I.  INTRODUCTION

The NCAA Division II Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division II membership and the public. The COI decides infractions cases involving member institutions and their staffs. This case involved the men's basketball program at the University of Southern Indiana (USI). The case consisted of one agreed-upon major violation with two subparts. First, a representative of the institution's athletics interests engaged in impermissible recruiting contacts with a prospective student athlete. Second, the athletics representative purchased a computer for the prospect. The COI considered this case through the cooperative summary disposition process in which all parties agreed to the primary facts and violation as fully set forth in the Summary Disposition Report (SDR). Because the institution agreed to the violations and the proposed penalty, it has no opportunity to appeal.

This case centers on the limited actions of one representative of the institution's athletics interests who knowingly committed recruiting violations. This is a "classic" booster case that is more common in Division I and not frequently seen Division II. As detailed in the SDR, during May and June 2017, the athletics representative initiated 19 telephone calls and sent 401 text messages to the prospect. Further, in late May 2017, the athletics representative purchased a laptop computer and accessories for the prospect. The COI concludes that the athletics representative committed major violations of NCAA recruiting legislation when he initiated the contacts and purchased the computer for the prospect.

The COI accepts the parties' factual agreements and concludes that major violations occurred. Utilizing NCAA bylaws authorizing penalties, the COI prescribes public reprimand and censure for the institution and a five-year disassociation of the athletics representative.

II.  CASE HISTORY

On July 19, 2017, USI's head men's basketball coach (head coach) received an anonymous letter reporting that a representative of the institution's athletics interest (booster) purchased a computer for an incoming prospective student-athlete, (prospect). The head coach immediately notified an associate director of athletics, who informed the Great Lakes Valley Conference office of the letter.
that same day. On July 25, 2017, USI forwarded the NCAA enforcement staff a copy of the letter and information it had initially developed. Three days later, the enforcement staff provided the institution a written notice of inquiry. USI and the enforcement staff then began a joint investigation. In mid-December 2017, USI agreed to process the case via summary disposition.

On February 23, 2018, the parties submitted the SDR to the COI. The COI reviewed the SDR on March 29, 2018, and accepted the violations and corrective actions. On April 2, 2018, the COI suggested to the institution a modification of one of its proposed penalties. The institution did not object to the modification.

III. PARTIES' AGREEMENTS

PARTIES' AGREED-UPON FACTUAL BASIS, VIOLATIONS OF NCAA LEGISLATION AND NATURE OF VIOLATIONS

The parties jointly submitted an SDR that identifies an agreed-upon factual basis, violations and nature of violations as established by NCAA legislation. The SDR identifies:

USI and the enforcement staff agree that from May 14, 2017, through June 11, 2017, a booster initiated 420 impermissible telephonic and text communications with a prospect. Additionally, the booster provided the prospect with approximately $2,125 in impermissible recruiting inducements in the form of a new computer and accessories. Specifically:

A. [NCAA Division II Manual Bylaw 13.1.3.4.2 (2016-17)]

Between May 14, 2017, and June 11, 2017, the booster initiated 19 telephone calls totaling 104 minutes and sent 401 text messages to the prospect. Because the prospect was a junior college transfer student-athlete and had yet to enroll at the institution, the booster's communications to the prospect were impermissible.

B. [NCAA Division II Manual Bylaw 13.2.1 (2016-17)]

On May 21, 2017, the booster purchased a laptop computer ($1,872), carrying case ($53) and warranty plan ($199) for the prospect at a local electronics store.

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2 The COI in future cases may view this decision as less instructive than a decision reached after a contested hearing because violations established through the summary disposition process constitute the parties' agreement.

3 This decision provides the agreed-upon factual basis, violations and nature of the violations as exactly stated in the SDR, except for shortening references to USI and the involved individuals.
Following the purchase, the prospect performed yard work and other duties at the booster's home to repay the booster.

IV. REVIEW OF CASE

The submitted SDR fully detailed the parties' positions and includes the agreed-upon primary facts and violation. The enforcement staff and USI agreed that the booster violated NCAA recruiting legislation when he engaged in impermissible telephone and texting contacts with the prospect and when he purchased a computer and accessories for him. After reviewing the parties' principal factual agreements and the respective explanations surrounding those agreements, the COI accepts the parties' SDR and concludes that major violations occurred.

