

October 13, 2015, Erratum: Section VI, Core Penalty for the Institution. With regard to Penalty No. 4-(a), the panel has included omitted language pertaining to the institution's self-imposed scholarship reductions in men's golf for the 2015-16 academic year and how those self-imposed penalties could be applied to future reductions prescribed by the panel. With regard to Penalty No. 5, the panel included previously omitted self-imposed recruiting restrictions in both the men's basketball and men's golf programs and a clarification regarding a typographical error and the application of official visits in the men's basketball program.



**SOUTHERN METHODIST UNIVERSITY**  
**PUBLIC INFRACTIONS DECISION**  
**SEPTEMBER 29, 2015**

**I. INTRODUCTION**

The NCAA Division I Committee on Infractions ("COI") is an independent administrative body of the NCAA comprised of individuals from the Division I membership and the public that is charged with deciding infractions cases involving member institutions and their staffs.<sup>1</sup> This case involved Southern Methodist University and is the institution's tenth major infractions case.<sup>2</sup> The violations in this case involved the men's golf and men's basketball programs and the compliance office. This case initially arose out of false information submitted by the former compliance director to the COI, relating to Infractions Decision No. 343 (2011) and subsequent questions regarding whether the institution had complied with the terms of probation.

In this case, the former head men's golf coach committed several violations relating to recruiting and unethical conduct that occurred due to his stated desire to increase the

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<sup>1</sup> Infractions cases are decided by hearing panels comprised of NCAA Division I Committee on Infractions members. Decisions issued by hearing panels are made on behalf of the Committee on Infractions. Pursuant to NCAA Bylaw 19.3.3, a six-member panel considered this case.

<sup>2</sup> Southern Methodist University ("SMU") is a member of the American Athletic Conference. SMU sponsors 10 women's programs and six men's programs. The undergraduate campus enrollment is 6,357 and the total campus enrollment is 10,929. This was the institution's tenth major infractions case with the institution most recently appearing before the committee in 2011 for a case involving its men's basketball program. The institution also had previous infractions cases in 2000 (football); 1987 (football); 1985 (football); 1981 (football); 1976 (football); 1974 (football and men's basketball); 1965 (football) and 1958 (football).

stature of the men's golf program and his failure to seek guidance from the institution's athletics compliance office. The former head men's golf coach impermissibly contacted prospective student-athletes and provided impermissible inducements to them in the form of institutional golf apparel and equipment. In addition, he failed to take appropriate action upon learning that a representative of the institution's athletics interests improperly communicated with prospective student-athletes on the institution's behalf. When interviewed during the investigation, the former head men's golf coach provided false information. The panel concludes that the unethical conduct violation was Level I and the recruiting violations were Level II. Collectively, the panel classifies the head coach's violations as Level I – Aggravated.

The violations in the men's basketball program centered on academic fraud and unethical conduct. A former men's basketball administrative assistant, hired by the head men's basketball coach, engaged in unethical conduct by impermissibly assisting a highly recruited prospective student-athlete to obtain fraudulent academic credit. The former men's basketball administrative assistant committed an additional act of unethical conduct when she provided false or misleading information during the investigation and failed to cooperate in later stages of the investigation. The head men's basketball coach failed to report the incident of fraudulent academic credit after it had been brought to his attention, and he initially lied about the underlying violations when interviewed by the enforcement staff. The panel concludes that the head men's basketball coach's violations were severe breaches of conduct and classifies them as Level I – Standard.

Although the case involved Level I violations, the panel did not conclude there was a lack of institutional control or a failure to comply with the terms of probation. The institution had engaged in compliance efforts that satisfied its probation terms, and the falsified documents did not go beyond the former compliance director.

The panel prescribes the penalties under NCAA Bylaw 19.9 because the violations predominantly occurred after the new bylaw effective date of October 30, 2012. Applying the new Figure 19-1 Penalty Guidelines for a Level I – Standard case, the panel prescribes the following principal core and additional penalties for the institution: a financial penalty; a one-year ban on postseason competition in both men's basketball and men's golf; three-years of probation; the panel has accepted all of the institution's self-imposed penalties and prescribed additional penalties as noted below in section VI of this decision. The panel prescribes a five-year show-cause penalty for the former head men's golf coach; a two-year show-cause penalty for the head men's basketball coach; a two-year show-cause penalty for the former compliance director; and a five-year show-cause penalty for the former men's basketball administrative assistant.

## II. CASE HISTORY

The violations in this case involved three separate areas of the institution's athletics program: probation compliance; men's golf; and men's basketball. This case began after the institution self-reported a possible violation to the enforcement staff when it became aware it provided falsified documentation to the COI as part of its probation reporting obligations in Infractions Decision No. 343 (2011). The enforcement staff issued a written notice of inquiry on May 30, 2013. In August 2013, the enforcement staff first became aware of issues involving the institution's men's golf program. Additionally, in January 2014, the enforcement staff and the institution initiated an investigation into the men's basketball program after media reports surfaced about pre-enrollment academic issues related to a student-athlete.<sup>3</sup> The enforcement staff issued its notice of allegations (NOA) on November 14, 2014, and informed the institution that it would process the violations as severe breaches of conduct (Level I).

On March 6, 2015, the institution and three involved individuals, the former head men's golf coach ("former head men's golf coach"), the former assistant men's basketball coach, ("former assistant men's basketball coach"), and the head men's basketball coach ("head men's basketball coach"), each timely submitted their respective responses to the NOA. The former men's basketball administrative assistant ("former administrative assistant") and the former compliance director ("former compliance director") failed to submit responses to the NOA. Subsequently, the enforcement staff submitted its written reply and statement of the case on May 6, 2015. On May 8, 2015, the enforcement staff submitted an errata memorandum which identified two amendments to their written reply. On May 18, 2015, the former assistant men's basketball coach and the head men's basketball coach submitted supplemental materials in response to the NOA. On June 18-19, 2015, the panel conducted the hearing.

Finally, the panel notes that this case involved numerous prehearing procedural matters among and between the parties that necessitated an inordinate amount of formal determinations by the COI chair and later by the chief hearing officer. These matters included, but were not limited to, disputes between parties and among counsel about access to pertinent portions of the record. This was of particular concern to the panel because the NCAA infractions process is an informal administrative process. The panel reminds all parties and their counsel that the NCAA infractions process is one based on cooperation, and therefore the sharing of information is integral and vital to the transparency, timeliness and efficacy of the COI's adjudicatory function and decision making. The panel strongly encourages all parties in an infractions case to meet their obligations under the NCAA constitution, bylaws, and COI internal operating procedures

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<sup>3</sup> Pursuant to NCAA Bylaw 19.3.7-(d), the enforcement staff sought and received permission from the COI to grant limited immunity to then-prospective and now current student-athlete in this case.

to fully cooperate among and between themselves to facilitate the COI's efficient adjudication of the membership's infractions cases.<sup>4</sup>

### III. FINDINGS OF FACT

#### **The Institution's Probation Compliance Submission and Falsified Documents by the Former Compliance Director**

As initial background, *Southern Methodist University*, Infractions Decision No. 343 (2011) also involved the institution's men's basketball program. That case was resolved through the summary disposition process and did not involve the current head men's basketball coach or any current or former assistant coaches on his staff. The former men's basketball coaching staff committed NCAA violations when they sent impermissible text messages to parents of at least seven prospective student-athletes. The men's basketball staff received erroneous advice from the institution's athletics compliance office, which advised that staff could send text messages to parents but not prospective student-athletes. The institution also committed an associated violation due to its failure to implement self-imposed rules education after reporting four secondary violations in 2007 and 2008, which also related to impermissible text messaging. The COI adopted the institution's self-imposed penalties, including two years of probation and reductions in recruiting activities.

Part of the institution's probation compliance involved documenting the required rules education sessions with its coaches. The enforcement staff and institution agreed that in March 2013, the former compliance director knowingly submitted falsified attendance sign-in sheets for two rules education sessions provided to the women's track and field coaches during February and March 2012. It is undisputed that the former compliance director altered the sign-in sheets by using sign-in sheets from a previous month that contained signatures of the women's track and field coaches by changing the date of the meeting in the header. The former compliance director submitted the falsified documents to the institution and the institution then submitted the documents to the COI as evidence that rules compliance sessions occurred as documented. In his May 2013 interview with the enforcement staff, the former compliance director admitted to falsifying the sign-in sheets and submitting them to his supervisor. After his initial interview with the enforcement staff, the former compliance director ceased his participation in the infractions process. Notably, the former compliance director failed to timely submit a response to the NOA and failed to appear on his own behalf at the hearing.

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<sup>4</sup> The COI has addressed in the past the need for sharing pertinent information in infractions cases. *See West Virginia*, Infractions Decision No. 265 (2007). *See also* COI IOP 3-6.

While the institution admitted that the submission of falsified documents occurred, it was unsure whether the former compliance director committed a violation because the rules education sessions actually occurred, but the former compliance director failed to document their occurrences. The enforcement staff alleged that the former compliance director engaged in unethical conduct by knowingly falsifying the sign-in sheets and then submitting them to his supervisor, who then unwittingly submitted them to the COI as evidence of probation compliance. According to the institution's response to the NOA and the former compliance director's interview with the enforcement staff, his underlying motivation for falsifying the documents was to satisfy a request from his supervisor and thereby attempting to demonstrate his competence.

### **The Men's Golf Program**

#### *The former head men's golf coach's communications with prospective student-athletes*

The former head men's golf coach, an alumnus of the institution, was a successful head coach with a championship pedigree coming from a Division II institution that competed in Division I for men's golf. He returned to his alma mater with national championship aspirations but admittedly little training in NCAA rules compliance. In September 2013, the institution and the enforcement staff initiated an investigation of the men's golf program and the former head men's golf coach.

Between December 6, 2012, and October 23, 2013, the former head men's golf coach and an assistant men's golf coach engaged in 64 recruiting contacts with 10 prospective student-athletes ("prospects") and seven parents of men's golf prospects. The contacts included emails, telephone calls, and text messages. More specifically, between December 6, 2012, and September 16, 2013, the former head men's golf coach sent 16 emails to five men's golf prospects and three parents of the prospects.

In addition, between January 30 and September 30, 2013, the former head men's golf coach and an assistant men's golf coach made 28 telephone calls to six men's golf prospects and six parents of the prospects. Specifically, on January 30, 2013, an assistant men's golf coach made a telephone call to the parent of a prospect. Between February 12 and September 20, 2013, the head men's golf coach made 24 telephone calls to five men's prospects and five parents of the prospects. Between September 25 and October 23, 2013, the former head men's golf coach made three telephone calls to one prospect and his parent.

Lastly, between July 9 and September 19, 2013, the former head men's golf coach sent 20 text messages to three prospects and four parents of the prospects. Most of these text messages were sent prior to July 1 following the prospects' junior years in high school. The former head men's golf coach was candid and admitted at the hearing that his actions

were "intentional" and "not inadvertent" because he "knew the rule" and he "broke the rule."

At the hearing, the institution acknowledged that the multiple early recruiting contacts by the men's golf coaching staff provided it with a significant recruiting advantage. However, the former head men's golf coach never conceded that he gained a significant recruiting advantage by the contacts while at the hearing. While he repeatedly acknowledged that he made "a mistake" by engaging in the contacts, he felt that he gained "very little, if any, possible recruiting advantage." He repeatedly felt that his contacts provided only a "minimal advantage" because the prospects he contacted were "committed to [him] verbally" and that he "already had them." He stated that in golf, "99 percent of the time, if a kid verbally commits he is going to stay with that university."

At the hearing, he stated that "[his] own internal pressure of wanting to be the best college coach of all time" may have led to his breaking of the rules.<sup>5</sup> This was despite the fact that the institution, by his own account, provided him with comprehensive rules education. His previous institution had a much smaller athletics compliance staff and he admitted his training there was "not as good as it could have been." By contrast, the former head men's golf coach admitted that he received "phenomenal" support from the institution's athletics compliance staff and that he did a "poor job, ineffectively using the resources at SMU . . . ." He praised the institution's athletics compliance staff for "educating us on anything, any new legislation that came out, any new rules, anything that I needed." Yet, he repeatedly admitted he was "guilty of not asking the right questions beforehand." He offered no reason or explanation for his actions.

*The former head men's golf coach's reduced-cost merchandise sales to prospects*

The former head men's golf coach had the drive and ambition to build a top tier golf program and build strong relationships with prospects. However, he paid little attention to rules compliance. Between March 11 and September 19, 2013, the former head men's golf coach offered institutional merchandise and golf equipment to prospects for a significantly reduced cost. The total value of the reduced-cost sales was approximately \$777.

The first of these provisions occurred on or about March 11, 2013, when the former head men's golf coach arranged for a prospect to purchase institutional merchandise for approximately \$60.<sup>6</sup> The full retail value of the merchandise was \$249. The prospect

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<sup>5</sup> The former head men's golf coach won two NCAA Division I national championships in men's golf as head coach at his previous institution before being hired by SMU. He had no previous NCAA infractions history or rules violations.

<sup>6</sup> Institutional merchandise as used in this decision refers to apparel, equipment, including golf balls, clubs, clothing, shoes or other merchandise that includes the institution's logos or marks.

paid the difference between the arranged price and the full retail value in September 2013. Thus, the difference between the full retail value and what he paid was \$189. Subsequently, on or about April 10, 2013, the former head men's golf coach arranged for another prospect to purchase institutional merchandise for approximately \$30. The full retail value of the merchandise was \$185. The prospect paid the difference between the arranged price and the full retail value in September 2013. Thus, the difference between the full retail value and what he paid was \$155. Next, between May 8 and 14, 2013, the former head men's golf coach mailed another prospect institutional merchandise and instructed him to pay him \$20 for the items the next time they were together in person, but the payment never occurred. The full retail value of the merchandise was \$250. The prospect paid that amount in September 2013. Thus, the difference between the full retail value and what he initially paid was \$250.

