit to the institution's campus, the coaching staff provided student-athlete 6 several Baylor men's basketball T-shirts. Additionally, former assistant coach A impermissibly provided meals for eight individuals who had accompanied student-athlete 6 on his visit (excluding student-athlete 6's mother) that he purchased at a deli in Waco at an approximate total cost of \$50 to \$60.
3. Regarding prospects B and E, on April 12, 2003, during prospect E's official paid visits to the institution's campus, former assistant coach B provided the young man with a pair of Baylor men's basketball team shorts. Former assistant coach B gave him the shorts in the gymnasium of McLennan Community College, where he was playing basketball with members of the institution's men's basketball team. Additionally, in May 2003, former assistant coach B arranged for prospect B to live with student-athlete 2 while prospect B was taking a course at the community college. Prospect B lived in student-athlete 2's apartment for approximately two weeks without paying rent.
4. Regarding student-athletes 4 and 5, in July 2002, former assistant coach B made in-home visits to student-athletes 4 and 5 and was accompanied by prospect A, student-athlete 2 and student-athlete 2's girlfriend. The impermissible visits lasted approximately 30 minutes each.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA legislation. The former head coach stated that he was unaware of the conduct detailed in the finding, with the exception of subparagraph 2, and the former head coach and former assistant coach A agreed with the facts of subparagraph 2 regarding the meals but believed that providing the meals to the family of student-athlete 6 was a secondary violation. The committee finds the violation and that it is major as part of the cumulative case.

Former assistant coach B agreed that he arranged for prospect B to live with student-athlete 2. While in his response he stated that he was unsure if he provided the plane tickets to student-athlete 2, at the hearing he admitted he had done so. Also in his response, former assistant coach B denied that he gave prospect E a pair of shorts. At the hearing, he admitted asking a manager to get a pair of shorts for prospect E. The shorts, which were left by the manager on former assistant coach B's desk, were delivered by former assistant coach B to prospect E at the community college. The young man was allowed to keep them.

H. IMPERMISSIBLE CONTACT. [NCAA Bylaws 13.01.3, 13.01.5 and 13.1.2.4-(b)]

During the 2001-02 and 2002-03 academic years, the former head coach arranged impermissible contact between representatives of the institution's athletics interests and student-athlete 5 (who was then a prospective student-athlete) and prospects B and E. Specifically:

1. Regarding student-athlete 5, during the 2001-02 academic year, the former head coach invited the attorney and three other representatives of the institution's athletics interests to attend a basketball game at Lon Morris College in which student-athlete 5 was participating. After the game, the former head coach introduced student-athlete 5 to the four representatives. Student-athlete 5 engaged in conversation with at least one of the individuals for a few minutes.
2. Regarding prospects B and E, on April 12, 2003, during their official paid visits to the institution's campus, the former head coach transported the young men to the home of a representative of the institution's athletics interests for a cookout with an AAU basketball team that the representative coached. Prospects B and E had contact with the representative and ate dinner at his home.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA legislation. The former head coach substantially agreed with the facts of the finding but disagreed that the facts in subparagraph 1 constituted a violation and believed subparagraph 2 was a secondary violation. The committee finds the violation and that it is major as part of the cumulative case.

By the plain language of the bylaws, the activity detailed in subparagraph 1 is a violation. NCAA Bylaws 13.01.3, 13.01.5 and 13.1.2.4 (b) provide that boosters cannot recruit, cannot have in-person, off-campus recruiting contact with prospects and cannot view a prospect's athletics contest when it is not on his own initiative. All three of these bylaws were violated. The former head coach invited the four boosters to the game and they all traveled together 120 miles (roundtrip) to the event. Every one of the boosters had contact with student-athlete 5 after they were introduced to him by the former head coach. One of the boosters commented to him that it would be nice for the young man to get back to Waco, where his father resides. One of the boosters who made the trip is the same attorney who was involved in the violations noted in Findings II-C and II-F-2.

I. UNETHICAL CONDUCT BY THE FORMER HEAD COACH. [NCAA Bylaws 10.1, 10.1-(c) and 10.1-(d)]

The former head coach failed to deport himself in accordance with the generally recognized high standards of honesty normally associated with the conduct and administration of intercollegiate athletics for (1) his knowing involvement in violations of NCAA legislation; (2) attempting to conceal his provision of money and tuition payments to student-athlete 1 by encouraging student-athlete 1's mother to write checks out of her checking account paid for by his money, forging the signature of student-athlete 1's mother on several bank documents, creating forged bank documents to cover up improper tuition payments, calling the institution's financial aid office purporting to be student-athlete 1's father and instructing student-athlete 1 and his mother to lie to the institution concerning their knowledge of the matter; (3) encouraging men's basketball student-athletes and an AAU coach to provide the institution with false and misleading information concerning matters relevant to violations of NCAA legislation; and (4) providing false and misleading information to the institution and enforcement staff when initially questioned about his involvement in and knowledge of possible violations of NCAA legislation. Specifically:

1. Regarding his involvement, the former head coach knowingly violated NCAA legislation as set forth in Findings II-A, II-B, II-C, II-F and II-H of this report.
 - a. Regarding his knowing involvement in Finding II-A-5, during 2002 and 2003, the former head coach instructed former assistant coach A to submit fraudulent expense reports related to official paid visits to the institution, thereby allowing former assistant coach A to provide impermissible meals to student-athletes without being detected by the institution's compliance staff. The former head coach instructed former assistant coach A to write the names of coaches not present during meals on the reimbursement receipt so the amount of the receipt would reflect the number of permissible attendees reported to be there. This action prevented the institution's compliance staff from discovering an ongoing series of violations.
2. The former head coach made tuition payments on behalf of two student-athletes totaling \$17,821 and \$9,132 in knowing violation of NCAA legislation regarding the source of the funds and NCAA scholarship limitations.
3. Regarding the former head coach's attempt to conceal impermissible payments made to and on behalf of student-athlete 1, in September 2002, the former head coach gave \$900 to former assistant coach C to provide to student-athlete 1's mother so she would write three \$300 checks payable to student-athlete 1 to pay for her son's living expenses while enrolled at the institution. The former head coach then instructed former assistant coach C to direct student-athlete 1's mother to write the checks at spaced intervals throughout her checkbook to avoid the appearance of impropriety and evade detection should someone question three sequentially numbered checks being given to student-athlete 1 over a 90-day period.
 - a. In May 2003, the former head coach forged the signature of student-athlete 1's mother on 10 money orders and one cashier's check payable to the institution and purchased by the former head coach. These financial instruments were used to pay student-athlete 1's bill for tuition, fees and books.
 - b. In the summer of 2003, the former head coach created fraudulent bank documents for student-athlete 1's mother to provide to the institution and the NCAA reflecting tuition payments that the