NCAA Bylaw 13 governs recruiting.4 Bylaw 13.02.12 defines a booster as an individual who is known, or should have been known, by an institution to have, among other activity, participated in or to be a member of an athletics booster organization. Boosters are generally not allowed to be involved in recruiting. Specifically, Bylaw 13.1.4.4.2 prohibits boosters from making telephonic contacts with prospects, while Bylaw 13.2.1 prohibits boosters from being involved in providing any financial aid or other recruiting inducements to a prospect.

The booster committed major violations of NCAA legislation when he engaged in hundreds of impermissible telephonic contacts with, and purchased a laptop computer for the prospect. Between May 14, 2017, and June 11, 2017, the booster initiated 19 telephone calls and sent 401 text messages to the prospect. The booster was a men's basketball season ticket holder and a significant financial donor to USI's athletics programs. The prospect graduated from high school in 2015 after which he attended a two-year institution. The prospect signed a National Letter of Intent with USI in April 2017 and enrolled at the institution during the summer of 2017. Because the prospect was a junior college transfer and had yet to enroll at the institution, he was still considered a prospect under NCAA legislation. Therefore, the communication with the prospect initiated by the booster violated Bylaw 13.1.4.4.2. Further, on May 21, 2017, the booster purchased for the prospect a laptop computer and accessories totaling approximately $2,125. The provision of the computer was a recruiting inducement and violated Bylaw 13.2.1.

Booster involvement in Division II infractions cases is relatively uncommon. In the past ten years, only two Division II infractions cases included booster involvement in the provision of extra benefits or recruiting inducements. See Fayetteville State University (2017) (concluding that the head women's basketball coach permitted a booster to pay educational expenses for ineligible student-athletes, among other violations) and Abilene Christian University (2009) (concluding that boosters provided impermissible extra benefits in the form of gift cards, cash, merchandise, food and clothing items to 15 track and field student-athletes). Although rare in Division II, the conduct is still serious and resembles "classic" booster cases more common in Division I. Despite the unusual nature of this case, the COI advises the Division II membership to be proactive in both

4 The full text of specific bylaws violated is set forth in Appendix Two.
providing targeted compliance education to boosters, and to take measures to prevent boosters from becoming involved in violations.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the COI concludes that this case involved major violations. Major violations are not inadvertent, provide or are intended to provide more than a minimal advantage and include significant impermissible benefits.

In prescribing penalties, the COI evaluated relevant mitigating and other factors pursuant to Bylaw 32.8.7.4.2. The committee also considered cooperation, past cases and corrective actions.

Regarding relevant factors, the COI notes that USI took immediate and appropriate action when informed of the booster's violations. Consequently, no ineligible participation by the prospect occurred. Significantly, no staff members committed violations nor did USI lack control or fail to monitor. Moreover, the booster admitted he had received education from USI on impermissible benefits prior to the violations. To the contrary, USI acted in an exemplary manner in response to receiving information about possible violations involving the booster and the prospect.

The COI also considered USI's cooperation. Cooperation during the infractions process is addressed in Bylaws 19.01.3 and 32.1.3. The COI concludes that the cooperation exhibited by USI was consistent with its obligation under the bylaws. The COI also reviewed past cases and their relevance to this case. The COI notes that Gannon University (2016) had some similarities to this case. Specifically, Gannon, like this case, involved only one individual. However, unlike this case, the involved individual in Gannon was a head coach. In Gannon, the COI did not prescribe probation. Taking Gannon into consideration and the fact that this case did not include any staff member involvement or institutional culpability in the form of a lack of institutional control or a failure to monitor, the COI concludes that probation is not warranted here.

Because USI agreed to the facts and violations and accepted the proposed modifications of the self-imposed penalties, it has no opportunity to appeal. Given the narrow scope of the violations and that a booster knowingly committed them, the COI agrees with the institution that limited penalties are appropriate. The COI also considered USI's corrective actions, which are set forth in Appendix One. The COI notes that USI's corrective actions fittingly included enhanced compliance education for prospects, coaches and boosters. After considering all information, the COI prescribes the following penalties (self-imposed penalties are so noted):

Penalties for Major Violations (Bylaw 19.5.2)