Similarly, in August 2013, the former head men's golf coach mailed that same prospect a men's golf backpack, even though no payment was provided or arranged. The full retail value of the backpack was \$48. The prospect paid that amount in September 2013. Thus, the difference between the full retail value and what he initially paid was \$48. The final sale occurred on or about September 19, 2013, when the former head men's golf coach arranged for another prospect to purchase several items of merchandise, including a set of 12 golf balls for approximately \$20. The full retail value of the items, less the golf balls, was \$125. The prospect paid that amount after the violation was discovered. The prospect did not pay for the golf balls, which had a value of approximately \$30. Thus, the difference between the full retail value and what he paid was \$135.<sup>7</sup>

At the hearing, the former head men's golf coach admitted he provided the reduced-cost sales and noted that "[his] mistake was not going to compliance immediately and asking them how to handle this situation." He stated that he "knew he couldn't give [the merchandise] away for free, and even looking in the manual or in legislation, there is really no guidance on exactly how to provide this gear, this gear to kids. There is no exact cost."

The former head men's golf coach did not receive any specific training or instruction from the athletics compliance staff on the issue of selling merchandise to prospects. When asked his opinion on the amount of advantage gained, he said, "I think it is extremely minimal." The enforcement staff noted that these prospects were "getting access to equipment that only SMU men's golfers have access to." The former head men's golf coach later conceded that having the SMU logo on merchandise he was selling

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<sup>7</sup> As a result of the reduced-cost merchandise sales, two of the prospects who later enrolled at the institution went through the student-athlete reinstatement process in October 2014. One of the prospects signed a National Letter of Intent with another NCAA member institution and will not need to seek reinstatement if he does not attend SMU. The remaining prospect is a high school underclassman and has not gone through reinstatement. Should he decide to attend SMU he would need to complete the student-athlete reinstatement process.

at a reduced cost to prospects provided a recruiting advantage and stated, "[t]here is no doubt about that."

*The former head men's golf coach's knowledge of recruiting activities by the representative of the institution's athletics interests*

The former head men's golf coach became acquainted with the representative of the institution's athletics interest ("the representative") as a Dallas-area junior golf tournament director who ran his business like a recruiting service, providing a "road map to college golf for juniors." The representative worked with prospects and their families to "find the best fit for them in college golf." The representative assisted the institution in the recruitment of at least nine prospects by promoting the institution's men's golf program and the former head men's golf coach was aware of the representative's efforts.

The representative also worked with a prominent golf apparel and merchandise manufacturer. The former head men's golf coach and the representative were first introduced in the spring of 2013 by the same prominent golf manufacturer's liaison to the institution. Shortly after their introduction, the two began communicating regularly about various topics, including the institution's men's golf program. Thereafter, between June and September 2013, the representative contacted nine prospects to promote the institution's men's golf program; facilitated contact and communication between the former head men's golf coach and prospects and their families; and/or encouraged the prospects to arrange unofficial visits to the institution. Concurrently, the former head men's golf coach was aware of the representative's contact with these prospects because he was copied on or forwarded multiple email communications between the representative and prospects and/or their parents regarding the institution and the men's golf program. The representative also provided the former head men's golf coach with updates on men's golf prospects whom the representative had contacted or was planning to contact.

The email communications can be divided into two categories: communications between the two men about certain prospects and whether the representative had a relationship or planned to reach out to those prospects; and communications on which the former head men's golf coach was copied or forwarded emails between the representative and prospects and/or their families. An example of the first category is an email from July 30, 2013, when the representative asked the former head men's golf coach to assess his interest in 12 prospects in various upcoming recruiting classes:

**The representative:** [] (Coach) Let me know if any of these are no longer of interest because these are the players I am working to bring to the SMU family. [12 prospects intentionally not listed here]

**Former head men's golf coach:** Honestly all are of interest. Prob [sic] 2-3 for 17. 2 for 2018-20. Would love to find a way for [prospect] for 15. []

An example of the second category is an email from July 12, 2013. The representative encouraged a prospect and the family member to reach out to the former head men's golf coach to set up a visit:

**The representative** [addressed to prospect and his parent]: I've been heavily involved with SMU and [former head men's golf coach]. I would encourage you guys to research his bio (2 National Champions back to back) at [previous institution] and three time NCAA Coach of the year. He brought in the top recruiting class last year and continues to bring in some of the top players across the country. More importantly he is bringing in a close knit family of players including several of your friends. I am able to get really involved in the process to get most of the preliminary questions answered and maintain solid communication dialog with the program and coaches. We would like to get you in touch with [former head men's golf coach] to set up a visit to campus. We are very interested in [prospect] and would like to discuss the possibilities of him becoming a Pony! Coaches contact information is provided below. The way the NCAA regulations are mandated you guys can call/email Coach anytime but he cannot initiate the communication. The way many families are doing is using me for information transfer. . . .

**Former head men's golf coach** [after being forwarded the email]: Great update! ... But most importantly. [sic] I would love for them to visit and take a look. The worst they can say is no[.]

**The representative:** Agreed, I will get some dates and go from there . . . .

The foregoing exchange was typical of other email communications between the two during the approximately six to seven weeks of their electronic communications in 2013. When the institution became aware of the representative's recruiting activities, it took action by sending a cease and desist notice to the representative on September 20, 2013. After the cease and desist notice, the representative engaged in no further contact with the men's golf program.

The former head men's golf coach permitted the representative to initiate and engage in recruiting contacts with prospects on behalf of the institution even though he felt that he really did not need the representative's help in recruiting prospects. While the former head men's golf coach felt the representative was a "non-factor" and did not need him for recruiting, he engaged the representative in multiple conversations about highly regarded

national recruits over several weeks. The communications between the two men included discussion of the status of top prospects, some of which were targeted by the former head men's golf coach. The representative made several overtures to prospects on behalf of the institution and the former head men's golf coach and those overtures were never rebuffed.

The former head men's golf coach confessed to being "terrible at saying no to anything." In response to a panel member's statement about his inability to say "no," the former head men's golf coach said, "That is a very fair statement. I couldn't agree with you more." While the former head men's golf coach often stated that he did not know all of the rules, he did admit to knowing a great many of the rules and did know he should have availed himself of the resources within his athletics compliance department should he have any compliance questions. On many occasions he repeatedly failed to do so.

*The former head men's golf coach's relationship with the representative of the institution's athletics interests*

The former head men's golf coach's established a relationship with the representative in the summer of 2013. The former head men's golf coach was initially interviewed by the enforcement staff on September 25, 2013. During the interview, the enforcement staff asked him whether he was aware of the representative's contacts with prospects and/or their families on behalf of the institution. The former head men's golf coach denied having knowledge of the representative's actions.

During a two and a half month period between June 24 and September 6, 2013, the former head men's golf coach and the representative exchanged over 35 emails in which the representative identified prospects he was working to bring to the institution's program. The former head men's golf coach was forwarded or copied on the representative's communications promoting the institution and its men's golf program to prospects and their families. However, during his interview with the enforcement staff, the former head men's golf coach claimed he was unaware of the representative's activities on behalf of his program until September 5 or 6, 2013. That is when the institution's senior athletic director for compliance asked him about what he knew of the representative's activities. At that time and throughout the infractions process, he denied having any knowledge of the dozens of emails linking him to the representative. He said in his interview that "[he] knew nothing about this issue" and that he was "certain that [he] had no, that was the first, the first time I had ever – was made aware of this, of this email."

At the hearing, the former head men's golf coach admitted that he made a mistake and should have asked questions but felt he did not lie about his knowledge of the emails. He stated that "[q]uite candidly, I didn't think my communication with [the representative]

was wrong, so why in the heck would I be covering anything up?" While initially feeling his interaction with the representative to be entirely innocuous, he later acknowledged the representative had "crossed the line":

**Former head men's golf coach:** So, I didn't know the extent of what I was doing was wrong. I didn't think it was wrong with sharing information. I truly have shared that information with recruiting services as well as numerous coaches have done that. But I knew once I read what he said, I knew what he was saying was wrong. I knew that he had crossed the line, and then had I been more aware, had I paid attention to his e-mails, had I read those extensively, yes, he crossed the line; he crossed the line. I had no idea why he was saying those things. He crossed the line, and if I had paid attention to him they would have been handed to compliance. I would have said, "What is going on here?" But I didn't. And I forgot it. Because I didn't. [sic] It was a non-factor in my mind because I didn't need the guy. I should have told him, as [panel member] so beautifully said, I should have said no, get away from me, but I didn't because I was too nice, too polite and just didn't do it.

In response to a panel member's question about how he might forget exchanges that included substantive information between him and the representative, the former head men's golf coach's responded in part by saying that he was receiving hundreds of emails a week from prospects and recruiting services. He was either not interested in the caliber of the prospects or already knew about them:

**Former head men's golf coach:** These kids that [the representative] was sending me, for the most part, I wasn't interested in these guys. I didn't even know who some of them were. Yes, some of them I did. I can promise you if they are on my radar screen, they were some of the best in the country. I didn't need him to tell me who the best in the country were. I didn't know a lot of the guys in his program . . . there are hundreds of kids that I knew about in each class. I could probably name the top 40 or 50 kids in the class during that time.

The former head men's golf coach discounted most of the prospects the representative was sending him. However, the record showed that several of the prospects the two men corresponded about were highly regarded national prospects ranked near the top of their respective classes and sought by the institution and its rivals. Still, the former head men's golf coach was at a loss for how he could not recall his exchanges with the representative when he was interviewed by the enforcement staff and only wished that he recalled the emails at the time of his interview. In his September 25, 2013, interview, the former head men's golf coach denied any knowledge of the representative's impermissible

activities, denied having knowledge of the representative contacting other prospects on the institution's behalf, denied ever asking the representative to contact prospects' families on his behalf, and denied ever asking the representative to provide his contact information to prospects so they could contact him.

The former head men's golf coach, however, had consistent communications with the representative. For example, the representative sent the former head men's golf coach an email on September 6, 2013, stating, "Coach we need to get [prospect] locked down so let me know your thoughts. I will lean on [another prospect] as well later this weekend." Earlier in the same email, the representative said, "When I explained our direction and talent at SMU he has now moved SMU to the top of his list." In another email dated July 16, 2013, the representative sent the former head men's golf coach an update on successfully getting a prospect to visit the institution, and he responded back to the representative, "Perfect! You the man. Thx as always. Any more word from the [another prospect's family] [.]" Additionally, in an email dated July 30, 2013, and noted in the prior section on the representative's impermissible activities, the former head men's golf coach responded to the representative's request to let him know if he was still interested in a provided list of prospects by saying, "Honestly all are of interest. Prob 2-3 for 17. 2 for 2018-20. Would love to find a way for [prospect] for 15. I've got [another prospect] and should get [another prospect] from CA [.]"

Despite specifically commenting on at least three prospects in that email, the former head men's golf coach repeatedly could not recall any of these exchanges with the representative when asked about it by the institution and the enforcement staff. Indeed he maintained throughout the hearing that he first knew or became aware of the representative's impermissible activities on the institution's behalf on September 5 or 6, 2013, when the senior athletic director for compliance called him about the email exchanges. At the hearing, he stated he could name the top "40 or 50 kids" in a recruiting class but could not recall even the most general details of him discussing his interest in several prospects with the representative: including wanting to get them on campus for visits; and ultimately signed into his program.

### **The Men's Basketball Program**

#### *The Head Men's Basketball Coach*

The institution hired the head men's basketball coach in the spring of 2012. He has the distinction of being the only head coach to win an NCAA Division I Men's Basketball Championship and a NBA championship, and he is enshrined in the Naismith Basketball Hall of Fame. Prior to his hiring at the institution, the head men's basketball coach spent the last 25 years of his coaching career in the professional ranks. Because he was out of the collegiate game for a quarter-century, the institution knew that re-acclimating him to

NCAA rules compliance was of paramount importance. The institution knew that re-orienting him to the current rules compliance regime would be a challenge and the institution's president acknowledged at the hearing that "you just can't catch up over 25 years in an instant."

*The former administrative assistant's relationship with a student-athlete*

In the spring of 2012, the former assistant men's basketball coach began recruiting a student-athlete for the institution.<sup>8</sup> The student-athlete was a highly regarded local Dallas-area high school student-athlete and nationally sought after recruit. He would later become a McDonald's All-American signee. The former assistant men's basketball coach knew the student-athlete since his eighth grade year when the former assistant men's basketball coach worked at another institution. He identified the student-athlete as a potential recruit from that point forward. The student-athlete was one of the first prospects contacted by the head men's basketball coach after being hired by the institution. The former assistant men's basketball coach was the primary recruiter for the student-athlete. After the student-athlete signed with the institution and after a review of his high school transcript by the institution's athletics staff, the former assistant men's basketball coach determined that he needed a "Plus 1" course in the summer after his high school graduation in order to meet NCAA initial eligibility standards because his core course grade-point average ("GPA") was just short of NCAA requirements.<sup>9</sup>

On or around June 2, 2013, the former assistant men's basketball coach met with the student-athlete and his mother and encouraged the student-athlete to enroll in an online course offered by a private online educational provider ostensibly to raise his GPA and meet NCAA initial eligibility requirements. The former assistant men's basketball coach provided the student-athlete and his mother with the application form for the online class and even assisted them in filling out a portion of the application. The record was unclear as to exactly who paid for the online course. The student-athlete recalled signing a money order provided to him by his high school boys' basketball coach and his mother could not produce any records proving her payment of the course.

Sometime after the student-athlete's enrollment in the course, the former administrative assistant in the men's basketball office took an interest in his life and academic work. The head men's basketball coach hired her upon the recommendation of a fellow collegiate head men's basketball coach whom he respected. During the summer of 2013,

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<sup>8</sup> The Dallas Independent School District (Texas) conducted an investigation into a grade change on behalf of the student-athlete while he was in high school. While the former assistant men's basketball coach recruited the student-athlete when he attended high school, he was not implicated in any wrongdoing in the school district's investigation.

<sup>9</sup> The student-athlete attended a different Texas high school for two years before transferring to another school in Dallas to complete his high school education.

the student-athlete regularly went to the institution's basketball facilities where he worked out and played pick-up basketball games in the gym. Sometime during that summer, the student-athlete and the former administrative assistant struck up a relationship. They initially met during the student-athlete's official visit to the institution when he was a prospect. When the student-athlete came to the basketball facilities to work out or play pick-up games, the former administrative assistant would babysit the student-athlete's toddler son in the basketball offices. At some point during that summer, the former administrative assistant decided to directly involve herself in the student-athlete's academic coursework.