mother did not make. Student-athlete 1's mother provided her bank statements to the former head coach, who then created duplicate versions that reflected bogus deposits and withdrawals in the amount of the tuition payments that the former head coach made on student-athlete 1's behalf. Additionally, the former head coach provided the mother with written and verbal instructions regarding false and misleading information she was to provide to the institution's investigative committee and the NCAA enforcement staff. On one occasion, the former head coach told the mother to call members of the institution's investigative committee early in the morning when it was unlikely they would be in their offices and leave a message on an answering machine correcting mistakes she made the previous day when interviewed by the institution.

- c. In July 2003, the former head coach instructed student-athlete 1 to provide false and misleading information to the institution's investigative committee. The former head coach called student-athlete 1 at his home and instructed him to tell the institution's investigative committee that his family had paid his expenses, that he knew he was not on scholarship at the time of his enrollment and that his aunt was helping pay his tuition, all of which were false. The former head coach told student-athlete 1 that if he told the truth about his understanding of the situation, student-athlete 1 would get in trouble.
 - d. On August 6, 2003, the former head coach called the institution's financial aid office and stated that he was student-athlete 1's father in order to obtain information on how certain types of payments were reported on a student's account. The former head coach wanted to know if payments made by money orders and cashier's checks were reported to a student's account in a manner distinguishable from payments made by personal check. The former head coach placed this call in an effort to cover-up tuition payments he made on student-athlete 1's behalf.
4. Regarding encouraging student-athletes and an AAU coach to provide false and misleading information to the institution, in July 2003, the former head coach instructed student-athletes 3 and 4 to lie to investigators regarding student-athlete 2 (now deceased). Specifically, the former head coach instructed student-athletes 3 and 4 to say that student-athlete 2 was seen carrying a large roll of money with the assumption that

the roll had been obtained by dealing drugs. The former head coach was attempting to create a false explanation of how student-athlete 2 might have obtained the large amounts of money used to pay his tuition, inasmuch as the former head coach had paid student-athlete 2's tuition. The former head coach provided student-athlete 3 written instructions on what he should tell the institution's investigators and encouraged him to try the story out on law enforcement officers before speaking to the institution.

Additionally, in the summer of 2003, the former head coach asked student-athlete 2's former AAU basketball coach to say he provided money to student-athlete 2 in an attempt to conceal impermissible payments made by members of the men's basketball coaching staff to student-athlete 2. The former head coach called the AAU coach on the telephone with this request, and the AAU coach agreed to report the false information to the institution despite the fact that he had not given student-athlete 2 any money.

5. Regarding the former head coach's provision of false and misleading information to the institution and enforcement staff, during an August 15, 2003, interview with the institution and staff, the former head coach stated that (1) Student-athlete 1's mother was sending student-athlete 1 money for living expenses when in fact the former head coach and former assistant coach C were paying student-athlete 1's living expenses, and (2) he (the former head coach) did not pay air fare for student-athletes when in fact he purchased an airplane ticket for student-athlete 1.

Committee Rationale

The enforcement staff, the institution and the former head coach were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA ethical-conduct legislation. As stated at the outset of this report, the former head coach presided over a staff that exhibited a blatant and sweeping disregard for NCAA rules. He intentionally committed serious and numerous violations of NCAA legislation and involved members of his staff, student-athletes and their family members in his misdeeds. His conduct was shocking; among some of his most egregious actions, he prepared a script for the mother of student-athlete 1 to use in telling lies to institutional investigators, he falsified bank documents and he tried to cover his transgressions by asking student-athletes 3 and 4 to portray their deceased teammate, student-athlete 2, as a drug dealer. In his closing comments at the hearing, the former head coach described his own actions as "despicable". He accepted full responsibility for the violations and for

violating the trust of his assistants and the entire university. The committee finds that his conduct was obviously unethical.

J. UNETHICAL CONDUCT BY FORMER ASSISTANT COACH B. [NCAA Bylaws 10.1, 10.1-(c) and 10.1-(d)]

Former assistant coach B failed to deport himself in accordance with the generally recognized high standards of honesty normally associated with the conduct and administration of intercollegiate athletics for his: (1) knowing involvement in violations of NCAA legislation; (2) provision of false and misleading information during interviews with the institution and enforcement staff and 3) providing false and misleading information in his written response to the Notice of Allegations which he subsequently recanted by admitting violations during the hearing. Specifically:

1. Regarding his involvement, former assistant coach B knowingly violated NCAA legislation as set forth in Findings II-A, II-B and II-G of this report.
2. Regarding his provision of false and misleading information, during his August 16, 2003, interview with the institution and enforcement staff, former assistant coach B stated that (1) he never provided a frequent flier voucher for a free airline ticket to student-athlete 2 or anyone else; (2) he didn't know how student-athlete 2 paid for his airplane ticket from Dallas to Cleveland; (3) he did nothing to assist or coordinate travel arrangements for student-athlete 2 to travel to Cleveland, and (4) the money he provided to prospect B for community college tuition was sent to former assistant coach B by a friend of prospect B's. Former assistant coach B made these assertions even though the information was false. Additionally, during his July 15, 2004, interview with the enforcement staff, former assistant coach B provided false and misleading information inasmuch as he reported a failure to recall answers to questions that could reasonably be expected of him to recollect and answer, and denied his knowledge of or involvement in the following situations, stating that (5) he never gave T-shirts to prospective student-athletes, including prospect A; (6) he could not remember any violations that took place during the recruitment of prospect A, and that he did not buy prospect A a meal with an AAU coach in Dallas, purchase prospect A shoes, pay for a haircut for prospect A, purchase meals for prospect A, arrange for prospect A to return to Waco for free after his official paid visit to the institution, give prospect A cash and purchase goods for prospect A at Wal-Mart; (7) he did not make any

