



COLLEGE OF MOUNT SAINT VINCENT
PUBLIC INFRACTIONS DECISION
May 3, 2018

I. INTRODUCTION

The NCAA Division III Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division III membership and public. The COI decides infractions cases involving member institutions and their staffs. This case involved an impermissible recruiting inducement that resulted in impermissible travel expenses and ineligible competition in the men's soccer program at the College of Mount Saint Vincent (CMSV), as well as the athletics director's unethical conduct for denying during the investigation his involvement in the violations.¹ The COI concludes all violations are major.

The violations stem from the recruitment of a men's soccer student-athlete who could not qualify for financial aid or obtain a student loan because of unique personal circumstances. Turmoil within the athletics department—namely in the turnover and transition among athletics directors and compliance officers, as well as relationships between the athletics director and coaches—underlies the violations in this case. While the turmoil did not rise to the level of a failure to monitor, it contributed to an impermissible recruiting inducement that resulted in impermissible travel expenses and ineligible competition.

While recruiting the student-athlete, the former head men's soccer coach discovered that the student-athlete did not qualify for financial aid because of his immigration status and could not otherwise obtain a student loan. To help the student-athlete attend CMSV, the coach sought and relied on the erroneous advice of the athletics director that the coach's father, who was a booster, could cosign the student-athlete's approximately \$18,000 student loan. The coach's father cosigned the loan shortly thereafter. Because of the inducement, the student-athlete enrolled and then competed and received travel expenses during the fall 2015 semester and beginning of the fall 2016 semester while ineligible. In addition, the weight of the record contradicted the athletics director's denials in his interviews during the investigation that he was aware of and approved the cosigning of the loan. He thus acted unethically when he furnished false or misleading information concerning his involvement in the violations to the enforcement staff and CMSV.

The COI concludes the violations are major. CMSV agreed the recruiting inducement and resulting travel expenses and competition violated NCAA legislation but, along with the athletics director, disputed the athletics director's involvement in the violations. The athletics director also challenged the unethical conduct violation. The coach, however, agreed with the impermissible

¹ With primary affiliation in the Skyline Conference, CMSV has an enrollment of 1,449 students. It sponsors six women's and eight men's sports. This is the institution's first major infractions case.

recruiting inducement, impermissible travel expenses and ineligible competition as alleged. Utilizing NCAA bylaws authorizing penalties, the COI prescribes one year of probation, vacation of records, a \$1,000 fine, outside audit of athletics policies and procedures, and a one-year show-cause order for the athletics director.

II. CASE HISTORY

On September 5, 2016, a men's soccer student-athlete revealed that the father of the former head men's soccer coach (head coach) cosigned his student loan for the 2015-16 academic year in a conversation with his then head men's soccer coach (next head coach). That day, CMSV declared the student-athlete ineligible for competition. CMSV then investigated the matter and conducted interviews with the conference before self-reporting a financial aid violation on October 27, 2016.

The enforcement staff issued a written notice of inquiry on March 10, 2017, and began a joint investigation with the institution. Over the next three months, the enforcement staff and CMSV interviewed the student-athlete and several current and former staff members. After the enforcement staff concluded the interviews, on June 20, 2017, Academic and Membership Affairs (AMA) staff issued an interpretation of NCAA legislation related to boosters in response to a joint request from the enforcement staff and CMSV.

On August 21, 2017, the enforcement staff issued a notice of allegations (NOA) to CMSV, the director of athletics (athletics director) and the head coach. The head coach submitted his response to the NOA on December 7, 2017. CMSV and the athletics director submitted their joint response to the NOA one day later. On February 13, 2018, the enforcement staff provided its case summary to the COI and the parties. The COI held the hearing on March 6, 2018.

III. FINDINGS OF FACT

The conduct at issue in this case commenced with the head coach's recruitment of a prospect who later became a CMSV student-athlete and demonstrated turmoil within the athletics department. This turmoil centered on the turnover and transition among athletics directors and compliance officers, as well as relationships between the athletics director and coaches.