The former administrative assistant obtained the student-athlete's username and password to his online summer course. She also obtained access to his personal email account. Sometime between June and July 2013, the former administrative assistant completed all of the student-athlete's assignments and exams for the online course. It is not known if she was somehow instructed to complete the coursework or determined to do this on her own. What is known is that the student-athlete did not complete his coursework for his class. On July 1, 2014, the student-athlete sat for his first interview with the enforcement staff and answered questions about his online coursework.

In that interview, the student-athlete could not recall basic details regarding his online course, including the subject of his online class, or how he completed his assignments. The enforcement staff subsequently requested documentation from the online school, including metadata for the assignments completed by the student-athlete. All of the online coursework was completed between June 17 and July 3, 2013, a period of 17 days. Within that period, there were seven days on which all of the assignments and exams were completed as multiple assignments were submitted together. The documents and metadata supplied by the online school showed that all of the completed assignments and exams were submitted from the former administrative assistant's personal computer. On July 7, 2013, the student-athlete received an "A-" grade for the online course that the former administrative assistant completed for him.

The student-athlete apparently had no awareness of the online course after his initial enrollment. In his second interview with the enforcement staff on August 4, 2014, the student-athlete admitted that after his initial enrollment in the course, he never thought about the course or spoke with anyone about it again until the enforcement staff interviewed him on July 1, 2014. In his second interview, he also stated the former assistant men's basketball coach told him to enroll in the online course "but don't worry about it." He admitted that the former administrative assistant approached him at the institution's basketball facility a week prior to his second interview with the enforcement staff. It was then that she told him for the first time that she had completed all of his coursework for the online class. This conversation occurred sometime between July 27 and August 3, 2014. The student-athlete admitted in his second interview that he was not

entirely truthful or forthcoming in his first interview about what he knew about the online course.

Between July 25 and August 1, 2014, there was an attempt by the former administrative assistant to encourage the student-athlete to fabricate a story. In his August 4, 2014, interview, the student-athlete revealed that the former administrative assistant was fearful of losing her job and wanted him to tell the enforcement staff that he came over to her house and worked on his coursework for the online class, which was untrue. Although the specific date is unknown and the details are somewhat unclear from the record, there was also a three-way call between the former assistant men's basketball coach, the former administrative assistant and the student-athlete. The call occurred sometime before the student-athlete's second interview with the enforcement staff on August 4, 2014. According to the former assistant men's basketball coach, the former administrative assistant initiated the call with her and the student-athlete on speakerphone. During the call, the former administrative assistant divulged that she had completed the student-athlete's coursework in the online class. At the hearing, the former assistant men's basketball coach admitted the call occurred. He stated that upon learning of the nature of the call, he quickly told the student-athlete and the former administrative assistant that he did not want to be involved and ended the call:

**Former assistant men's basketball coach:** She tried to get into what they were going to try. I guess, you know, his story that you guys were referring to [academic misconduct]. I don't remember the exact details, but I was caught off guard for one. Secondly, I just told her immediately I couldn't be involved in the conversation. The conversation may have lasted a minute, maybe. I explained to her that I couldn't be involved in it, and I was going to tell the truth to the NCAA, and I encouraged her and [the student-athlete ] to do the exact same.

At no time after the phone conversation did the former assistant men's basketball coach report a potential rules violation for what he learned on that phone call to the head men's basketball coach, the institution or to the NCAA.<sup>10</sup> On August 4, 2014, during her first interview with the enforcement staff and after the foregoing phone call, the former administrative assistant claimed she only assisted the student-athlete by allowing him to use her computer and offering him tutorial assistance. However, in her second interview she, through her counsel, admitted that the student-athlete's version of events from his second interview was indeed correct. Between July 25 and August 4, 2014, both the student-athlete and the former administrative assistant informed the head men's

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<sup>10</sup> The enforcement staff did not bring an allegation against the former assistant men's basketball coach for failing to report potential rules violations under NCAA Constitution 2.8.1 or NCAA Bylaw 19.2.3.

basketball coach that the student-athlete did not complete the work for his online course. For over a month, the head men's basketball coach did nothing with that information.

The academic credit received by the student-athlete was submitted to the NCAA Eligibility Center and the institution. Although initially denied admission by the institution's faculty committee that reviews applications from prospects, the student-athlete was ultimately admitted through an internal appeal process by the institution's provost "based on the broader university perspective and needs." The institution noted the student-athlete's admission was an "extraordinary exception" to its policy. The student-athlete subsequently enrolled in summer school courses at the institution in July 2013. The student-athlete competed in the 2013-14 men's basketball season. The institution substantially agreed that the former administrative assistant was knowingly involved in arranging for the student-athlete's receipt of fraudulent academic credit.

*The former administrative assistant's second interview and her level of cooperation*

As detailed in the previous section, the former administrative assistant completed online coursework for the student-athlete. During the investigation she had the opportunity to provide truthful and pertinent information that could have assisted the panel in adjudicating this case. She chose not to do so. She also had a continuing obligation as an institutional staff member to cooperate fully with the investigation. Again, she chose not to do so. She participated in two interviews, one on August 4, 2013, and the other on September 9, 2013. During her first interview, she reported that the student-athlete completed all of the coursework in the online class himself and that she only tutored him and let him use her personal laptop. She admitted that she assisted him in turning in some assignments and allowing him to complete the work at her house but insisted that the student-athlete did all of the work himself. She actually did all of the coursework herself on behalf of the student-athlete.

It was during her second interview on September 9, and after she had been confronted with detailed information from the student-athlete's second interview, she and her counsel took an extended break from the interview. When they returned to the interview on the record, her counsel offered a brief statement, terminated the interview, and stated his client would no longer cooperate in the infractions process:

**Counsel for the former administrative assistant:** So we appreciate the time. [The former administrative assistant] [is] not going to say anything else today. The information that has been relayed by [the student-athlete] in his second interview is fundamentally correct both as to the way the course was done and the conversation that he relayed regarding outside Moody Coliseum/Chick-fil-A, and the phone call. [...]we've decided that we're not going to participate in the process any further and that's all we

have to say and we will be, we understand the consequences of that in a variety of contexts and so we'll end the interview and we don't anticipate being in touch with the enforcement staff or the school again on this matter. And if the enforcement staff and school are in touch with us on this matter, we don't anticipate much if any of a response. . . .

**Enforcement staff:** Can I just make sure I understand, you said that what [the student-athlete] reported in his second interview was fundamentally correct?

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**Counsel:** --that's what I said, yes.

**Enforcement staff:** Okay. I just wanted to make sure I got that.

**Counsel:** And [the former administrative assistant], I just want to ask you to put on the record a one-word response to the question. Is what I just relayed a correct statement of your current position?

**Former administrative assistant:** Yes.

Her counsel's statement corroborated key information provided to the enforcement staff by the student-athlete gleaned during his second interview. That information included the fact that the former administrative assistant completed the online coursework for the student-athlete. That was contrary to the information she provided in her first interview. Thereafter, she frustrated the best efforts of the enforcement staff to gather the best information when she terminated her second interview without providing all relevant information on the underlying investigation into academic fraud. She then refused to provide any relevant documentation and denied additional requests for interviews by the enforcement staff. The former administrative assistant resigned from her employment with the institution within days of terminating her second interview.

*The head men's basketball coach's program*

The head men's basketball coach was coaching in the professional ranks and was out of college basketball for a quarter-century. Although he had previously served as head coach at two other Division I member institutions, he made some choices against his better judgment when it came to compliance issues in his program. These choices included not reporting possible violations in his program, initially lying to the enforcement staff during the investigation, and providing no specific guidance to his staff on rules compliance.

The institution was very concerned about the head men's basketball coach's extended time away from the collegiate game. The institution's president succinctly declared, "[the director of athletics] and I both agreed that he needed more attention than most coaches would need, simply because he hadn't - - you just can't catch up over 25 years in an instant." Similarly, the head men's basketball coach knew that his lack of recent experience in the college game would pose challenges for him. He stated, "I had not been doing this in a long time, and so many new things are coming at me." Despite the noted challenges with returning to the college game, the head men's basketball coach and the institution's president nonetheless described the general philosophy of the men's basketball program as "doing things the right way . . . regarding university policies and the NCAA's."

The institution identified the need to provide the head men's basketball coach with a significant amount of compliance support to bridge his transition back into the college game. The compliance director's office was based in the same building as the basketball offices by design in order to provide the most interaction and support to the men's basketball program and its head coach. The head men's basketball coach admitted that the compliance director "[was] with [him] on a daily basis, he meets with every recruit, travels with us, and is at practice and at every game." "[H]e also sits out in front of our locker room to make sure we do things the right way."

However, despite the institution's dedicated resources assisting the head men's basketball coach and his program, problems arose. What is largely absent from the record are those steps the head men's basketball coach took to establish and ensure a culture of compliance within his program. The head men's basketball coach hired the former administrative assistant and he was her direct supervisor. They interacted often and on a daily basis within the institution's men's basketball offices. The administrative assistant not only completed the student-athlete's academic coursework but also influenced the student-athlete to provide a fabricated story to the enforcement staff. Although the head men's basketball coach did not have any direct knowledge of or involvement in any of her misconduct, he never followed up on admissions to him by both her and the student-athlete about the completion of work for the online course. He failed to seek the advice of his athletics compliance staff after the disclosures. He did not report what he had learned to the enforcement staff or his conference office. He failed to ask any questions of the former assistant men's basketball coach or any other member of his staff about what they may have known of the possible violations.

The head men's basketball coach was unable to assist the panel in determining the credibility of his own staff and what was occurring in his program. When asked at the hearing to describe his interactions with the former administrative assistant and whether he found her credible or truthful, he stated in part, "[s]he cared deeply about me, she cared deeply about the kids . . . I never knew her not to be up front and honest with me."

"She was a hard worker." Regarding her engagement in completing the coursework, he stated, "I remember asking her if I told her to do that? She got uncontrollable [with emotion] and that was it." Conversely, he could not believe the former assistant men's basketball coach would engage in misconduct. He stated he could not believe the former assistant men's basketball coach "would tell [the former administrative assistant] to take the course for [the student-athlete]." Similarly, he stated that he "loved" the student-athlete and "am not going to sit here and tell you he lied. I can't do that." He found it impossible to discern who was telling the truth in his program. Nor did he have any specifics on his actions or processes that would have been a control on behavior, flagged any concerns or shed light onto actions within his program.

While the head men's basketball coach was unable to assist the panel in assessing the credibility of those on his staff, he claimed that he was on top of the academic issues in his program. He stated, "I meet with the academic people every week in my office about every individual kid in our program. I am aware of every kid that has a problem. I am on the [athletic director] and the assistant [athletic director] that we need to do better." He went on to say that "[t]o say I am not aware of these kids academically and what their needs are, it is not true; it is not true. I know about every one of our kids and what their needs are." He knew that the student-athlete had academic issues from his days in high school. Yet, he was not aware of the relationship between the student-athlete and the former administrative assistant going back to June 2013. Nor was he aware of the phone call involving the student-athlete and the former assistant men's basketball coach and the former administrative assistant about potential academic issues in his program because neither of them informed him about it. It was only when the student-athlete and later the former administrative assistant informed him that he became aware of academic issues with the student-athlete online course.

When the head men's basketball coach was confronted with confessions from individuals in his program that potential violations occurred, he took no action. At some point between July 25 and August 4, 2014, both the student-athlete and the former administrative assistant reported to him that the former administrative assistant completed the online course that led to the student-athlete obtaining fraudulent academic credit. The men's basketball head coach did not report this information to his athletics compliance staff, the director of athletics, the president or the conference office. He did not report the information to the NCAA. In fact, he did not initially report the possible violations in his program to the enforcement staff when they interviewed him on September 9, 2014. In addition, he initially lied about having any information about conversations he had with the student-athlete and the former administrative assistant about possible academic improprieties in his program, though he later corrected that information in that same interview.

The institution dedicated significant resources to the men's basketball program and its head coach, especially on the issue of head coach responsibility. At the hearing, the athletics compliance director was clear that the head men's basketball coach received specific training on NCAA head coach responsibility legislation. He stated that head coach responsibility legislation is something "we review very thoroughly with our coaches, and it talks about specific things that head coaches can do. It restates the [NCAA] bylaw, and then it talks very specifically about things that head coaches can do in order to meet their burden, to rebut that presumption should an issue like this ever arise." Here, the men's basketball head coach never attempted to apply his training to address and possibly mitigate potential rules violations in his program.

Speaking candidly and acknowledging his failed judgment at the hearing, the men's basketball head coach was reflective and remorseful:

**Men's basketball head coach:** I know when you hear that I didn't report the violation when [the student-athlete] told me he didn't take the course, he never mentioned [the former administrative assistant]. He never mentioned [the former administrative assistant] when we sat down and said that. But I realize, you know, in hindsight that was a terrible mistake on my part. I wish I could have changed all that. But we had that interview with the NCAA, I don't know why I lied. You know, dealing with people that I really care about, and I used terrible judgment, and I tried to acknowledge that as quickly as I could, but it doesn't seem to make a difference. I realize that.

Though remorseful, he was unable to provide any rationale for his conduct. He withheld information about possible rules violations in his program from the institution and the enforcement staff for over a month and then initially lied, offering the following explanation:

Now, this might sound so silly, when all these allegations are read, and when [enforcement staff] was basically taking the position I didn't do the right thing, I can't argue with that. There is no excuse for not going to [director of athletics] when [the student-athlete] told me he didn't do this on-line the course. That's all he said to me. There is no excuse for that, there is no excuse to go before the committee and not tell the truth when a question is directed at you. I have no excuse for that. I did not do that promptly.

Ultimately, the head men's basketball coach offered no excuses and accepted responsibility for the conduct of his program and his staff: "But this thing about coaches' responsibility, I get it. Everybody that works for me I hired. I trust them. I believe in

them. I am not around them every minute of every day, but I don't think I would have hired them if I didn't have faith that we would all do it the right way."