airplane reservations for student-athlete 2; (8) he did not visit the homes of student-athlete 5 or prospect E during a quiet period; (9) he did not pay for meals for student-athletes who were not serving as student hosts during meals with prospects making official paid visits; (10) he did not recall purchasing an airplane ticket for student-athlete 2 to travel to Cleveland; (11) he did not recall using a Southwest Airlines Rapid Rewards voucher to obtain an airline ticket for student-athlete 2 or any prospective student-athlete; and (12) repeated these denials in his written response to the Notice of Allegations. Former assistant coach B made these assertions and later admitted they were false.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that the facts constituted violations of NCAA ethical-conduct legislation. The only matters with which the institution disagreed were that 1) former assistant coach B provided false and misleading information when he denied paying for meals for student-athletes who were not serving as hosts during meals with prospects, and 2) former assistant coach B provided a Baylor T-shirt to prospect A.

Former assistant coach B initially denied the facts but now admits that he committed the violations as alleged. At the hearing, his attorney described former assistant coach B as an individual who "doesn't talk in black and white. It is all shades of gray." The committee finds that the violations occurred.

As set forth in subparagraphs 1 and 2 of the finding, former assistant coach B was not truthful during his two interviews with the institution and enforcement staff. He admitted his deceit at the hearing, offering as an explanation that he was afraid, frustrated and in need of time to think about all that had happened. He also wanted to be a loyal assistant and protect the former head coach. However, even allowing for this explanation, the interviews in which he lied took place in August 2003 and July 2004. By the time his response was filed with the committee in February 2005, he had not worked for the former head coach for more than two years and had no further need to protect him. Moreover, an adequate amount of time had passed for him to think about all that had happened and recover from his anger and frustration. Yet his written response included misrepresentations, some of which he admitted at the hearing. The committee concludes that his actions and subsequent attempts to cover them, as well as his failure to be truthful over the course of the investigation, demonstrate a disdain for NCAA rules. The committee finds his conduct was unethical.

K. UNETHICAL CONDUCT BY FORMER ASSISTANT COACH C. [NCAA Bylaws 10.1, 10.1-(c), 10.1-(d)]

Former assistant coach C failed to deport himself in accordance with the generally recognized high standards of honesty normally associated with the conduct and administration of intercollegiate athletics for (1) his knowing involvement in violations of NCAA legislation, and (2) instructing a men's basketball student-athlete to provide the institution with false and misleading information concerning his involvement in violations of NCAA legislation. Specifically:

1. Regarding his involvement, former assistant coach C knowingly violated NCAA legislation as set forth in Findings II-A-1, II-A-3 and II-F-1 of this report.
2. Regarding his knowing involvement in Finding II-A-1 and II-A-3, in August 2002, former assistant coach C helped devise a system to allow student-athletes 1 and 2 to eat at the team training table impermissibly while evading detection by the institution's compliance and business office staff. Former assistant coach C originated the idea to create a two-page sign-in sheet for training table meals, with only the names of student-athletes 1 and 2 listed on the second page. Prior to turning the training table sheet in to the institution's business office, a member of the coaching staff removed the second page.
3. Regarding former assistant coach C's instruction to a student-athlete to provide false and misleading information to the institution, in July 2003, former assistant coach C called student-athlete 1 at his home and instructed him to tell the institution's investigative committee that his family had paid his school expenses, that he knew he was not on scholarship at the time of his enrollment and that his aunt was helping pay his tuition, all of which were false. Former assistant coach C told student-athlete 1 that if he told the truth about the situation, student-athlete 1 would get in trouble.

Committee Rationale

The enforcement staff, the institution and former assistant coach C were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA ethical-conduct legislation.

Former assistant coach C did not submit a written response to the notice of allegations, but during his March 4, 2005, prehearing conference with the enforcement staff, former assistant coach C stated his agreement with the facts. In his interview with the enforcement staff on October 13, 2003, he acknowledged that creating the false sign-in list was "something I probably shouldn't have been doing" and he knew that the purpose of his call to student-athlete 1's mother was to solicit her help in covering up rules violations committed by the former head coach. The committee finds his conduct was unethical.

L. UNETHICAL CONDUCT BY FORMER ASSISTANT COACH A. [NCAA Bylaws 10.1 and 10.1-(c)]

Former assistant coach A failed to deport himself in accordance with the generally recognized high standards of honesty normally associated with the conduct and administration of intercollegiate athletics for his knowing involvement in violations of NCAA legislation, as set forth in Findings II-A-4 and II-G-2 of this report

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA legislation. Former assistant coach A agreed that he knowingly committed the violations referenced in this finding, but he did not agree that his actions rose to the level of unethical conduct. The committee finds that the violations occurred and that they constitute unethical conduct.

In his interview with the enforcement staff, former assistant coach A acknowledged that he committed the violations detailed in Findings II-A-4 and II-G-2 and that he knew his actions were contrary to NCAA rules. As the supposed "NCAA rules expert" on the basketball staff and the long-time assistant of the former head coach, he was often asked by the former head coach to interpret NCAA rules and on occasion was told not to verify his opinion with the compliance coordinator. In his closing comments at the hearing, former assistant coach A admitted that "I broke the rules. I knowingly broke the rules." As set forth in the introduction, his loyalty to the former head coach was misguided and cannot excuse or mitigate his actions. The committee finds his conduct was unethical.