The head coach initially recruited the student-athlete in 2014. The student-athlete, however, chose to attend another NCAA institution. After he obtained his release from the institution, the student-athlete contacted the head coach regarding transfer to CMSV. The head coach then began recruiting the student-athlete anew in the spring of 2015 for the 2015-16 academic year. During the recruiting process, the head coach discovered that the student-athlete could not attend CMSV without financial assistance. Specifically, the student-athlete did not qualify for financial aid because of his immigration status and needed a cosigner for a student loan. The student-athlete asked several family members and friends to cosign a loan, but some declined to cosign and no bank approved any of the others as a cosigner. The head coach told his father about the student-

athlete's predicament. In response, his father agreed to cosign a loan. The head coach's father was familiar with the men's soccer program, contributing \$100 to the program in 2014.

In June 2015, as the head coach described at the hearing and in his September 27, 2016, interview with the conference and March 29, 2017, interview with the enforcement staff, the head coach sought out the athletics director to discuss the student-athlete's financial aid situation. During their brief conversation, the head coach asked the athletics director, who was then the interim athletics director, if a member of the coach's family could cosign a loan. The athletics director advised that as long as the head coach, a staff member or anyone like an alumnus did not sign the loan, the cosigning was permissible. The head coach then specifically asked whether his father could cosign the loan. The athletics director approved the cosigning and advised the head coach that his father could cosign the loan because his father was not part of the staff and not a booster. The athletics director denied this conversation with the head coach.

At the time of the conversation, the relationship between the head coach and the athletics director was very contentious at best and worsening. The athletics director admitted that the two were not communicating. Despite a strained relationship and although the athletics director was not the compliance officer at the time, the head coach requested the athletics director's advice because the athletics director previously oversaw compliance and CMSV did not advise him that the athletics director no longer handled compliance. The athletics director did not inform the compliance officer of the head coach's question or confer with him after the conversation.

The next month, the head coach made a recruiting visit to the student-athlete's home state. While on the visit, he met with the student-athlete and the student-athlete's brother. The three discussed how the student-athlete could obtain a student loan. The student-athlete and his brother requested a loan from a bank, but the bank denied the request. The head coach encouraged the student-athlete to seek loans from other banks but informed the student-athlete that, as a last resort, his father could cosign a loan.

Despite his continued efforts, the student-athlete could not obtain a student loan. As he advised the student-athlete, the head coach solicited his father, who cosigned a loan for \$18,042.65 on August 1, 2015. The loan covered the student-athlete's cost of attendance for the 2015-16 academic year. As a result, the student-athlete enrolled at CMSV in August 2015. He then competed on the men's soccer team and received actual and necessary travel expenses for competition during the fall 2015 semester. In an interpretation issued in June 2017 in response to a joint request by the enforcement staff and CMSV, AMA staff determined that the head coach's father became a booster when he cosigned the loan. AMA staff, however, was unaware when it issued the interpretation that the father donated \$100 to the men's soccer program in 2014. Likewise, CMSV acknowledged that the father was a booster in its October 2016 self-report to the enforcement staff. Shortly after the season, CMSV terminated the head coach in December 2015 for reasons unrelated to this case and then hired the next head coach.

At the time of these events, CMSV was undergoing significant transition within the athletics department. CMSV terminated a previous athletics director in May 2015 for financial reasons. As

a result, the athletics director assumed the position of interim athletics director. Prior to this new role, the athletics director oversaw compliance at CMSV as an associate athletics director. In June 2015, CMSV appointed a staff member (former compliance officer), who had no formal prior compliance experience, to be the compliance officer. The athletics director immediately began training him as part of a year-long transition to the position. As part of the arrangement during the transition, the athletics director and former compliance officer would discuss compliance questions and interpretations together. The athletics director would also ask coaches to send compliance questions to the former compliance officer so that the two could discuss the legislation.