#### IV. ANALYSIS

The parties in this case substantially agreed to many of the violations in this case. The violations in this case fall into three distinct areas: recruiting violations and unethical conduct within the men's golf program; unethical conduct in the institution's probation compliance; and academic fraud, unethical conduct, and head coach responsibility in the men's basketball program.

##### A. IMPERMISSIBLE RECRUITING COMMUNICATIONS [NCAA Bylaws 13.1.3.1, 13.4.1, 13.4.1.2 (2012-13 and 2013-14 Division I Manual)]

Over a period of approximately 10 months, the former head men's golf coach had multiple impermissible recruiting contacts with several men's golf prospects and several parents of prospects. The institution, the former men's golf coach and the enforcement staff substantially agreed on the facts and that the violation occurred. The panel concludes that a Level II violation occurred.

##### 1. NCAA legislation regarding permissible recruiting contacts.

The applicable portions of the bylaws may be found at Appendix Two.

##### 2. **Between December 6, 2012, and October 23, 2013, the former head men's golf coach and an assistant golf coach engaged in 64 impermissible recruiting contacts with 10 men's golf prospects and seven parents of men's golf prospects.**

The former head men's golf coach and an assistant golf coach violated NCAA recruiting legislation when they knowingly engaged in 64 impermissible recruiting contacts with 10 men's golf prospects and seven parents of men's golf prospects. While a substantial competitive advantage did not result from his violations of recruiting legislation, his actions resulted in a significant competitive advantage and involved conduct that could have undermined or threatened the integrity of the NCAA Collegiate Model. Accordingly, the former head men's golf coach and the assistant golf coach violated NCAA Bylaw 13.<sup>11</sup> Both the

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<sup>11</sup> The assistant men's golf coach was not an involved individual in this case.

institution and the former head men's golf coach argued the violations were Level III.

NCAA Bylaw 13.1.3.1 generally prohibits member institutions and their staffs from contacting prospects and their families or legal guardians prior to July 1 after the completion of the prospects' junior years or the first day of classes their senior years, whichever date is earlier. Here, the former head men's golf coach and an assistant golf coach engaged in 64 impermissible early contacts with prospects, some of whom were nationally ranked prospects at that time. Moreover, 54 of the 64 impermissible contacts occurred a year or more prior to the first permissible date for written, telephone, or texting communications. Specifically, between January 30 and September 30, 2013, the former head men's golf coach and an assistant made 28 impermissible telephone calls to six men's golf prospects and six parents of men's golf prospects. In its written response, the institution and the former head men's golf coach acknowledged these actions violated NCAA Bylaw 13.1.3.1.

Similarly, when the former head men's golf coach sent impermissible email communications to prospects and their families he violated NCAA recruiting legislation. Specifically, the former head men's golf coach knowingly sent 16 impermissible emails to five men's golf prospects and three men's parents of men's golf prospects. Both the institution and the former head men's golf coach substantially agreed these impermissible contacts occurred resulting in violations of NCAA Bylaw 13.4.1.2.

Finally, between July 9 and September 19, 2013, the former head men's golf coach knowingly sent 20 impermissible text messages to three men's golf prospects and four parents of men's golf prospects, despite the fact that such text messages were clearly prohibited at the time. As a result, the former head men's golf coach and the institution admitted in their written responses and at the hearing that these actions violated NCAA Bylaw 13.4.1.2. Early and regular personal contacts with prospects and their families are vital aspects of the recruiting process in any sport. The COI has addressed these issues in a number of recent cases. *See University of Florida*, Infractions Decision No. 417 (2015); *West Virginia University*, Infractions Decision No. 416 (2015). For example, the COI noted in the *University of Florida* case, that early impermissible contacts by member institutions and their staffs "confer advantages upon those who engage in the contacts to the detriment of those who are abiding by the rules." In both of the foregoing cases, the COI concluded that the impermissible communications provided more than a minimal competitive

advantage. The panel similarly concludes that more than a minimal competitive advantage was gained by the early contacts in this case.

The former head men's golf coach admitted his conduct was knowing and intentional. He acknowledged at the hearing that the institution provided him "phenomenal" rules education on recruiting legislation updates, yet he still engaged prospects in impermissible communications. Candidly, he expressed an inability to say "no" when it was most needed and most appropriate to do so as it pertained to rules compliance. He also mentioned on several occasions during the hearing that he just did not ask the proper questions beforehand and regretted not doing so. At the hearing, he was contrite and remorseful. The former head men's golf coach noted he wanted to be the "best college golf coach of all time." Such a goal must also include a thoughtful and careful dedication to rules compliance.

The panel cautions coaches and staff to avail themselves early and often of the institution's athletics compliance staff and resources when it comes to rules compliance. Violations like these are preventable. The panel concludes the facts found constitute Level II violations of NCAA bylaws because the violations provided or were intended to provide more than a minimal but less than a substantial recruiting advantage and were more serious than Level III violations.

**B. IMPERMISSIBLE INDUCEMENTS [NCAA BYLAWS 13.2.1 and 13.2.1.1 (2012-13 through 2013-14) NCAA Division I Manuals]**

Over six months in 2013, the former head men's golf coach provided impermissible inducements to four men's golf prospects when he offered institutional merchandise and golf equipment for a significantly reduced cost. The panel concludes that Level II violations occurred.

**1. NCAA legislation regarding offers and inducements.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. Between March 11 and September 19, 2013, the former head men's golf coach provided impermissible inducements to four men's golf prospects when he offered institutional merchandise and golf equipment to them for a significantly reduced cost.**

When the institution permitted the former head men's golf coach to provide significantly reduced cost institutional merchandise and golf equipment to prospects, it violated NCAA recruiting legislation. Between March 11 and September 19, 2013, the former head men's golf coach provided impermissible inducements to four prospects in violation of NCAA Bylaw 13.

Generally, NCAA Bylaws 13.2.1 and 13.2.1.1 govern the use of offers and inducements in the recruiting process. Both bylaws prohibit the use of offers or inducements to prospective student-athletes that are not generally available to prospective students in general. NCAA Bylaw 13.2.1.1 provides a non-exhaustive list of specifically prohibited offers or inducements to prospective student-athletes. At the hearing, the institution and the former head men's golf coach substantially agreed the violations occurred. Both the institution and the former head men's golf coach argued the violations were Level III.

Over the course of six months in 2013, the former head men's golf coach provided a plethora of significantly reduced cost institutional merchandise and golf equipment to four men's golf prospects. These items included belt buckles, hats, shirts, towels, head covers, alignment rods, golf balls, and a backpack. The approximate value of the impermissible merchandise received by the prospects was at least \$777. The former head men's golf coach admitted that his reduced cost sales to the prospects were impermissible. The enforcement staff argued that NCAA legislation was clear on the subject of merchandise sales to prospects. While NCAA legislation may permit a prospect to receive free equipment and apparel directly from a manufacturer or distributor under certain circumstances, such apparel would not include the institution's logos or other specific institutional identifiers.<sup>12</sup>

Ultimately, the former head men's golf coach conceded that he "should have been more attentive to detail" regarding the merchandise sales. He admitted repeatedly that he should have gone to the institution's athletics compliance staff and asked if his actions were consistent with NCAA legislation but failed to do so. He did know that he could not give away the merchandise for free but did not know how much he could sell the

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<sup>12</sup> NCAA Bylaw 12.1.2.4.11 (2014-15 Division I Manual) (adopted: 1/11/1997) permits an exception to the rules of amateurism that allows for the receipt of free equipment and apparel items by prospective student-athletes from equipment and apparel manufacturers or distributors under certain circumstances. This exception only applies to prospective student-athletes, not enrolled student-athletes.

merchandise for and be compliant with NCAA legislation.<sup>13</sup> But again, he never asked anyone who could help with answering that question. He also acknowledged that the institution did not provide him any rules education on merchandise sales, and he never asked for any. This was consistent with a troubling pattern for the former head men's golf coach in this case. At every juncture when he needed to do the right thing, often by just asking a mere question or just saying "no," he routinely failed to do so. While the former head men's golf coach initially discounted the recruiting value of the significantly reduced institutional merchandise and golf equipment, he later conceded that there was no doubt to the value of having these prospects wearing and utilizing the institution's logoed merchandise.

The panel concludes the facts as found constitute Level II violations of NCAA bylaws because they provided or were intended to provide more than a minimal but less than a substantial recruiting advantage and were more serious than Level III violations.

**C. IMPERMISSIBLE RECRUITING ACTIVITIES BY A REPRESENTATIVE OF THE INSTITUTION'S ATHLETICS INTERESTS [NCAA Bylaws 13.1.2.1, 13.1.2.4 and 13.1.3.5.1 (2012-13 and 2013-14 Division I Manual)]**

The representative assisted the institution in the recruitment of nine men's golf prospects by promoting its men's golf program while the former head men's golf coach was aware of his activities. The institution substantially agreed the violation occurred. The panel concludes that a Level II violation occurred.

**1. NCAA legislation regarding permissible recruiters and nonpermissible callers.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. Between June and September 2013, the representative impermissibly assisted the institution in the recruitment of at least nine men's golf prospects by promoting the institution's men's golf program with the knowledge of the former head men's golf coach.**

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<sup>13</sup> The panel observes there was significant discussion at the hearing about the state of junior golf and some of the perquisites junior golfers are able to accept from apparel manufacturers. The permissibility of the receipt of such apparel is cited in footnote 11 above. However, the panel does express concerns about the implications for amateurism and the Collegiate Model under the current regulatory regime.

The former head men's golf coach violated NCAA legislation when he knowingly permitted the representative to engage in impermissible recruiting contacts to promote the institution's men's golf program with at least nine men's golf prospects. The representative's and the former head men's coach's actions resulted in a significant competitive advantage and involved conduct that could have undermined or threatened the integrity of the NCAA Collegiate Model. Accordingly, the institution via the former head men's golf coach violated NCAA Bylaw 13. The institution argued these were Level II violations standing alone and did constitute collective Level I violations. The former head men's golf coach admitted the violations occurred but argued they were only Level III. The factual bases for these violations are substantially undisputed by the parties.

NCAA Bylaw 13.1.2.1 generally prohibits representatives of an institution's athletics interests from contacting prospective student-athletes and their relatives or legal guardians, except in very limited circumstances detailed in the bylaws. Here, the representative was a local guy who ran junior golf tournaments and who established a friendly relationship with the former head men's golf coach. He facilitated contact and communication between the former head men's golf coach and several highly regarded prospects and their families. Specifically, between June and September 2013, the former head men's golf coach knew of and allowed the representative to contact prospects and their relatives on the institution's behalf or received forwarded contact information from the representative serving as an intermediary for the men's golf program. When the former head men's golf coach allowed his friend and the local junior tournament director to engage in recruiting activities on behalf of the institution's golf program he became a representative of the institution's athletics interests. The institution and the former head men's golf coach substantially agreed these actions violated NCAA Bylaws 13.1.2.1, 13.1.2.4, and 13.1.3.5.1. The panel concludes he violated NCAA recruiting legislation.

As with the other recruiting violations, the former head men's golf coach expressed regret at his "mistakes," and knew that he should have asked questions about the representative's activities. But yet again he failed to avail himself of the ample counsel and resources at his disposal in the institution's athletics compliance office. These repeated failings could have been avoided by the former head men's golf coach by focusing on compliance. Most troublesome is that he knew the rules, had received appropriate rules education from the institution, and knew better but still decided not to follow the rules. Regardless of motivation, the end result

here is the same - multiple intentional serious violations of NCAA recruiting legislation. The former head men's golf coach confidently expressed how he did not need the representative's assistance in recruiting. By all measures the former head men's golf coach was correct. He had recently won two Division I men's golf championships as a head coach at his previous institution, without the help of the representative, making his violations all the more distressing.

The panel concludes the facts found constitute Level II violations of NCAA bylaws because the violations provided or were intended to provide more than a minimal but less than a substantial recruiting advantage and were more serious than Level III violations.

**D. UNETHICAL CONDUCT BY THE FORMER HEAD MEN'S GOLF COACH [NCAA Bylaws 10.01.1 (2012-13 and 2013-14 Division I Manual) and 10.1 –(d) (2013 – 14 Division I Manual)]**

The former head men's golf coach engaged in unethical conduct when he knowingly provided false or misleading information to the enforcement staff during its investigation. The institution agreed the former head men's golf coach was not completely forthcoming in his initial interview with the enforcement staff and that if the panel found a violation it would be Level I. The former head men's golf coach disputed a violation occurred. The panel concludes that a Level I violation occurred.

**1. NCAA legislation regarding ethical conduct.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. During his September 25, 2013, interview with the enforcement staff and institution, the former head men's golf coach provided false or misleading information when he denied having knowledge of the representative's contacts with men's golf prospects on behalf of the institution.**

The former head men's golf coach violated NCAA ethical conduct legislation when he knowingly denied having any knowledge of the representative's impermissible recruiting activities on behalf of the institution. His actions seriously undermined or threatened the integrity of the NCAA Collegiate Model. Accordingly, the former head men's golf coach violated NCAA Bylaw 10.

NCAA Bylaw 10.01.1 generally provides that institutional staff shall act with honesty and sportsmanship at all times and shall represent the honor and dignity of fair play in competition. NCAA Bylaw 10.1-(d) defines unethical conduct as knowingly furnishing the NCAA or the individual's institution false or misleading information concerning an individual's knowledge or involvement in possible violations of NCAA legislation.

Here, the former head men's golf coach was asked in his initial interview if he had any knowledge of the representative's recruiting activities. He acknowledged that he knew the representative but repeatedly said he had no knowledge of his efforts on behalf of the institution. However, between June 24 and September 6, 2013, the former head men's golf coach and the representative exchanged over 35 emails in which the representative identified prospects he was working to bring to the institution's men's golf program. Yet, the former head men's golf coach claimed he was unaware of the representative's activities until September 5 or 6 when the institution's senior athletic director for compliance called and asked him about the issue. Indeed, he said in his initial interview that "[he] knew nothing about this issue" and he was "certain that [he] had no, that was the first, the first time I had ever – was made aware of this, of this email." Unfortunately for him, the number and nature of the emails he exchanged with the representative belie that testimony.