**M. LACK OF INSTITUTIONAL CONTROL AND FAILURE TO MONITOR.
[NCAA Constitution 2.1.1, 2.1.2, 2.8.1 and 6.01.1]**

The scope and nature of the violations in this report demonstrated that the former head coach and the institution failed to exercise institutional control and monitoring in the conduct and administration of the institution's men's basketball program in that (1) the former head coach failed to create and maintain an atmosphere for compliance within the men's basketball program, and (2) the institution failed to adequately monitor the activities of the men's basketball program to ensure compliance with and detect violations of NCAA legislation. Specifically:

1. Regarding the institution's failure to exercise institutional control and monitoring over the men's basketball program, several opportunities to detect violations of NCAA legislation that are listed in Findings II-A through II-L went unheeded and uninvestigated, which resulted in the occurrence of numerous violations within that program that could have been prevented. Instances where athletics personnel failed to recognize signs that violations were occurring or likely to occur include the following:
 - a. In 2002 and 2003, the former director of athletics twice failed to adequately monitor or direct an investigation of possible significant violations of NCAA rules within the men's basketball program. First, the former head coach informed the former director of athletics that three men's basketball student-athletes failed drug tests given August 28, 2002; however, the former director of athletics failed to follow-up when he never received official written notices of the failures from the director of sports medicine. This failure resulted in violations of the institution's drug-abuse policy. Additionally, in November 2002, when a representative of the institution's athletics interests, who is also a member of the institution's Board of Regents, approached the former director of athletics regarding the former head coach soliciting donations for Texas AAU basketball programs, the former director of athletics did not follow up on this conversation with his compliance staff or inquire as to the permissibility of such donations. This inaction led to multiple violations of the applicable NCAA legislation over the next nine months.

- b. In 2002 and 2003, the institution did not take steps to supplement a depleted compliance staff despite requests to do so made by the associate athletics director for compliance. When one of the two full-time compliance staff members took an extended leave of absence due to a serious illness, she was not replaced on a temporary or full-time basis until after many of the significant violations in this report had occurred. Further, the associate athletics director for compliance was assigned extensive duties outside of compliance, including interim senior woman administrator, sport supervision for all women's sports, supervisory duties over the athletic training staff and the weight training program, assisting the office of the general counsel with contractual work, tournament director for the various women's basketball postseason tournaments including the 2001-02 NCAA Women's Basketball Championship and the 2002-03 Women's Basketball National Invitational Tournament, personnel liaison in the department of athletics, and disciplinary liaison for the department of athletics.

- c. Student-athlete 2 was a recruited student-athlete from California who took an official paid visit to the institution. He transferred from another institution where he had been the starting center; yet, he participated on the men's basketball team claiming to be a walk-on and failed to make any tuition payments for nearly the entire 2002-03 academic year.

When student-athlete 2 failed to pay his student charges during the 2002 fall semester, the financial aid department waived institutional policy, entered a phantom credit on his account which allowed him to enroll for the second semester and then backed out the phantom credit. The level and duration of the coaching staff's involvement with the financial aid office concerning student-athlete 2's situation should have alerted the institution to a possible violation. Further, former assistant coach B called the same financial aid officer who entered the phantom credits to report that student-athlete 2 was going to make a payment; shortly thereafter, student-athlete 2 showed up in April 2003 with 20 \$100 bills. On May 13, 2003, \$7,132 in money orders and cash were delivered by former assistant coach B to pay the balance due on student-athlete 2's student account. Despite these circumstances, the institution did not investigate the matter until August 2003.

- d. Student-athlete 1 was a recruited student-athlete and took an official paid visit to the institution. He started in more than one game as a freshman in the Big XII Conference; yet he was represented to be a walk-on and non-counter. In addition, he then failed to make a single payment on his student account during the entire 2002-03 academic year. Several institutional officials knew that his account was in arrears and granted him exceptions to university policy.

In August 2002, the men's basketball coaching staff had discussions with the associate athletics director for compliance regarding the institution's financial obligations to student-athlete 1 and another men's basketball student-athlete. Too many prospective student-athletes (initial counters) qualified and were scheduled to enroll, which would have put the institution over the scholarship limit for the 2002-03 academic year. As a result, the coaches and compliance director discussed not honoring the institution's scholarship obligation to the other student-athlete, sending student-athlete 1 to a local community college or sending student-athlete 1 home and allowing the young man to enroll at the institution in the 2003 spring semester. Despite these conversations, student-athlete 1 enrolled in the fall 2002 but the institution did not investigate student-athlete 1's financial aid status and student account until August 2003.

When student-athlete 1 failed to pay his student charges during the 2002 fall semester, the financial aid department waived institutional policy, entered a phantom credit on his account, allowed him to enroll for the second semester and then backed out the phantom credit. Student-athlete 1 went the entire year without paying any of his institutional charges, assisted by numerous assurances from the men's basketball coaching staff that payment was forthcoming. When payments were made on student-athlete 1's account, they consisted of a \$9,132 cashier's check, cash and eight \$1,000 money orders. Despite all these circumstances, the institution did not investigate the matter.

- e. Two training table lists for August 27, 2002, were submitted by the men's basketball coaching staff, one of which includes student-athletes 1 and 2, and one which does not. Nonetheless, the institution did not investigate the matter.

- f. The former head coach submitted an expense reimbursement request for an "emergency recruiting trip" to student-athlete 1's hometown which took place during a quiet period, yet the institution did not recognize the violation.
 - g. Former assistant coach C reported that no athletics administrators seemed to be monitoring the men's basketball coaches. As a consequence, the then men's basketball coaching staff openly observed pick-up basketball games in which student-athletes were participating, even when members of the public or media were present. Occasionally, representatives of the institution's athletics interests were invited to watch. Despite the violations being committed openly, athletics administrators were unaware of them.
2. Regarding the former head coach's failure to create and maintain an atmosphere for compliance within the men's basketball program, beginning in April 2002, the former head coach developed an environment that fostered activities that led to the violations of NCAA legislation listed in Findings II-A through II-C and II-E through II-L. The former head coach frequently provided extra benefits and recruiting inducements, as detailed in Findings II-A, II-B and II-F. The former head coach had knowledge of and encouraged his assistant coaches to provide student-athletes and prospects with extra benefits and inducements, as detailed in Findings II-A, II-B, II-F and II-G, and often reimbursed the coaches for money they spent on the benefits and inducements. The former head coach ignored NCAA legislation prohibiting the observation of recreational activities of prospects during their official paid visits to campus and of student-athletes outside the playing season and also allowed his assistant coaches to ignore this legislation, as detailed in Finding II-E. The former head coach solicited and made donations to several summer basketball programs while failing to inquire and adhere to NCAA legislation prohibiting such donations and requiring their disclosure, as described in Finding II-C. The former head coach arranged impermissible contact between prospective student-athletes and representatives of the institution's athletics interests, as described in Finding II-H. Finally, throughout all of these violations, the former head coach engaged in measures calculated to avoid detection of violations within his staff by the institution's compliance staff, which encouraged an atmosphere of compliance laxity within the program.