1. Public reprimand and censure.5

5 USI proposed "public reprimand" as a penalty. Pursuant to Bylaw 19.5-2-(a), "public reprimand" always includes "censure," although there is no practical difference. The public decision and its release effectuate the penalty.
2. Disassociation of the booster for a period of five years commencing October 30, 2017 (Self-imposed). During the period of disassociation, the institution shall:

   a. Refrain from accepting from the booster any financial or in-kind assistance to or for any of USI's intercollegiate athletics program, and to or for any specific intercollegiate sport. This prohibition includes, but is not limited to, financial or in-kind assistance to the USI's Varsity Club or being a member of the Varsity Club;

   b. Not permit the booster to participate in any organization recognized by USI as a supporter of USI's intercollegiate athletics program (for example, the booster may not attend Varsity Club events);

   c. Refrain from accepting from the booster any assistance that would aid USI in any manner in the recruitment of prospects for any intercollegiate athletics sport;

   d. Refuse to accept from the booster any benefits or items of value to any USI intercollegiate athletics sport prospect or enrolled student-athlete (for example, the booster may not employ a prospect or student-athlete);

   e. Ensure that no athletics benefit or privilege is provided to the booster that is not generally available to the public at large; and

   f. Prohibit contact or communication between the booster and any enrolled or prospective USI intercollegiate student-athlete, regardless of the sport, for any purpose. This ban extends to all forms of in-person and indirect contact and communication including, but not limited to, contact by social media or by any other form of electronic communication both currently in use or in use at any time during the period of disassociation.\(^6\)

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\(^6\) The institution self-imposed the terms of the disassociation, but, with the agreement of the institution, the COI modified the language to reflect the action USI must take relative to the booster.
As required by NCAA legislation for any institution involved in a major infractions case, USI shall be subject to the provisions of Bylaw 19.5.2.3 concerning repeat violators for a five-year period beginning on the date of this decision, April 27, 2018. The COI advises USI that it should take precautions to ensure the terms of the penalties are observed. Any action by USI contrary to the terms of the penalties or any additional violations may be considered grounds for prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS

Jim Johnson
John D. Lackey
Richard Loosbrock
Carey Snyder
Harry O. Stinson, III, chair
Jane Teixeira
Christie L. Ward
APPENDIX ONE

THE INSTITUTION'S CORRECTIVE ACTIONS AS IDENTIFIED IN THE FEBRUARY 23, 2018, SUMMARY DISPOSITION REPORT

1. USI will revise its annual educational donor brochure to include more information regarding the employment of student-athletes and prospective student-athletes by donors.

2. USI will request that donors receive approval from its compliance office prior to permitting any student-athlete to perform work for a donor, unless a legitimate employment or independent contractor relationship exists. Regarding the latter, USI believes business records will be available to confirm dates of employment and pay, in the event such records are needed.

3. Beginning January 2018, USI will present information during at least one monthly compliance meeting each year to educate all head coaches and full-time assistant coaches about issues related to donor’s employment of student-athletes and prospects.

4. USI will develop an educational document to be provided to signed prospects. This document will be provided by compliance to a signed prospective student-athlete following the validation of his or her NLI and/or grant-in-aid. This document will also be provided by a coach to a prospect who does not sign a NLI and/or grant-in-aid (e.g., walk-ons). This document will educate prospective student-athletes about avoiding compliance issues related to the receipt of recruiting inducements.

5. USI will take additional measures to educate donors who are not members of the Varsity Club (for example, sport-specific donors). Historically, certain donors may not have received USI's educational donor brochure (See Corrective Action No. 1). USI will work with its Foundation Office and coaches to maximize the impact and reach of its educational brochure. USI will also extend its educational outreach efforts by utilizing other media outlets, including the head men's basketball coach's radio show.

6. USI will restart and update its educational "fact and question" documents and post these documents in its Varsity Club facility – and in an area of the Physical Activities Center visible to USI donors who are not members of the Varsity Club – when the new arena opens for the 2018-19 season.
APPENDIX TWO

Bylaw Citations

Division II 2016-17 Manual

13.1.3.4.2 Representatives of Athletics Interests. It is not permissible for a representative of the institution's athletics interests (as defined in Bylaw 13.02.12) to make telephone calls to a prospective student-athlete.

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 the prospective student-athlete or the prospective student-athlete's relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by prospective student-athletes or their relatives or friends is not a violation of NCAA legislation if it is demonstrated 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.