The panel did not find credible the assertion that the former head men's golf coach could not remember the representative saying in an email on September 6, 2013: "Coach *we* need to get [prospect] locked down so let me know your thoughts. I will lean on [another prospect] as well later this weekend." (Emphasis supplied). Earlier in the same email, the representative said, "[w]hen I explained *our* direction and talent *at SMU* he has now moved *SMU* to the top of his list." (Emphasis added). The representative is clearly speaking in terms of the collective possessive pronouns "we" and "our" when referring to the former head men's golf coach, the institution, and the institution's men's golf program. Similarly, in another email dated July 16, 2013, the representative sent the former head men's golf coach an update on successfully getting a prospect to visit the institution and he responded back to the representative, "Perfect! You the man. Thx as always. Any more word from the [another prospect's family] [.]" The former head men's golf coach's responses and engagement with the representative were more than just perfunctory. In this exchange, the former head men's golf coach praised the representative's efforts for getting a prospect to visit the institution's campus and then asked him about the status of another desired prospect.

These multiple communications occurred regularly over a period of two and a half months immediately prior to his initial interview with the enforcement staff, the last email of which was received on September 6, 2013, not even three weeks prior his interview.

For a coach who confidently stated that he could name "the top 40 or 50 [prospects] in the class during that time" the panel did not find credible the assertion that he could not recall the numerous communications he had with the representative. At the hearing, the former head men's golf coach maintained that he did not lie to the enforcement staff and simply could not recall his communications with the representative. He reiterated that he made a "mistake" and should have asked the right questions but did not. He knew the representative had "crossed the line" and should have consulted with athletics compliance but he did not. He knew he should have said "no" to the representative's efforts but was "too nice, too polite, and just didn't do it."

When the former head men's golf coach stated that he knew nothing of the representative's recruiting activities on behalf of the institution, he provided false or misleading information to the enforcement staff. In doing so, he violated NCAA Bylaws 10.01.1 and 10.1-(d), which require institutional staff to always be honest and maintain a high level of integrity as well as refrain from providing false or misleading information when it concerns potential rules violations. The former head men's golf coach had a troubling pattern of committing "mistakes," not asking questions, and not remembering key facts. This pattern was troublesome because by his own account, the institution provided "phenomenal" athletics compliance support and resources.

The panel concludes the facts found constitute Level I violations of NCAA bylaws because the violations involved conduct that seriously undermine or threaten the integrity of the NCAA Collegiate Model. The panel also concludes the foregoing Level II violations in men's golf are viewed collectively as Level I. *See* NCAA Bylaw 19.1.1(i).

**E. UNETHICAL CONDUCT BY THE FORMER COMPLIANCE DIRECTOR [NCAA Bylaws 10.01.1 and 10.1 (2012-13 and 2013-14 Division I Manual)]**

The former compliance director engaged in unethical conduct when he knowingly provided false or misleading information to the institution as part of its probation compliance documentation in Infractions Decision No. 343 that was submitted to the COI. The enforcement staff argued the violation was Level I. The institution was unsure whether a violation occurred because the rules education sessions

actually occurred, but if the panel found a violation it should be Level III. The panel concludes that a Level II violation occurred.

**1. NCAA legislation regarding ethical conduct.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. In March 2013, the former compliance director knowingly falsified attendance sign-in sheets for two rules education sessions that were provided to the women's track and field coaches in February and March 2012 and then had the institution unwittingly submit the falsified documents to the COI.**

The former compliance director violated NCAA ethical conduct legislation when he knowingly altered probation compliance documents and had the documents unwittingly submitted by the institution as evidence of its compliance to the COI. His actions involved conduct that undermined or threatened the integrity of the NCAA Collegiate Model. Accordingly, the former compliance director violated NCAA Bylaw 10.

NCAA Bylaw 10.01.1 generally provides that institutional staff shall act with honesty and sportsmanship at all times and shall represent the honor and dignity of fair play in competition. NCAA Bylaw 10.1 provides several bases for unethical conduct all of which are not listed in the bylaw. In this case, the former compliance director altered the sign-in sheets for two rules education sessions by using a sign-in sheet from a previous month that contained signatures of the women's track and field coaches by changing the date of the meeting in the header.

The former compliance director intentionally falsified documents that were eventually submitted to the COI as demonstration of the institution's compliance with its probation in Infractions Decision No. 343. He also chose not to participate in the infractions process to discuss and account for his actions. Pursuant to NCAA Bylaw 19.7.2, the panel concludes that the former compliance director's failure to submit a timely response was an admission that the violation occurred. Institutional staff members who administer intercollegiate athletics are held to a high standard of conduct at all times. The former compliance director's actions fell short of meeting that standard.

The irony is that the rules education sessions for which he doctored sign-in sheets actually occurred. He inadvertently failed to obtain

contemporaneous signatures from the attending coaches on the date the sessions occurred, a minor gaffe made worse by his cover-up to his superiors at the institution. The institution agreed that the former compliance director falsified the documents but does not believe his actions are necessarily a violation since the rules education sessions actually occurred. When the former compliance director failed to have sign-in sheets available at the two rules sessions for track and field coaches, he committed an error of omission. When he acted to perpetrate a fraud on the COI by manufacturing documentation and having it intentionally submitted in the institution's probation compliance report, his error of omission transformed into one of commission. The panel refused to countenance such behavior, especially from someone who is expressly responsible for advising and guiding others on how to obey the rules. He violated NCAA Bylaws 10.01.1 and 10.1 when he failed to deport himself in accordance with generally recognized high standards of honesty and sportsmanship in the administration of intercollegiate athletics.

The panel concludes the facts found constitute a Level II violation of NCAA bylaws because the violation involved conduct that undermines or threatens the integrity of the NCAA Collegiate Model.

**F. UNETHICAL CONDUCT BY THE FORMER ADMINISTRATIVE ASSISTANT [NCAA Bylaws 10.01.1, 10.1, 10.1-(a) 10.1-(b), 10.1-(d), and 19.2.3 (2014-15 Division I Manual)]**

The former administrative assistant engaged in unethical conduct when she knowingly facilitated the receipt of fraudulent academic credit by the student-athlete in a pre-enrollment online course.<sup>14</sup> She further engaged in unethical conduct when she influenced the student-athlete to provide false or misleading information to the enforcement staff. The institution and the enforcement staff substantially agreed the violation occurred and that it was Level I. The panel concludes that a Level I violation occurred.

**1. NCAA legislation regarding ethical conduct.**

The applicable portions of the bylaws may be found at Appendix Two.

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<sup>14</sup> The term "academic fraud" is used for consistency purposes throughout this decision and is referred to as academic misconduct in an April 16, 2014, Official Interpretation.

2. **Between June 2013 and July 2014 the former administrative assistant knowingly arranged for the student-athlete to receive fraudulent academic credit and then knowingly influenced him to provide false or misleading information to the enforcement staff.**

The former administrative assistant violated NCAA unethical conduct legislation when she knowingly arranged for the student-athlete's fraudulent receipt of academic credit for a pre-enrollment online course. When the specter of being caught for her misconduct appeared imminent, she knowingly influenced the student-athlete to provide false or misleading information to the enforcement staff. The institution substantially agreed that the former administrative assistant was knowingly involved in arranging for the fraudulent receipt of academic credit. Her actions severely undermined or threatened the integrity of the NCAA Collegiate Model. Accordingly, the former administrative assistant violated NCAA Bylaws 10.01.1, 10.1-(b) and 10.1-(d).

NCAA Bylaw 10.01.1 generally provides that institutional staff shall act with honesty and sportsmanship at all times and shall represent the honor and dignity of fair play in intercollegiate competition. NCAA Bylaw 10.1-(b) defines unethical conduct as knowingly arranging for fraudulent academic credit for a prospective student-athlete. Additionally, on April 16, 2014, NCAA Academic and Membership Affairs published an official interpretation to NCAA Bylaw 10 on reporting academic misconduct. The official interpretation provides in pertinent part: "If an institution determines academic misconduct has occurred, the following standards apply: ... (2) Student-Athlete or Prospective Student-Athlete. An institution is required to report a violation of Bylaw 10.1-(b) any time a student-athlete or prospective student-athlete, acting alone or in concert with others, is involved in arranging fraudulent academic credit or false transcripts, *regardless of whether such conduct results in an erroneous declaration of eligibility.*" (Emphasis added). The official interpretation made the issue of whether the student-athlete actually needed the course for admission or initial eligibility moot.<sup>15</sup>

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<sup>15</sup> At the hearing, there was significant discussion as to whether the student-athlete actually needed the additional summer course in order to meet NCAA initial eligibility requirements and/or admission to the institution. The institution did not contest that the academic fraud occurred; only that the student-athlete did not ultimately need the course because one of his courses from a high school was recalculated to give him additional credit for having taken an honors course. Here, the institution was still required to report the academic fraud as a violation to the NCAA. Moreover, it was not until after the fraudulent credit was obtained and the NCAA Eligibility Center had completed the student-athlete's certification that the institution realized that the course was not needed for eligibility purposes.

The former assistant men's basketball coach advised the student-athlete to enroll in the online summer course as a "Plus 1" option for raising his core grade-point average in an effort to meet NCAA initial eligibility requirements. The panel was very concerned that the former assistant men's basketball coach was advising a prospect on academic issues. Indeed, he advised the student-athlete to take a course he ultimately did not need because the student-athlete had an honors course from his first high school recalculated which gave him additional credit. The panel was also very troubled that academic advising was being administered by athletics staff in this case. Academic advising should be done by the institution's trained experts in the field and not left to coaches or sport specific staff. While it was unclear how the former administrative assistant obtained the student-athlete's online course account information and email login and password, it is clear that she completed all of the coursework for him.

She obtained the student-athlete's username and password to his online course account. All of the course assignments, discussions, and exams were completed by her between June 17 and July 3, 2013, a period of 17 days. Forensic analysis of the metadata supplied by the online school revealed that the former administrative assistant was the author and editor of every assignment submitted by the student-athlete. The student-athlete ultimately received a grade of "A-" for the course. As a result of the student-athlete receiving fraudulent academic credit for the online course, he competed while ineligible during his freshman season at the institution, regardless of whether he ultimately needed the course for initial eligibility. When the basketball administrative assistant completed all of the student-athlete's online coursework she engaged in unethical conduct and violated NCAA Bylaw 10.1-(b). Similarly, when she obtained the student-athlete's online account information and submitted the completed coursework to the online school on behalf of the student-athlete, she was dishonest and violated NCAA Bylaw 10.01.1.

NCAA Bylaw 10.1-(d) defines unethical conduct as knowingly furnishing the NCAA or the individual's institution false or misleading information concerning an individual's knowledge or involvement in possible violations of NCAA legislation. Here, not only did the former administrative assistant arrange for academic fraud, she then compounded her misconduct by fabricating a story in an attempt to cover up her misdeeds and the academic fraud. She knowingly influenced the student-athlete to furnish false or misleading information to the enforcement staff in an effort to keep her job. The student-athlete admitted that the former

administrative assistant approached him at the institution's basketball facility about one week prior to his second interview with the enforcement staff on August 4, 2014. During that encounter, she revealed to him for the first time that she had completed all of the coursework for his online class. He also revealed that in the week prior to his second interview, she asked him to lie to the enforcement staff about how the online course was completed. She encouraged him to tell the enforcement staff that he completed the online course himself and that he only came over to her house to work on his assignments and that she only tutored him. Rather than taking responsibility for her own actions, she unethically tried to influence and coopt a young enrolled student-athlete to furnish false or misleading information to the NCAA. When the former administrative assistant knowingly influenced the student-athlete to provide false or misleading information to the enforcement staff, she violated NCAA Bylaw 10.1-(d).

- 3. Between August 4 and September 9, 2014, the former administrative assistant knowingly provided false or misleading information to the enforcement staff regarding the completion of the student-athlete online course and then failed to further cooperate with the institution and the enforcement staff in the investigation.**

During the investigation the former administrative assistant sat for two interviews with the enforcement staff. In her first interview she offered one version of events surrounding the completion of the student-athlete's online course: that he did the work himself. In her second interview she confirmed this story. However, when confronted with a different version of events supplied by the student-athlete that had her completing the course for him, she confirmed the essential elements of the student-athlete's story. After she prematurely ended the interview and refused to answer any further questions, she then refused to further cooperate in the infractions process. Her actions violated NCAA Bylaws 10.1-(a) and 19.2.3.

NCAA Bylaw 10.1-(a) specifically deems it an act of unethical conduct for an institutional staff member to refuse to furnish pertinent information about a possible violation of NCAA legislation when asked to do so by the NCAA or the institution. NCAA Bylaw 19.2.3 imposes an affirmative obligation on current and former institutional staff members to cooperate fully with the enforcement staff, the COI, and Infractions Appeals Committee in an infractions case. The obligation to cooperate fully requires institutions and individuals to protect the integrity of

investigations and to make a full and complete disclosure of any relevant information, including any information requested by the enforcement staff or relevant committees.

In her August 4, 2014, interview, the former administrative assistant was asked about the student-athlete's online coursework and how it was completed. She stated that the student-athlete came over to her house to use her laptop to complete his online coursework. She claimed that he did all of this own work and that she only tutored him if he asked for help. In her second interview on September 9, 2014, she again confirmed that story. That is until she was confronted with the student-athlete's version of events from his second interview.

In his second interview, the student-athlete indicated that he did none of the work for his online class and that the former administrative assistant informed him in an impromptu meeting that she had completed the coursework for him. Once confronted with the student-athlete's version of events, the former administrative assistant confirmed, through her counsel, that version of events and terminated the interview. After terminating the interview without answering any further questions to assist the investigation, she refused to cooperate any further in the infractions process. When the former administrative assistant knowingly provided false or misleading information to the enforcement staff and the institution about her involvement in the completion of the student-athlete's online course she violated NCAA Bylaw 10.1-(a). When she refused to abide by her enduring obligation to cooperate in this infractions case, she violated NCAA Bylaw 19.2.3.

The panel concludes the facts found are Level I violations of NCAA bylaws because the violations seriously undermine or threaten the integrity of the NCAA Collegiate Model.