Committee Rationale

The enforcement staff, the institution and the former head coach were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA legislation. In its own self report the university stated:

"The former head men's basketball coach obviously failed to adequately supervise and control members of his staff beginning in April 2002, and then actively participated in numerous major infractions of NCAA legislation in violation of NCAA Bylaws 2.1 and 6.01. The university is embarrassed that its various administrative systems allowed these violations to go undiscovered. There were red flags that should have been noticed. They should have been noticed by members of the administration and faculty. They should have been noticed by the director of athletics...They should have been noticed by the compliance staff (the resources of which were seriously depleted due to illness, personnel shortages, and overwork). They should have been noticed by the financial aid office (which generally attempts to be helpful and accommodating of students and was trying too hard to be helpful here)."

The committee finds this candid assessment is accurate in describing the contributing factors in the finding of lack of institutional control.

N. ACADEMIC FRAUD. [NCAA Bylaws 14.01.1, 14.4.3.3.1 and 10.1-(b)]

During the 2004 fall semester, a part-time athletics department student tutor (henceforth, "the tutor") and three football student-athletes committed academic fraud when the tutor completed course work on behalf of the young men. Specifically, on three occasions during the semester, the tutor wrote and typed papers for three football student-athletes (henceforth, "football student-athletes 1, 2 and 3") which the young men submitted for their classes. In September, the tutor wrote and typed a paper that football student-athlete 3 submitted for History 1305; in October, the tutor wrote and typed a paper that football student-athlete 2 submitted for English 1302; and in November, the tutor wrote and typed a paper that football student-athletes 1 and 2 submitted for English 1302, in which they were enrolled in different sections.

Additionally, during the summer of 2004, football student-athlete 2 was improperly certified as eligible for the 2004 fall semester based on his receipt of credit for a speech he did not write in Speech 1302. The speech was written by the tutor, who was not yet employed as an academic tutor, and football student-athlete 2 received a grade of C+ for the course. As a result of the academic

misconduct by football student-athlete 2, the young man's grade-point average (GPA) was erroneously calculated to be 1.83. Without the fraudulent credit, the young man's GPA would have been 1.58, and he would not have met progress-toward-degree requirements.

Committee Rationale

The enforcement staff and the institution were in substantial agreement as to the facts of this finding and that those facts constituted violations of NCAA legislation. However, regarding the first paragraph of this finding, the institution believed that the facts constituted an improper extra benefit and not academic fraud. The enforcement staff and the institution agreed that the facts set forth in the second paragraph of this finding met the interpretive standards for academic fraud. Finally, the institution believed that the violations were secondary in nature, while the staff believed that they were major. The committee finds that the violations occurred and that they are major.

Ultimately, football student-athletes 1 and 2 did not receive credit for the papers written for them by the tutor and referenced in the first paragraph because English professors comparing notes discovered that football student-athletes 1 and 2 had submitted identical papers. Subsequent investigation determined that the tutor had also written a history paper for football student-athlete 3. None of the three young men passed the courses in which the papers were submitted, and for this reason the institution asserted that no academic fraud occurred, citing the language of NCAA Bylaw 10.1 (b) that an institutional staff member must arrange for fraudulent "credit." However, such a reading of the bylaw is too narrow, as it is not necessary that academic credit be received for academic fraud to occur; the fraud consisted of the football student-athletes submitting papers that were written by someone else as their own in an attempt to gain a passing grade. This position was affirmed in an interpretation issued by the NCAA Membership Services staff during a conference call in which the institution participated in March 2005, and the same conclusion was reached by this committee in a 2003 case involving the University of Utah, Case No. 189.

The institution also questions whether the tutor can be considered an "institutional staff member" for purposes of the papers written for football student-athletes 1, 2 and 3. She was employed as a tutor only for a World Oceans course; none of the three papers written for these young men were for that class, and her stated reason for writing them is that football student-athletes 1, 2 and 3 were her friends. Therefore, according to the institution, these papers were written by one friend on behalf of another and do not involve an "institutional staff member" as required by Bylaw 10.1 (b).

Once again the institution is interpreting the rule too narrowly. The tutor was employed by Student-Athlete Services as a tutor when she wrote the papers and was therefore an institutional staff member. Simply put, it is academic fraud for an institutional employee to write a paper for a student-athlete to turn in as his own. The committee notes that in a 2000 case, the University of Minnesota, Case No. 158, an athletics department secretary who was writing and typing papers for student-athletes after business hours was deemed to be committing academic fraud.

Further, the university's own definition of academic fraud as contained in the Student-Athlete Tutor Guide states,

"Academic fraud is a term used to describe any act by a student which may result in the false academic evaluation of that student or another student"...

a. Offering as one's work, in whole or in part, the work of another"

The violations are major as defined by NCAA Bylaw 19.02.2. Certainly they are not inadvertent, as the tutor admitted knowing that it was wrong to write the papers. Nor are these instances isolated; five separate instances took place over a period of approximately four months and involved three different football student-athletes.

III. ALLEGATIONS OF MAJOR VIOLATIONS NOT FOUND BY THE COMMITTEE.

1. An allegation that the former head coach had provided a short-term loan to one of his student-athletes was made by the enforcement staff but not found by the committee.
2. The staff and the institution agreed that former assistant coach B paid for prospect B to enroll in a junior college math course the young man needed to graduate. The committee determined that the evidence was not sufficient to support a finding.
3. In conjunction with the facts that comprise Finding II-B-2-f, the committee determined that the evidence was not sufficient to support a finding that former assistant coach B paid for student-athlete 2's hotel room in Cleveland
4. With respect to Finding II-B-3-c, it was also alleged that former assistant coach B provided prospect A with a new pair of basketball shoes and arranged for him to play in some pick-up games on July 5-6, 2002. However, the evidence showed that a friend of former assistant coach B who runs an AAU program was the

person who actually supplied the shoes and transported him to the gym where he took part in pick-up games. Therefore, the violation was not established.