The former compliance officer resigned in August 2015. CMSV did not hire a new compliance officer (assistant compliance director) until three months later in November 2015. The athletics director reassumed compliance responsibilities during the interim. Like the former compliance officer, the assistant compliance director did not have any formal prior compliance experience at the time of his hire. Accordingly, CMSV transitioned the assistant compliance director to his role before giving him full autonomy for compliance matters in August 2016.

The position of athletics director also changed hands two more times during the summer and fall of 2015. CMSV named the former associate athletics director and head men's basketball coach (associate athletics director) the interim athletics director in August 2015. In conjunction with this change, the athletics director returned to his associate position. The associate athletics director served as interim athletics director until CMSV hired a full-time athletics director (former athletics director) in October 2015. At that time, CMSV reassigned the associate athletics director to his associate position. Like his relationship with the head coach, the athletics director did not have a good relationship with the associate athletics director.

The transition in athletics directors and compliance officers caused some confusion among coaches on compliance roles and responsibilities and impacted rules education. Some coaches did not know who handled compliance matters during the periods of transition. Further, until the transition to the assistant compliance director in 2016, CMSV did not hold standalone meetings with coaches on compliance matters and did not consistently provide newsletters on compliance issues, which the institution used as a primary tool for rules education.

The student-athlete reenrolled at CMSV for the fall 2016 semester and began competing and receiving actual and necessary travel expenses for competition. Just after the start of the semester, on September 5, 2016, he advised the next head coach that he could no longer afford to attend CMSV. In this conversation, the student-athlete revealed that the head coach's father cosigned his student loan for the 2015-16 academic year. After the conversation, the next head coach informed the associate athletics director, who was his liaison in the athletics department, and the former assistant athletics director and head wrestling coach (assistant athletics director) about what the student-athlete told him. Believing that the athletics director was still handling compliance matters during the transition to the assistant compliance director, the associate athletics director advised the next head coach to talk with the athletics director.

Shortly thereafter, as the next head coach described at the hearing and in his March 28, 2017, interview with the enforcement staff and CMSV, the next head coach spoke with the athletics director about the loan. During their brief conversation, the athletics director told the next head coach that he was aware of and approved the cosigning. Similar to his relationship with the head coach and the associate athletics director, the athletics director described his relationship with the next head coach, who had previously committed a secondary violation and was also involved in a conference playing rules violation, as not amiable and tenuous at best. In addition, like his conversation with the head coach, the athletics director denied this conversation with the next head coach.

Shortly after his brief conversation with the athletics director, the next head coach recounted the conversation to the associate and assistant athletics directors. As confirmed in their respective June 1, 2017, and June 6, 2017, interviews with the enforcement staff and by the associate athletics director at the hearing, the next head coach informed them that the athletics director advised that the cosigning was permissible. The assistant athletics director clarified in his interview that the next head coach told them that the athletics director approved the cosigning.

At the urging of the associate athletics director, the next head coach met with the former athletics director, then the athletics director, to update her on his conversations with the student-athlete and the athletics director.² After this conversation, the student-athlete talked directly with the former athletics director about the loan at her request. CMSV immediately declared the student-athlete ineligible. CMSV then requested reinstatement, which AMA staff granted.

The athletics director denied that he was aware of and approved the cosigning of the loan during his interviews in this case. Specifically, in his September 27, 2016, interview with CMSV, the athletics director denied that the head coach asked him about whether he could cosign a loan for any student-athlete or that he had a conversation with the head coach about the student-athlete's financial aid. In addition, in his March 28, 2017, interview with the enforcement staff and CMSV, the athletics director denied that the head coach asked him whether his father could cosign a loan for the student-athlete. Similarly, in his June 8, 2017, interview with the enforcement staff and CMSV, when confronted with the head coach's statements, the athletics director denied that he told the head coach that it was permissible for a family member to cosign a loan for the student-athlete as long as the head coach, a staff member or anyone like an alumnus did not cosign the loan. In his December 8, 2017, joint response to the NOA, however, while denying the allegations with CMSV, he raised the possibility that if he approved the cosigning, the approval was simply a good faith error.