**G. HEAD COACH RESPONSIBILITY [NCAA Constitution 2.8.1 (2013-14 and 2014-15) and NCAA Bylaws 11.1.2.1 (2012-13) and 11.1.1.1 (2013-14 and 2014-15)]**

The head men's basketball coach failed to report possible rules violations in his program. He then lied when initially asked about his knowledge of possible violations in his program and failed to promote an atmosphere of compliance within his program, though he later corrected that information in the same interview with the enforcement staff. The enforcement staff argued that both violations are Level I. The institution acknowledged that he failed to notify it

when he initially became aware of potential violations in the men's basketball program. The institution argued that if the panel found a failure to report violation that it was Level II. However, the institution disagreed that the head men's basketball coach failed to promote an atmosphere of compliance and took no position on level.

**1. NCAA legislation regarding the duty to report violations and head coach responsibility.**

The applicable portions of the bylaws may be found at Appendix Two.

**2. Between July 25 and September 9, 2014, the head men's basketball coach failed to report violations in his program after he learned that the student-athlete did not complete the online coursework for his class. Moreover, he lied to the enforcement staff when initially asked about potential violations in his program and set a tone of noncompliance within his program that included his former administrative assistant's academic fraud on behalf of the student-athlete, and his former assistant men's basketball coach failure to inform him of possible violations in his program. He failed to rebut the presumption of head coach responsibility.**

The head men's basketball coach failed to report violations of NCAA legislation after he learned the student-athlete did not complete the work for his pre-enrollment online class. In doing so, he failed to identify and report instances of noncompliance within his program. His actions involved conduct that seriously undermined or threatened the integrity of the NCAA Collegiate Model. Accordingly, the head men's basketball coach violated NCAA Constitution 2.8.1.

NCAA Constitution 2.8.1 generally requires institutional staff to identify and report any instances of noncompliance with NCAA legislation to the NCAA. Here, the head men's basketball coach learned of rules violation within his program between July 25 and August 4, 2014. During that time both the student-athlete and the former administrative assistant informed him that the student-athlete did not complete the coursework for his online class. Yet, for over one month, and not until his September 9, 2014, interview did he disclose his knowledge of the violations. The COI has previously dealt with several cases where head coaches have failed to report violations on their watch. The head men's basketball coach's conduct was similar to the conduct of the head football coach in *The Ohio State University*, Infractions Decision No. 358 (2011). In that case, the

head football coach was informed by a local attorney that some football student-athletes sold athletic awards, apparel, and equipment to a local tattoo parlor owner. The head football coach did nothing with that information and failed to report it to anyone in athletics compliance at the institution. *The Ohio State University* (concluding a violation of unethical conduct by the head football coach under NCAA Bylaw 10.1). As mentioned in *Ohio State*, the COI was extremely concerned by the conduct of the former head football coach in that case and the same concerns are expressed here by the panel about the conduct of the head men's basketball coach. The fact is he initially lied to the enforcement staff when queried about the possible violations. While he claimed to deeply care about the people involved in violations in this case and a desire to protect them, he exhibited no concern for or attention to rules compliance. While he subsequently came forward in that interview with his knowledge of the violations, the damage was done.

He failed to inform not only the Association, but never informed his own compliance staff, the institution's director of athletics or its president. He told no one, and he did nothing with the information disclosed to him by two individuals in his program. This was unacceptable conduct from the head men's basketball coach and while he was contrite at the hearing, he nonetheless made a severe error in failing to report the violations in his program. When he failed to report violations of NCAA legislation in his program, he violated NCAA Constitution 2.8.1.

The head men's basketball coach's failure to report violations is also a part of a greater failure to promote an atmosphere of compliance. Between June 2013 and September 2014, he failed to promote an atmosphere of compliance within his program when: the former administrative assistant committed academic fraud on behalf of the student-athlete; he failed to report possible violations; and he lied to the enforcement staff about his knowledge of possible violations. His actions or omissions violated NCAA Bylaws 11.1.2.1 and 11.1.1.1.

NCAA Bylaws 11.1.2.1 and 11.1.1.1 generally require a head coach to promote an atmosphere of compliance within his or her program and monitor the activities of all institutional staff who report directly or indirectly to the head coach. Within the legislation there is a presumption that head coaches are responsible for the conduct of all assistant coaches and staff that report directly or indirectly to them. The presumption is rebuttable. Head coach responsibility legislation has been in existence for more than 10 years and the committee has decided several cases under the

legislation. Some of the more recent cases have addressed a head coach's responsibility to recognize potential problems, address them, and report them to athletics administration. *See, e.g., University of Connecticut*, Infractions Decision No. 339 (2011) (concluding the head men's basketball coach failed to promote an atmosphere of compliance when he did not identify potential problems, address them, and report them). Other cases have identified the need for head coaches to seek information related to potential violations. *See, e.g., University of Miami*, Infractions Decision No. 390 (2013) (concluding the former head men's basketball coach failed to promote an atmosphere of compliance when he did not inquire and report all compliance concerns, questions, or violations). In this case, the head men's basketball coach failed to rebut the presumption of head coach responsibility because he did none of the things identified in some of the prior cases to adequately do so.

While the head men's basketball coach spoke generally or philosophically of doing things the right way in his program, he specifically failed to recognize, address, or report violations in his program when he was informed by two members of his program. When he was informed by the student-athlete that he had not completed the coursework for his online class, the head men's basketball coach did nothing with that information. Shortly after receiving the news from the student-athlete, the former administrative assistant told him that she completed the coursework for the student-athlete. Still, he chose to do nothing with that information. Moreover, a third member of his program, the former assistant men's basketball coach, learned of the academic fraud in a phone call and did not report the violation to him. While not charged with a failure to report violation in this case, the former assistant men's basketball coach's failure to inform the head men's basketball coach about the academic fraud indicated an atmosphere of noncompliance within the program. He did not pose any questions to the former assistant men's basketball coach who recruited the student-athlete about what he may have known about the academic fraud in his program. He failed to pose any questions to his athletics compliance staff about what he should have done to report the possible violations. Combined with the former administrative assistant's commission of academic fraud and unethical conduct in the investigation, the message of doing things the right way in the men's basketball program was lost. In short, his program exhibited a culture of noncompliance that resulted in several major violations.

While he did not have any role in the commission of the violations of his staff, he is presumed responsible for their actions. He failed to ask any

questions of the former administrative assistant's about her relationship with the student-athlete. The student-athlete would regularly visit with her in the basketball offices when the student-athlete came to campus to play open gym basketball. She regularly babysat the student-athlete's toddler son in the basketball offices in the summer prior to his enrollment at the institution. Yet, this did not raise any concerns from the men's basketball head coach. The panel reiterates that it is incumbent upon head coaches to recognize or identify potential problems within their programs and address them in a timely fashion. When the head men's basketball coach did not report violations in his program and then lied about it, he set the wrong tone and he violated his responsibility as the leader of his program to promote an atmosphere of compliance. When two members of his staff who report directly to him either committed violations or failed to inform him of violations, as head coach he is responsible for their actions unless he has rebutted that presumption. He has failed to do so here. When he failed to promote an atmosphere of compliance in his program he violated NCAA Bylaws 11.1.2.1 and 11.1.1.1.

The panel concludes the facts found constitute Level I violations of NCAA bylaws because the violations involved conduct that seriously undermine or threaten the integrity of the NCAA Collegiate Model.

## **V. VIOLATIONS NOT DEMONSTRATED**

### **Probation Compliance**

As noted in the introduction, this case was initiated because the institution self-reported a violation when its former compliance director falsified documentation in an annual probation report submitted to the COI. That led to a wider investigation into the institution's compliance with Infractions Decision No. 343. The enforcement staff alleged that between January 2012 and February 2013, the institution violated the terms of its probation when it failed to fully implement required monthly rules education sessions. This allegation also served as the basis for a lack of institutional control allegation discussed below. The institution disagreed that it violated the terms of its probation and asserts it substantially complied with the terms of supplying comprehensive NCAA rules education.

The panel concludes that the institution did not fail to comply with the terms of its probation because it provided over 100 individual rules-education sessions with coaches that covered a variety of topics including, but not limited to, recruiting, awards and benefits, ethical conduct, amateurism, head coach responsibility, and newly adopted

legislation. The institution's rules education sessions mirrored the academic calendar and did not conduct monthly rules education sessions during the summer months. The panel concludes that when examining the totality of the circumstances, a violation for noncompliance is unwarranted in this case. While the panel did not conclude a violation in this case, it reiterates the importance of complying with all of the terms of probation consistent with COI decisions.

### **Lack of Institutional Control**

As noted above, the enforcement staff alleged the institution lacked control because of the alleged underlying failure to comply with the probation terms of Infractions Decision No. 343. Moreover, the enforcement staff alleged the institution failed to have an adequate system in place to monitor the administration of monthly rules education sessions its sports programs' coaching staffs. The enforcement staff also alleged that the institution delegated the responsibility to ensure compliance with the penalties prescribed in Infractions Decision No. 343 to two individuals with little or no familiarity with the institution's preliminary report in that case. The institution's efforts to comply with the rules education requirements of Infractions Decision No. 343 was duly recounted above and will not be rehashed here. In addition to what was described above, the institution also conducted a review of all compliance systems by an outside firm, purchased a software system to assist in monitoring all recruiting activities, issued daily compliance materials in a variety of formats including the athletics compliance office's social media account, and hired two additional compliance administrators. Suffice it to say that if those efforts were insufficient to warrant a finding of noncompliance, they certainly do not warrant a conclusion that the institution lacked control, a much more serious violation.

With respect to the portion of the allegation that the compliance director and the director of athletics were unfamiliar with the institution's preliminary report in the previous infractions matter, the panel found both individuals' statements at the hearing credible and persuasive. The senior associate athletics compliance director stated that he was "aware of the institution's 2011 infractions decision regarding impermissible text messages by the former men's basketball staff, and the committee's directive regarding the continued development of a comprehensive rules education program" when he accepted the job in July 2011. Similarly the director of athletics expressed that he too was aware of the previous infractions matter and "learned the nature of the violation, became aware that [the institution] had already submitted our first annual report, and it was accepted without comment . . . ." Both administrators conveyed how important athletics compliance was to them coming into their new positions and to the institution. Again, the panel does not conclude a lack of institutional control existed under these circumstances.

### **The Former Head Men's Golf Coach's Alleged Unethical Conduct for Providing Impermissible Inducements to Prospects**

The former head men's golf coach knowingly provided impermissible inducements to four men's golf prospects between March and September 2013. Section III-B of this decision outlined in detail the specifics of his impermissible conduct. The underlying conduct and violations formed the basis for an additional unethical conduct allegation by the enforcement staff against the former head men's golf coach. The institution and the former men's head golf coach disputed that the agreed-upon underlying violations were a proper basis for forming a separate unethical conduct violation under NCAA legislation. The panel concludes that in this case, these facts did not warrant a separate conclusion of unethical conduct. The former head men's golf coach offered these impermissible inducements to prospects that he felt were already in his program because they had verbally committed to the institution but had not yet signed any letters of intent. The panel in no way minimizes the serious nature of the former head men's golf coach's violations, but such conduct in this case, did not merit an additional unethical conduct violation.

### **The Former Assistant Men's Basketball Coach's Alleged Unethical Conduct**

The former assistant men's basketball coach was a key figure in this case and played a significant role in the men's basketball allegations for academic fraud brought by the enforcement staff. The enforcement staff alleged he instructed the student-athlete to enroll in the summer online course and that he and the former administrative assistant knowingly arranged for the student-athlete to fraudulently obtain academic credit. He was also alleged to have knowingly influenced the student-athlete to provide false or misleading information to the institution and the enforcement staff during the investigation. Finally, he was alleged to have provided false or misleading information during the investigation regarding his role in obtaining the fraudulent academic credit and for fabricating a story about the completion of the online course. The institution substantially agreed the former assistant men's basketball coach engaged in the impermissible conduct as alleged. However, based on the information presented to the panel, it remains unclear what actually occurred in this case. The investigation and review of this case was further frustrated by the basketball administrative assistant's decision to cease her cooperation with the investigation in this case. Although the former assistant men's basketball coach had the login and password online course account and his personal email account, he maintained at the hearing he knew nothing of the academic fraud until sometime before August 4, 2014, when the former administrative assistant called him on the phone in a three-way conversation that included the student-athlete.

Without the benefit of having the former administrative assistant's appearance at the hearing, the panel looked to the one person who could offer an informed opinion on credibility and who knew the principals the best: the head men's basketball coach. Unfortunately, the head men's basketball coach equivocated when asked as to whom the panel should believe between two members of his program: the student-athlete or the former assistant men's basketball coach. He said in part, "I have no way of answering that question." While the head men's basketball coach was understandably torn, the panel did not enjoy the luxury of being equivocal in its adjudication of this case. Finding the information available on whether the former assistant men's basketball coach committed the alleged unethical conduct violations in equipoise, the panel was unable to conclude a violation occurred.

## **VI. PENALTIES**

For the reasons set forth in Sections III and IV of this decision, the panel concludes this case involved Level I and Level II violations of NCAA legislation. The panel determines the violations in this case occurred predominated after the October 30, 2012, effective date of the new penalty structure. Therefore, the panel prescribes penalties under the current NCAA Bylaw 19 penalty guidelines. In considering the penalties under the new penalty structure, the panel reviewed the aggravating and mitigating factors to appropriately classify the case and violations.

The panel then determined the applicable penalty level. Level I violations are severe breaches of conduct. The panel concludes the institution committed Level I violations because institutions act through their staff and the institution's staff committed multiple Level I violations in this case. The former head men's golf coach committed Level I violations when he provided false or misleading information to the enforcement staff. The former head men's golf coach also committed collective Level II violations that arose to Level I when he impermissibly communicated with several prospects, provided prospects impermissible inducements, and allowed the representative to engage in recruiting activities on behalf of the institution. These violations provided or were intended to provide a substantial recruiting advantage to the institution.