IV. PENALTIES.

As noted in the introduction of this report, once the violations finally came to light the university took decisive and meaningful action to stop the violations and to punish itself and those involved individuals. The university and several of the involved individuals exhibited genuine remorse and demonstrated total cooperation with the NCAA in developing the facts of this case. The committee has carefully evaluated the university's self-imposed penalties and corrective actions. However laudable these actions and the university's self imposed and corrective actions are, this case must be viewed in context with the following aggravating factors:

- Baylor University is a two-time repeat-violator per Bylaw 19.5.2.3.2.
- There is a finding of a lack of institutional control both on the institution and the former head coach.
- Four former staff members were found to have acted unethically including an offensive attempt to cover up the violations.
- A significant competitive advantage was attempted/gained as a result of these violations.
- There are findings of academic fraud involving three football student-athletes.

Therefore, the committee in viewing the entire context of this case, adopted the university's self-imposed penalties and determined that additional penalties are warranted in combination with those already self-imposed by the university as follows: (Note: The self-imposed penalties are so noted in the penalty listing. The institution's corrective actions are contained in Appendix Two.)

- A. Public reprimand and censure.
- B. As a multiple repeat violator, the university shall be placed on five years of probation beginning June 23, 2005, and expiring on June 22, 2010. (Note: The university had self imposed a penalty of not less than three years).
- C. Pursuant to NCAA Bylaw 19.5.2.3.2 (a) the university shall limit its men's basketball schedule for one year to the number of games contained in the Big XII Conference regular season schedule and that season's Big XII Conference Tournament. The university shall comply with this penalty during either the 2005-06 or the 2006-07 seasons at its discretion based on its contractual

obligations. In the year that this penalty is imposed the university is not eligible to take advantage of the exemptions to the limitation on the number of basketball contest that are provided in Bylaw 17.5.5 or a foreign tour.

- D. The committee adopts the institution's self-imposed penalty of removing its men's basketball team from postseason play for 2003-04 including participation in the Big XII Conference Tournament. By not participating in the 2003-04 Big XII Tournament, the university forfeited its share of the revenue from that tournament, a sum of \$212,500.
- E. The committee adopts the institution's self-imposed scholarship reductions of from 13 to nine for 2004-05 and 13 to 12 for 2005-06. Additionally, all reductions in financial aid awards are independent of any reductions necessitated by the Committee on Academic Performance Program (CAP) either as a contemporaneous or historical penalty. In consequence, should any such CAP penalties be imposed, the scholarship reductions must be taken from the total permissible grants-in-aid available AFTER those reductions.
- F. The committee adopts the institution's self-imposed penalty of reducing expense paid visits in men's basketball from 12 to eight in 2004-05 and 12 to nine during both the 2005-06 and 2006-07 recruiting years. (Note: The committee added the reduction for the 2006-07 academic year to the self-imposed penalty).
- G. The number of contact days shall be decreased by five for each contact period beginning September 2004 through April 2007 (an additional year to the self-imposed penalty) (September 2004, April 2005, September 2005, April 2006, September 2006 and April 2007). Evaluation days shall be reduced by 10 for each of the winter evaluation periods that commence during November of 2004, 2005 and 2006.
- H. The committee adopts the institution's self-imposed penalty reducing the number of men's basketball coaches permitted to recruit off-campus from three to two during the contact and evaluation periods during the 2004-05; 2005-06 and 2006-07 academic years. (Note: The committee extended the reduction in off-campus recruiters for one year in addition to the self-imposed penalty).
- I. The committee adopts the institution's self-imposed penalty of a one game reduction in permissible exhibition games during the 2004-05 season. In August 2003, the university granted a release to every student-athlete in the men's basketball program and successfully petitioned the NCAA and the Big XII Conference for waivers of their transfer regulations. This sanction was self-imposed with the intent and expectation that it would have an immediate and

devastating impact on the men's basketball program. As a result, the majority of student-athletes left the program.

- J. The university accepted the resignation of the former head men's basketball coach and his entire staff was replaced. None of the coaches involved in the violations are employed by the university.
- K. The university accepted the resignation of the former director of athletics.
- L. During the period of probation, the institution:
 - 1. Shall 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;
 - 2. Submit a preliminary report to the acting director of the NCAA Committees on Infractions by August 15, 2005, setting forth a schedule for establishing this compliance and educational program; and
 - 3. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by April 15 of each year during the probationary period. Particular emphasis should be placed on booster education, ensuring that the coaching staffs at the institution are adequately educated and monitored, and ensuring that all departments of the institution with any responsibility for admissions and financial aid for student-athletes are following institutional and NCAA rules in those areas. The reports must also include documentation of the university's compliance with the penalties adopted and imposed by the committee.
- M. At the conclusion of the probationary period, the institution's president shall recertify in a letter to the committee that all of the university's current athletics policies and practices conform to all requirements of NCAA regulations.
- N. As stated in the Introduction to this report, the former head coach engaged in despicable behavior. Not only did he willfully commit multiple and serious breaches of NCAA rules, he involved his staff, student-athletes and their families, and boosters in his transgressions. Therefore, the former head coach will be informed in writing by the NCAA that, due to his involvement in the violations of NCAA legislation found in this case, if he seeks employment or affiliation in an

athletically related position at an NCAA member institution during a 10-year period (June 23, 2005, to June 22, 2015), he and the 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 19.5.2.2-(1), which could limit his athletically related duties at the new institution for a designated period.

- O. Former assistant coach A was the senior staff member and a long-time assistant to the former head coach. He was aware of NCAA rules and made conscious decisions to break and ignore them. Therefore, he will be informed in writing by the NCAA that, due to his involvement in the violations of NCAA legislation found in this case, if he seeks employment or affiliation in an athletically related position at an NCAA member institution during a five-year period (June 23, 2005, to June 22, 2010), he and the 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 19.5.2.2-(1), which could limit his athletically related duties at the new institution for a designated period.
- P. Former assistant coach B was committing NCAA rules violations even before he began his official duties at the institution. He lied in his interviews with the enforcement staff and in his response filed with the committee. Therefore, he will be informed in writing by the NCAA that, due to his involvement in the violations of NCAA legislation found in this case, if he seeks employment or affiliation in an athletically related position at an NCAA member institution during a seven-year period (June 23, 2005, to June 22, 2012), he and the 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 19.5.2.2-(1), which could limit his athletically related duties at the new institution for a designated period.
- Q. Former assistant coach C acted as a "bag man" for the former head coach and devised a scheme that allowed student-athletes 1 and 2 to take impermissible meals at the training table. He failed to respond to the allegations or appear at the hearing. Therefore, he will be informed in writing by the NCAA that, due to his involvement in the violations of NCAA legislation found in this case, if he seeks employment or affiliation in an athletically related position at an NCAA member institution during a five-year period (June 23, 2005, to June 22, 2010), he and the 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 provisions of Bylaw 19.5.2.2-(1), which could limit his athletically related duties at the new institution for a designated period.

As required by NCAA legislation for any institution involved in a major infractions case, Baylor 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 (June 23, 2005).

Should Baylor University or any involved individual 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 wishes to advise 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
Alfred J. Lechner, Jr.
Edward (Ted) Leland
Gene A. Marsh, chair
Andrea L. Myers
James Park Jr.
Thomas E. Yeager

APPENDIX ONE

CASE CHRONOLOGY.

2003

July 21 – The girlfriend of student-athlete 2 (now deceased) called the NCAA enforcement staff to report violations in the Baylor men's basketball program.

July 22 - The institution notified the enforcement staff it was investigating possible major violations within the men's basketball program.

August 8 – The former head coach resigned from his position at the institution.

August 15-17 - The enforcement staff and institution conducted on-campus interviews with the former head coach and former assistant coaches A and B.

October 13 - The enforcement staff and institution interviewed former assistant coach C in Albuquerque, New Mexico.

2004

March 5 - The institution submitted its self-report regarding infractions within the men's basketball program.

April 13 - A notice of inquiry was sent to the president of the institution.

May 14 - The enforcement staff interviewed the former head coach.

June 8 - The enforcement staff interviewed former assistant coach A.

July 19 - The enforcement staff interviewed former assistant coach B.

August 25 - The enforcement staff conducted on-campus interviews with individuals including the former director of athletics and the associate director of athletics for compliance.

November 24 - The institution provided the enforcement staff a self-report of violations in the institution's football program pertaining to an individual writing papers for several student-athletes over a five-month period of time.

December 8 - A notice of allegations was sent to the president of the institution, the former head coach and former assistant coaches A, B and C.

2005

February 2 - The institution requested an extension of time to respond to the notice of allegations. This request was granted by the Committee on Infractions, and the institution was given a new deadline of February 18, 2005.

February 7 - The Committee on Infractions and the enforcement staff received former assistant coach A's response to the notice of allegations

February 8 - The former head coach requested an extension of time to respond to the notice of allegations. This request was granted by the Committee on Infractions, and he was given a new deadline of February 18, 2005.

February 9 - Former assistant coach B requested an extension of time to respond to the notice of allegations. This request was granted by the Committee on Infractions, and he was given a new deadline of March 1, 2005.

February 21 - The Committee on Infractions and the enforcement staff received the former head coach's response to the notice of allegations.

February 24 - The Committee on Infractions and the enforcement staff received the institution's response to the notice of allegations.

March 2 - The Committee on Infractions and the enforcement staff received former assistant coach B's response to the notice of allegations

March 4 - A prehearing conference was conducted between former assistant coach A and the enforcement staff.

March 4 - A prehearing conference was conducted between former assistant coach C and the enforcement staff.

March 15 - A prehearing conference was conducted between the institution and the enforcement staff.

March 17 - A prehearing conference was conducted between the former head coach's attorney and the enforcement staff.

March 18 - A prehearing conference was conducted between former assistant coach B's attorney and the enforcement staff.

March 24 – The institution submitted an amended response to the notice of allegations.

March 25 – The former head coach submitted an amended response to the notice of allegations.

April 15-16 – The university, the former head coach and former assistant coach's A and B appeared before the NCAA Division I Committee on Infractions.

June 23 – Infractions Report No. 236 is released.

APPENDIX TWO

CORRECTIVE ACTIONS.

Prospective Student-Athlete Assessment

1. *Adoption of Task Force Recommendations Regarding Academic Ability and Character of Young Men and Women Recruited to Represent Baylor University.*

Because of what the university learned from these two scandals, the university president announced on February 26, 2004, that he had appointed a task force to consider standards for the recruitment of student-athletes. The university's president further announced that these standards should be designed to ensure the recruitment only of student-athletes with the academic backgrounds and personal attributes required to succeed at Baylor University. The task force was charged to provide guidance to the university relating to the assessment and screening of prospective student-athletes, and to offer policies, procedures and programs designed to promote moral and ethical behavior within the department of athletics. The university's president directed the task force to report back with its initial recommendations by June 1, 2004.

The task force made the following recommendations, which have been accepted by the university president and are being implemented by the university:

- Baylor should, because admissions standards need to be tied to the university's unique academic demands, maintain its current standards of a minimum SAT of 820 (or ACT of 68) and a qualifying core GPA, despite the fact that NCAA initial eligibility legislation now features an index with no minimum score required on the SAT/ACT as long as the core high school GPA is high enough.
- Baylor should provide a quick academic screen of all prospective student-athletes, whether they are an incoming freshman, transfer student or international student, early in the recruiting process.
- Transfer and international students will, in addition to a quick academic screen, have their academic records analyzed by an Academic Review Committee (ARC). Further, the admissions decision on each transfer and international student will be made by the ARC, whose members are employed outside the athletic department.
- All prospective student-athletes should have three character references completed using the Character Reference Form (CRF), Baylor's own internally developed instrument for evaluating, among other characteristics, an individual's social

decision making, peer group interactions, dependability, self-discipline, and contributions to the community.