The former administrative assistant committed Level I violations when she completed an online private summer school course and fraudulently obtained academic credit on behalf of the student-athlete. Because the institution is responsible for the actions of its staff members in the administration of its athletics programs, the institution also committed Level I violations. The former administrative assistant committed Level I violations when she provided false or misleading information to the enforcement staff and failed to further cooperate in the investigation. Finally, the head men's basketball coach committed a Level I violation when he failed to report a potential violation to the

institution's athletics compliance staff when he learned that the former administrative assistant impermissibly completed academic work on behalf of the student-athlete. He also committed a Level I violation under NCAA head coach responsibility legislation for failing to promote an atmosphere of compliance in his program. These violations provided or were intended to provide the institution with a substantial competitive advantage. More importantly, these violations seriously undermined or threatened the integrity of the NCAA Collegiate Model.

Level II violations are significant breaches of conduct. The panel concluded the institution committed a Level II violation when it permitted the former director of compliance to submit falsified documents related to its probation compliance in a previous infractions matter to the Committee on Infractions. The violation involved conduct that compromised the integrity of the NCAA Collegiate Model.

To determine the appropriate classification of this Level I case as mitigated, standard or aggravated, the panel considered aggravating and mitigating factors pursuant to NCAA Bylaws 19.9.3 and 19.9.4. When applying the penalty guidelines, the panel also assessed aggravating and mitigating factors by weight as well as number. The panel determined the following factors applied, resulting in the panel classifying this case as Level I – Standard for the institution; Level I – Standard for the head men's basketball coach; Level I – Aggravated for the former administrative assistant; Level I – Aggravated for the former head men's golf coach; and Level II – Standard for the former compliance director.

#### **Aggravating Factors for the Institution**

- 19.9.3-(b): A history of major violations by the institution;
- 19.9.3-(e): Unethical conduct, failing to cooperate during an investigation and refusing to provide all relevant or requested information;
- 19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct;
- 19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws.

#### **Mitigating Factors for the Institution**

- 19.9.4-(b): Prompt acknowledgement of the violation, acceptance of responsibility and imposition of meaningful corrective measures;
- 19.9.4-(c): Affirmative steps to expedite final resolution of the matter;
- 19.9.4-(d): An established history of self-reporting Level III or secondary violations.

**Aggravating Factors for the Head Men's Basketball Coach**

19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws;

19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct.

**Mitigating Factors for the Head Men's Basketball Coach**

None.

**Aggravating Factors for the Former Administrative Assistant**

19.9.3-(a): Multiple Level I violations by the institution or involved individual;

19.9.3-(d): Obstructing an investigation or attempting to conceal investigation;

19.9.3-(e): Unethical conduct, failing to cooperate during an investigation and refusing to provide all relevant or requested information;

19.9.3-(f): Violations were premeditated, deliberate, and committed after substantial planning;

19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws.

**Mitigating Factors for the Former Administrative Assistant**

None.

**Aggravating Factors for the Former Head Men's Golf Coach**

19.9.3-(e): Unethical conduct, failing to cooperate during an investigation and refusing to provide all relevant or requested information;

19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution and bylaws.

**Mitigating Factors for the Former Head Men's Golf Coach**

None.

**Aggravating Factors for the Former Compliance Director**

19.9.3-(e): Unethical conduct, failing to cooperate during an investigation and refusing to provide all relevant or requested information.

### **Mitigating Factors for the Former Compliance Director**

19.9.4-(b): Prompt acknowledgement of the violation and acceptance of responsibility.

All of the penalties prescribed in this case are independent of and supplemental to any action the Committee on Academics has taken or may take through its assessment of postseason ineligibility, historical penalties or other penalties. The institution's corrective actions are contained in Appendix One. After considering all information relevant to the case, the panel determined that the number and nature of the aggravating factors outweighed the mitigating factors with regard to the institution. The panel prescribes the following:

### **Core Penalties for Level I – Standard Violations by the Institution (NCAA Bylaw 19.9.5)**

1. Probation: Pursuant to NCAA Bylaw 19.9.6, the panel prescribes a three-year probationary period from September 29, 2015, to September 28, 2018, due to the number of years involved in the violations and to ensure that proper policies and procedures are in place to prevent and detect any reoccurrences;
2. Competition Penalties: Both the men's basketball and men's golf programs shall be banned from postseason competitions for one year commencing the 2015-16 academic year;
3. Financial Penalties: The institution shall pay a \$5,000 fine plus one percent of the total budget for the men's basketball program and the men's golf program;
4. Scholarship reductions from the average number awarded over the previous four academic years:
  - a. Men's Golf: the men's golf program shall reduce the number of scholarship equivalencies offered by 25 percent for each year for a period of three years commencing in the 2016-17 academic year and continuing through and including the 2018-19 academic year. The institution is given credit for the 12 percent reduction it will take during the 2015-16 academic year. (Institution imposed.) Thereafter, the institution is given the flexibility to determine when and how it will apply the credit over the three-year period.
  - b. Men's Basketball: the men's basketball program shall reduce the number of scholarships by nine over a period of three years to commence with the 2016-17 academic year and continue through the 2018-19 academic year.

The institution is given credit for the two scholarships it will reduce in the upcoming 2015-16 academic year (Institution imposed). Thereafter, the institution is given flexibility to determine how to implement the remaining seven scholarship reductions in men's basketball over the remaining probationary period.

5. Recruiting Restrictions:

a. Men's basketball:

- i. The institution prohibited uncommitted prospective student-athletes from unofficial visits from February 1 through March 31, 2015; (Institution imposed)
- ii. The institution is further prohibited from hosting any unofficial visits for 13 weeks in the summer of 2016;
- iii. The institution prohibited complimentary admissions to uncommitted prospective student-athletes from February 1 through March 15, 2015; (Institution imposed)
- iv. During the 2015-16 academic year, the institution will reduce the number of official visits by three; (Institution imposed)
- v. During the 2016-17 and 2017-18 academic years, the institution shall reduce the number of official visits by two in each year;
- vi. The institution prohibited recruiting communications with uncommitted prospective student-athletes from February 8 through March 21, 2015; (Institution imposed)
- vii. The institution is further required to reduce recruiting communications with prospective student-athletes by 12.5 percent (seven weeks) in the spring of 2016; and
- viii. The institution shall reduce the number of recruiting person days by 20 days, from 130 to 110, for the 2015-16 academic year. (Institution imposed)

b. Men's golf:

- i. The institution prohibited unofficial visits for uncommitted prospective student-athletes from February 1 through March 21, 2015; (Institution imposed)
- ii. The institution is further prohibited from hosting any unofficial visits for 13 weeks in the summer of 2016;
- iii. The institution prohibited complimentary admissions for uncommitted prospective student-athletes from February through March 14, 2015; (Institution imposed)

- iv. The institution will limit the number of official visits to two during the 2015-16 and 2016-17 academic years; (Institution imposed)
- v. The institution reduced recruiting communications with uncommitted prospective student-athletes from February 1 through March 14, 2015; (Institution imposed)
- vi. The institution shall further reduce recruiting communications by 12.5 percent (seven weeks) in the spring of 2016; and
- vii. The institution prohibited off-campus recruiting of prospective student-athletes from February 1 through March 21, 2015. (Institution imposed)

**Additional Penalties for Level I – Standard Violations (NCAA Bylaw 19.9.7)**

- 6. Public reprimand and censure;
- 7. When the former administrative assistant completed the student-athlete's online coursework and submitted it for academic credit on his behalf, she committed academic fraud. Thus from June 2013 when she first submitted assignments on the student-athlete's behalf until August 4, 2014, when the COI granted him limited immunity, the student-athlete was ineligible. Pursuant to NCAA Bylaw 19.9.7(g), the institution shall vacate all wins in which the student-athlete participated while ineligible during the 2013-14 academic year. This order of vacation includes all regular season competition, conference tournaments and NCAA postseason competition. The individual records of the ineligible student-athlete shall also be vacated. However, the individual records and any awards for all eligible student-athletes will be retained. Further, the institution's records regarding its men's basketball program, as well as the record of the head men's basketball coach, will reflect the vacated records and will be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media plus institutional, conference and NCAA archives. Any institution that may subsequently hire the head men's basketball coach shall similarly reflect the vacated wins in their career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins to attain specific honors or victory "milestones" such as 100<sup>th</sup>, 200<sup>th</sup> or 500<sup>th</sup> career victories. Any public reference to the vacated contests shall be removed from athletics department stationary, banners displayed in public areas and any other forum in which they may appear.

Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of

athletics) must contact the NCAA Media Coordination and Statistics Office and appropriate conference officials to identify the specific student-athlete and contests impacted by the penalties. In addition, the institution must provide the NCAA Media Coordination and Statistics Office with a written report, detailing those discussions. This document will be maintained in the permanent files of the NCAA Media Coordination and Statistics Office. This written report must be delivered to the office no later than 45 days following the release of this decision. The sports information director (or designee) must also inform the Office of the Committees on Infractions of its submission to the NCAA Media Coordination and Statistics Office.

8. The institution shall show cause why it should not be penalized further if it fails to permanently disassociate the representative from the institution's athletics program based on his involvement in the violations in the men's golf program as set forth in this decision. These include:
  - a. Not accepting any assistance from the individual that would aid in the recruitment of prospective student-athletes or the support of enrolled student-athletes;
  - b. Not accepting financial assistance for the institution's athletics program from the individual;
  - c. Ensuring that no athletics benefit or privilege is provided to the individual that is not generally available to the public at large; and
  - d. Taking such other actions against the individual that the institution determines to be within its authority to eliminate the involvement of the individual in the institution's athletics program.
9. The institution shall cease all apparel and merchandise sales to prospective student-athletes in the men's golf program for a period of three years.
10. During the period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for the implementation and adherence to current recruiting legislation in men's golf and men's basketball and the institution's probation compliance requirements;

- b. Submit a preliminary report to the Office of the Committees on Infractions by November 15, 2015, setting forth a schedule for establishing this compliance and educational program;
  - c. File with the NCAA Office of the Committees on Infractions annual compliance reports indicating the progress made with this program by August 1 of each year during the probationary period, indicating the progress made with this program. These annual reports should include a plan for training any new athletic department staff hires about NCAA rules education and responsibilities. Particular emphasis should be placed on recruiting rules education, head coach responsibility, and ethical conduct. The report must also include documentation of the institution's compliance with the penalties adopted and prescribed by the panel and imposed by the institution;
  - d. Inform in writing all prospective student-athletes in men's basketball and men's golf that the institution is on probation for three years and detail the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospective student-athlete signs a National Letter of Intent; and
  - e. Publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions report located on the athletic department's main webpage and in the media guides and for the involved sports, and any alumni publications of the institution. The institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the major infractions case; and (iii) give members of the general public a clear indication of what happened in the major infractions case to allow the public (particularly prospective student-athletes and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.
11. Pursuant to NCAA Bylaw 19.9.10, the NCAA president may forward a copy of the public infractions decision to the appropriate regional accrediting agency.
12. Following the receipt of the final compliance report and prior to the conclusion of probation, the institution's president shall provide a letter to the committee

affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

**Core Penalties for Level I – Standard Violations by the Head Men's Basketball Coach (NCAA Bylaw 19.9.5)**

This case reflected that the head men's basketball coach committed multiple severe violations and failed in his head coach responsibility to promote an atmosphere of compliance. Therefore, the head men's basketball coach will be informed in writing by the NCAA that the conduct of the head coach is subject to head coach restrictions through a show-cause order. The institution that currently employs the head coach or any subsequent employing NCAA member institution shall adhere to and certify compliance with this penalty in a written report. If the employing institution does not agree to these restrictions, it shall appear before a hearing panel and show cause why the restrictions should not apply. Pursuant to NCAA Bylaw 19 the head men's basketball coach shall have a two-year show-cause order from September 29, 2015, through September 28, 2017:

- a. As part of his show-cause order, the head men's basketball coach shall be suspended from his coaching responsibilities for 30 percent of the men's basketball season to commence at the start of the 2015-16 basketball season, not including any exhibition games. During the period of suspension, the head men's basketball coach is prohibited from performing all coaching and recruiting activities and may not have any contact with members of his basketball staff, student-athletes, and prospective student-athletes;
- b. As part of his show-cause order, the head men's basketball coach shall attend an NCAA Regional Rules seminar for each year of the two-year show-cause period; and
- c. Further, the head men's basketball coach's employing institution shall file with the NCAA Office of the Committees on Infractions a statement detailing its adherence to these restrictions. The employing institution shall file these statements on March 29, 2016, (six months after release), on September 29, 2016, (one-year after release), and on September 29, 2017, (two-years after release).

**Core Penalties for Level I – Aggravated Violations by the Former Head Men's Golf Coach (NCAA Bylaw 19.9.5)**

This case reflected that the former head men's golf coach committed multiple severe violations and engaged in unethical conduct. Therefore, the former head men's golf coach will be informed in writing by the NCAA that should he be employed or affiliated

in an athletically related position at another NCAA member institution during a five-year period, with one year of credit for the year he has already been separated from the institution, for a total of four years from September 29, 2015, through September 28, 2019, within 30 days of the former head men's golf coach's hiring, that employing institution shall ask for a date to appear before a hearing panel to show cause why the restrictions on all athletically related duties should not apply.

**Core Penalties for Level I – Aggravated Violations by the Former Administrative Assistant (NCAA Bylaw 19.9.5)**

This case reflected that the former administrative assistant committed egregious violations and engaged in unethical conduct. Therefore, the former administrative assistant will be informed in writing by the NCAA that should she be employed or affiliated in an athletically related position at another NCAA member institution during a five-year period from September 29, 2015, through September 28, 2020, within 30 days of the former administrative assistant's hiring, that employing institution shall ask for a date to appear before a hearing panel to show cause why the restrictions on all athletically related duties should not apply.

**Core Penalties for Level II – Standard Violations by the Former Compliance Director (NCAA Bylaw 19.9.5)**

This case reflected that the former compliance director engaged in serious unethical conduct. Therefore, the former compliance director will be informed in writing by the NCAA that should he be employed or affiliated in an athletically related position at another NCAA member institution during a two-year period from September 29, 2015, through September 28, 2017, within 30 days of the former compliance director's hiring, that employing institution shall ask for a date to appear before a hearing panel to show cause why the restrictions on all athletically related duties should not apply.

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The Committee on Infractions advises the institution that it should take every precaution to ensure that it observes the terms of the penalties. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period, prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Michael F. Adams (Chief Hearing Officer)

Greg Christopher

Jack Ford

Thomas Hill

James O'Fallon

Sankar Suryanarayan

**APPENDIX ONE**

**CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S MARCH 6, 2015,  
RESPONSE TO THE NOTICE OF ALLEGATIONS**

1. The institution added another full-time staff member to its athletics compliance office during the 2013-14 academic year, increasing its full-time staff from four to five. The institution also added a full-time intern and developed an externship program with the SMU Dedman School of Law to increase the compliance office's ability to educate, assist, and serve coaches, administrators, the university community and other key constituents.
2. The institution also implemented an additional level of review to its telephone and text message monitoring system. It purchased additional software which allows the institution to cross-check telephone records against prospective student-athlete data entered into the system each month.

**APPENDIX TWO**  
**Bylaw Citations**

**Division I 2012-13 Manual**

**10.01.1 Honesty and Sportsmanship.** Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

**10.1 Unethical Conduct.** Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

- (a) Refusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual's institution;
- (b) Knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete;
- (c) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;
- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation;
- (e) Receipt of benefits by an institutional staff member for facilitating or arranging a meeting between a student-athlete and an agent, financial advisor or a representative of an agent or advisor (e.g., "runner");
- (f) Knowing involvement in providing a banned substance or impermissible supplement to student-athletes, or knowingly providing medications to student-athletes contrary to medical licensure, commonly accepted standards of care in sports medicine practice, or state and federal law. This provision shall not apply to banned substances for which the student-athlete has received a medical exception per Bylaw 31.2.3.5; however, the substance must be provided in accordance with medical licensure, commonly accepted standards of care and state or federal law;
- (g) Failure to provide complete and accurate information to the NCAA, the NCAA Eligibility Center or an institution's admissions office regarding an individual's academic record (e.g., schools attended, completion of coursework, grades and test scores); Fraudulence or misconduct in connection with entrance or placement examinations;
- (i) Engaging in any athletics competition under an assumed name or with intent to otherwise deceive; or

- (j) Failure to provide complete and accurate information to the NCAA, the NCAA Eligibility Center or the institution's athletics department regarding an individual's amateur status.

**11.1.2.1 Responsibility of Head Coach.** It shall be the responsibility of an institution's head coach to promote an atmosphere for compliance within the program supervised by the coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the coach.

**13.1.2.1 General Rule.** All in-person, on- and off-campus recruiting contacts with a prospective student-athlete or the prospective student-athlete's relatives or legal guardians shall be made only by authorized institutional staff members. Such contact, as well as correspondence and telephone calls, by representatives of an institution's athletics interests is prohibited except as otherwise permitted in this section. Violations of this bylaw involving individuals other than a representative of an institution's athletics interests shall be considered institutional violations per Constitution 2.8.1; however, such violations shall not affect the prospective student-athlete's eligibility.

**13.1.2.4 Other Restrictions, Athletics Representatives.** The following are additional restrictions that apply to athletics representatives:

- (a) **Telephone Conversation.** An athletics representative of a member institution may speak to a prospective student-athlete via the telephone only if the prospective student-athlete initiates the telephone conversation and the call is not for recruiting purposes. Under such circumstances, the representative must refer questions about the institution's athletics program to the athletics department staff;
- (b) **Observing Prospective Student-Athlete's Contest.** An athletics representative may view a prospective student-athlete's athletics contest on his or her own initiative, subject to the understanding that the athletics representative may not contact the prospective student-athlete on such occasions;
- (c) **Evaluation of Prospective Student-Athlete.** An athletics representative may not contact a prospective student-athlete's coach, principal or counselor in an attempt to evaluate the prospective student-athlete; and
- (d) **Visiting Prospective Student-Athlete's Institution.** An athletics representative may not visit a prospective student-athlete's educational institution to pick up film/videotape or transcripts pertaining to the evaluation of the prospective student-athlete's academic eligibility or athletics ability.

**13.1.3.1 Time Period for Telephone Calls—General Rule.** Telephone calls to an individual (or his or her relatives or legal guardians) may not be made before July 1 following the completion of his or her junior year in high school (subject to the exceptions below), or the opening day of classes of his or her senior year in high school (as designated by the high school),

whichever is earlier; thereafter, staff members shall not make such telephone calls more than once per week.

**13.1.3.5.1 Representatives of Athletics Interests.** Representatives of an institution's athletics interests (as defined in Bylaw 13.02.14) are prohibited from making telephonic communications with a prospective student-athlete or the prospective student-athlete's relatives or legal guardians.

**13.2.1 General Regulation.** An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her relatives or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution's prospective students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability.

**13.2.1.1 Specific Prohibitions.** Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following:

- (a) An employment arrangement for a prospective student-athlete's relatives;
- (b) Gift of clothing or equipment;
- (c) Co-signing of loans;
- (d) Providing loans to a prospective student-athlete's relatives or friends;
- (e) Cash or like items;
- (f) Any tangible items, including merchandise;
- (g) Free or reduced-cost services, rentals or purchases of any type;
- (h) Free or reduced-cost housing;
- (i) Use of an institution's athletics equipment (e.g., for a high school all-star game);
- (j) Sponsorship of or arrangement for an awards banquet for high school, preparatory school or two-year college athletes by an institution, representatives of its athletics interests or its alumni groups or booster clubs; and
- (k) Expenses for academic services (e.g., tutoring, test preparation) to assist in the completion of initial-eligibility or transfer-eligibility requirements or improvement of the prospective student-athlete's academic profile in conjunction with a waiver request.

**13.4.1 Recruiting Materials.** In sports other than men's basketball and men's ice hockey, an institution shall not provide recruiting materials, including general correspondence related to athletics, to an individual (or his or her parents or legal guardians) until September 1 at the beginning of his or her junior year in high school. In men's basketball and men's ice hockey, an institution shall not provide recruiting materials, including general correspondence related to athletics, to an individual (or his or her parents or legal guardians) until June 15 at the conclusion of his or her sophomore year in high school. In men's basketball, if an individual attends an

educational institution that uses a nontraditional academic calendar (e.g., Southern Hemisphere) an institution shall not provide recruiting materials, including general correspondence related to athletics, to an individual (or his parents or legal guardians) until the day after the conclusion of the individual's sophomore year in high school.

**13.4.1.2 Electronic Transmissions.** Electronically transmitted correspondence that may be sent to a prospective student-athlete (or the prospective student-athlete's parents or legal guardians) is limited to electronic mail and facsimiles. (See Bylaw 13.1.6.2.) All other forms of electronically transmitted correspondence (e.g., Instant Messenger, text messaging) are prohibited. Color attachments may be included with electronic mail correspondence, provided the attachment only includes information that is not created for recruiting purposes, except for items that are specifically permitted as printed recruiting materials (e.g., questionnaires), a media guide and video and audio materials, as permitted in Bylaw 13.4.1.5. Attachments other than a media guide and permissible video and audio materials shall not include any animation, audio or video clips and there shall be no cost (e.g., subscription fee) associated with sending the item attached to the electronic mail correspondence.

### **Division I 2013-14 Manual**

**2.8.1 Responsibility of Institution.** Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

**10.01.1 Honesty and Sportsmanship.** Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

**10.1 Unethical Conduct.** Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

- (a) Refusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual's institution;

- (b) Knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete;
- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.

**11.1.1.1 Responsibility of Head Coach.** An institution's head coach is presumed to be responsible for the actions of all assistant coaches and administrators who report, directly or indirectly, to the head coach. An institution's head coach shall promote an atmosphere of compliance within his or her program and shall monitor the activities of all assistant coaches and administrators involved with the program who report, directly or indirectly, to the coach.

**13.1.2.1 General Rule.** All in-person, on- and off-campus recruiting contacts with a prospective student-athlete or the prospective student-athlete's relatives or legal guardians shall be made only by authorized institutional staff members. Such contact, as well as correspondence and telephone calls, by representatives of an institution's athletics interests is prohibited except as otherwise permitted in this section. Violations of this bylaw involving individuals other than a representative of an institution's athletics interests shall be considered institutional violations per Constitution 2.8.1; however, such violations shall not affect the prospective student-athlete's eligibility.

**13.1.2.4 Other Restrictions, Athletics Representatives.** The following are additional restrictions that apply to athletics representatives:

- (a) **Telephone Conversation.** An athletics representative of a member institution may speak to a prospective student-athlete via the telephone only if the prospective student-athlete initiates the telephone conversation and the call is not for recruiting purposes. Under such circumstances, the representative must refer questions about the institution's athletics program to the athletics department staff;
- (b) **Observing Prospective Student-Athlete's Contest.** An athletics representative may view a prospective student-athlete's athletics contest on his or her own initiative, subject to the understanding that the athletics representative may not contact the prospective student-athlete on such occasions;
- (c) **Evaluation of Prospective Student-Athlete.** An athletics representative may not contact a prospective student-athlete's coach, principal or counselor in an attempt to evaluate the prospective student-athlete; and
- (d) **Visiting Prospective Student-Athlete's Institution.** An athletics representative may not visit a prospective student-athlete's educational institution to pick up video or transcripts pertaining to the evaluation of the prospective student-athlete's academic eligibility or athletics ability.

**13.1.3.1 Time Period for Telephone Calls—General Rule.** Telephone calls to an individual (or his or her relatives or legal guardians) may not be made before July 1 following the completion of his or her junior year in high school (subject to the exceptions below), or the opening day of classes of his or her senior year in high school (as designated by the high school), whichever is earlier; thereafter, staff members shall not make such telephone calls more than once per week.

**13.1.3.5.1 Representatives of Athletics Interests.** Representatives of an institution's athletics interests (as defined in Bylaw 13.02.14) are prohibited from making telephonic communications with a prospective student-athlete or the prospective student-athlete's relatives or legal guardians.

**13.2.1 General Regulation.** An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her relatives or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution's prospective students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability.

**13.2.1.1 Specific Prohibitions.** Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following:

- (a) An employment arrangement for a prospective student-athlete's relatives;
- (b) Gift of clothing or equipment;
- (c) Co-signing of loans;
- (d) Providing loans to a prospective student-athlete's relatives or friends;
- (e) Cash or like items;
- (f) Any tangible items, including merchandise;
- (g) Free or reduced-cost services, rentals or purchases of any type;
- (h) Free or reduced-cost housing;
- (i) Use of an institution's athletics equipment (e.g., for a high school all-star game);
- (j) Sponsorship of or arrangement for an awards banquet for high school, preparatory school or two-year college athletes by an institution, representatives of its athletics interests or its alumni groups or booster clubs; and
- (k) Expenses for academic services (e.g., tutoring, test preparation) to assist in the completion of initial-eligibility or transfer-eligibility requirements or improvement of the prospective student-athlete's academic profile in conjunction with a waiver request.

**13.4.1 Recruiting Materials.** In sports other than men's basketball and men's ice hockey, an institution shall not provide recruiting materials, including general correspondence related to athletics, to an individual (or his or her parents or legal guardians) until September 1 at the

beginning of his or her junior year in high school. In men's basketball and men's ice hockey, an institution shall not provide recruiting materials, including general correspondence related to athletics, to an individual (or his or her parents or legal guardians) until June 15 at the conclusion of his or her sophomore year in high school. In men's basketball, if an individual attends an educational institution that uses a nontraditional academic calendar (e.g., Southern Hemisphere) an institution shall not provide recruiting materials, including general correspondence related to athletics, to an individual (or his parents or legal guardians) until the day after the conclusion of the individual's sophomore year in high school.

**13.4.1.2 Electronic Transmissions.** Electronically transmitted correspondence that may be sent to a prospective student-athlete (or the prospective student-athlete's parents or legal guardians) is limited to electronic mail and facsimiles. (See Bylaw 13.1.6.2.) All other forms of electronically transmitted correspondence (e.g., Instant Messenger, text messaging) are prohibited. Color attachments may be included with electronic mail correspondence, provided the attachment only includes information that is not created for recruiting purposes, except for items that are specifically permitted as printed recruiting materials (e.g., questionnaires), a media guide and video and audio materials, as permitted in Bylaw 13.4.1.5. Attachments other than a media guide and permissible video and audio materials shall not include any animation, audio or video clips and there shall be no cost (e.g., subscription fee) associated with sending the item attached to the electronic mail correspondence.

### **Division I 2014-15 Manual**

**2.8.1 Responsibility of Institution.** Each institution shall comply with all applicable rules and regulations of the Association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the Association instances in which compliance has not been achieved. In any such instance, the institution shall cooperate fully with the Association and shall take appropriate corrective actions. Members of an institution's staff, student-athletes, and other individuals and groups representing the institution's athletics interests shall comply with the applicable Association rules, and the member institution shall be responsible for such compliance.

**10.01.1 Honesty and Sportsmanship.** Individuals employed by (or associated with) a member institution to administer, conduct or coach intercollegiate athletics and all participating student-athletes shall act with honesty and sportsmanship at all times so that intercollegiate athletics as a whole, their institutions and they, as individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.

**10.1 Unethical Conduct.** Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work

for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

- (a) Refusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual's institution;
- (b) Knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete;
- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation.

**11.1.1.1 Responsibility of Head Coach.** An institution's head coach is presumed to be responsible for the actions of all assistant coaches and administrators who report, directly or indirectly, to the head coach. An institution's head coach shall promote an atmosphere of compliance within his or her program and shall monitor the activities of all assistant coaches and administrators involved with the program who report, directly or indirectly, to the coach.

**19.2.3 Responsibility to Cooperate.** Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Committee on Infractions and the Infractions Appeals Committee to further the objectives of the Association and its infractions program. The responsibility to cooperate requires institutions and individuals to protect the integrity of investigations and to make a full and complete disclosure of any relevant information, including any information requested by the enforcement staff or relevant committees. Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to report instances of noncompliance to the Association in a timely manner and assist in developing full information to determine whether a possible violation has occurred and the details thereof.