- All transfer students should, in addition to having the CRF filled out, provide written permission to have a criminal background check completed and a request for records of any disciplinary actions occurring in college.

General Compliance Upgrades

2. *Periodic Independent Compliance Audits.*

Because the university failed to adequately monitor the men's basketball program, the university invited the Big XII Conference to conduct independent compliance audits of the athletics department beginning in April 2004 with follow-up audits in 2005 and 2006. The Big XII Conference has agreed to conduct these audits and the first audit occurred on June 14-16, 2004.

3. *Expanded Resources Toward Monitoring Compliance.*

Because the university's failure to adequately monitor the men's basketball program was partially due to an inadequate allocation of resources to the compliance staff, that staff has been expanded from two to three full-time professionals. The Big XII Conference Audit of the university's compliance systems conducted in June 2004 noted that:

The institution has clearly benefited from its enhancements in the compliance area, including the commitment of resources and its monitoring activities. It is apparent that the university addressed staffing needs in light of the institution's expanded compliance program and increased monitoring efforts.

4. *Expanded Compliance Education Program.*

Some of the violations uncovered involved supporters of Baylor athletics who committed violations because of their lack of knowledge regarding NCAA legislation. The compliance staff has developed and implemented a comprehensive educational program on NCAA legislation to instruct the coaches, all athletics department personnel and all university staff members with responsibility for certification of student-athletes for admission, retention, financial aid or competition. Seminars have been held and are scheduled in Waco, Dallas and Houston to educate and protect boosters regarding NCAA legislation that affects them. An improved booster brochure has been mailed to all season ticket holders and is available on the department's compliance web site. An

outside law firm has been retained and is actively involved in the establishment and implementation of the enhanced education program.

5. *EthicsPoint.*

As another step toward enhancing monitoring to the point that no coach will dare to engage in the brazen violations of NCAA regulations seen in this case, the university retained Ethicspoint in September 2004 to provide simple, secure ways for individuals to anonymously and confidentially report conduct that they believe may violate university policies and NCAA legislation. Reports may be made by telephone or on a web site hosted on Ethicspoint's secure servers. This web site can be accessed through direct links on both the university's website and the athletic department's compliance website. This reporting system is designed to meet the specifications of Section 301 of the Sarbanes-Oxley Act of 2002, which require a compliant notification system for the "receipt, retention and treatment of complaints." Although as a non-profit corporation Baylor University is not subject to Sarbanes-Oxley, the university has concluded that this system enhances its internal controls, which included NCAA mandated institutional control. Baylor was the first university to retain Ethicspoint. Other institutions have and will continue to follow.

Compliance Upgrades Related to Specific Violations

6. *Academic Integrity.*

A segment on academic integrity will be added to the student-athlete handbook (starting with the next printing this summer). Second, the syllabus for the life skills course housed in the school of education, which is mandatory for all scholarship freshman student-athletes, will in the future list academic integrity as one of the lessons. Additionally, heightened emphasis will be given to that subject. Third, the materials developed by the compliance staff for the tutor orientation (which are good already) will be supplemented to include a directive that friends cannot tutor friends officially or unofficially, because there is a heightened risk of impropriety.

7. *Drug Test Reporting Failure.*

Under the new protocol announced by the university's president, drug testing of student-athletes is performed by Quest Diagnostics, Inc. ("Quest"). Quest forwards any positive results from those tests directly to university disciplinary authorities without any involvement by athletics department personnel. This procedure greatly reduces the likelihood of similar inadvertent violations of NCAA Bylaw 10.2 in the future.

8. *Excessive Tickets.*

No coach in any sport is allowed to have his own list of complimentary admissions.

9. *Delinquent Student-Athlete Accounts.*

The office of financial aid failed to follow institutional procedures when two non-scholarship student-athletes were delinquent in paying university charges. Had those procedures been followed, the violations involving the former head coach's payment of these expenses might have been uncovered much earlier.

Financial Aid Services Reorganization

Counseling for student-athletes is now performed by the associate and the assistant directors of financial aid counseling. Because these counselors are not members of the production team, completion of student-athlete files will be performed by individuals who have not had personal contact with the student-athletes. Moreover, coaches are now prohibited by financial aid office policy from contacting financial aid staff members other than through the compliance office. If an improper contact occurs, an electronic text message is to be entered by the financial aid staff member and forwarded to the director for compliance. And, no "phantom entry" may be made in a student-athlete file without the written permission of the assistant vice president-director of scholarships.

10. *Financial Contributions to AAU Program.*

The university has taken a number of steps to reduce the likelihood that this type of violation will take place in the future. First, the university publicly disclosed the violation of NCAA legislation that occurred when the former head coach solicited donations for AAU programs. This public disclosure resulted in extensive media coverage of the fact that such donations when solicited by institutional staff members constitute NCAA violations. Although not in any way required by state freedom of information laws (Baylor is a private institution), the university also publicly disclosed that two of the persons solicited by the former head coach were members of the university's governing board. The university further disclosed the names of these individuals as a means of highlighting the scope of the problem, even though this disclosure proved highly embarrassing to both individuals. Second, the university has provided rules education specific to this violation to all members of all coaching staffs and to boosters as well. A new brochure distributed to season ticket holders and other supporters of Baylor athletics cautions against making donations to youth sports organizations in response to solicitation by a university coaching staff member. Finally, a Department of Athletics policy now prohibits coaches from making or soliciting

donations for any charity affiliated with any youth sports program without the express permission of the director of compliance.

11. *Official Visits.*

The university has since significantly upgraded the monitoring of activities during official visits. The post-official visit monitoring form now completed by prospective student-athletes specifically requires them to disclose the names of people present during meals on their official visit, to disclose whether they participated in recreational activities and, if so, whether any members of the coaching staff were present during those activities, and whether they received any item of apparel or other inducement.