Likewise, the athletics director provided conflicting information regarding his conversation with the next head coach about the student-athlete's loan before ultimately denying the conversation took place. In his March 28, 2017, interview, the athletics director first stated that the next head coach may have made him aware of the student-athlete's situation and that the athletics director then probably told him to talk with the former athletics director. Later in the interview, however,

² The record did not contain an interview of or any related statements by the former athletics director.

the athletics director stated that he did not recall having a conversation with the next head coach regarding the loan or financial aid. Then in his June 8, 2017, interview, when confronted with his statements from March, the athletics director denied having any conversation with the next head coach regarding the loan.

CMSV athletics staff turnover continued as only the athletics director remained at CMSV by a short time after the events in this case. The former athletics director departed the institution and the athletics director assumed the position on a full-time basis in January 2017. CMSV discharged the associate athletics director that same month. The next head coach resigned in March 2017. The assistant athletics director also separated from CMSV. COI confirmed on examination at the hearing that the next head coach and the associate and assistant athletics directors did not confer with the head coach regarding the student-athlete's loan before or after departing CMSV.

IV. ANALYSIS

The violations in this case fall into two areas: (A) an impermissible recruiting inducement resulting in impermissible travel expenses and ineligible competition and (B) the athletics director's unethical conduct. Turmoil within the athletics department underlies the violations and contributed to the impermissible recruiting inducement, impermissible expenses and ineligible competition.

A. IMPERMISSIBLE RECRUITING INDUCEMENT, IMPERMISSIBLE TRAVEL EXPENSES AND INELIGIBLE COMPETITION [NCAA Division III Manual Bylaws 13.2.1, 13.2.2-(c) (2014-15 and 2015-16), 14.9.1, 14.9.4.1 and 16.8.1.2 (2015-16 and 2016-17)]³

The head coach arranged for his father, a booster, to provide an impermissible recruiting inducement to the student-athlete in August 2015. The athletics director approved the inducement. The student-athlete competed and received travel expenses while ineligible because of the inducement. CMSV agreed the recruiting inducement, travel expenses and competition violated NCAA legislation but, along with the athletics director, disputed the athletics director's involvement in the violations. The head coach substantially agreed to the facts and the violations. The COI concludes major violations occurred.

1. NCAA legislation relating to impermissible recruiting inducements, impermissible travel expenses and ineligible competition.

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

³ In the NOA, the enforcement staff cited only to the 2015-16 Manual, effective August 1, 2015, for Bylaws 13.2.1 and 13.2.2-(c). However, the head coach began arranging the inducement and the athletics director approved the inducement prior to the effective date of the 2015-16 Manual. The COI thus cites to both the 2014-15 and 2015-16 Manuals for Bylaws 13.2.1 and 13.2.2-(c) in the decision.

2. The head coach, with the athletics director's approval, arranged for his father, a booster, to cosign a loan for the student-athlete, which resulted in the student-athlete competing and receiving travel expenses while ineligible.

On August 1, 2015, the head coach's father, a booster, provided the student-athlete an impermissible recruiting inducement when he cosigned the student-athlete's approximately \$18,000 student loan. The head coach arranged for the inducement, which the athletics director approved as multiple credible former athletics staff members confirmed. The student-athlete enrolled at CMSV because of the loan. He then competed and received travel expenses while ineligible during the fall 2015 semester and beginning of the fall 2016 semester. The inducement violated Bylaw 13, the competition violated Bylaw 14 and the expenses violated Bylaw 16.

Bylaw 13 governs recruiting. Bylaws 13.2.1 prohibits athletics staff members and boosters from being involved, directly or indirectly, in making arrangements for or giving or offering to give any benefits not permitted by NCAA legislation to prospects. As set forth in Bylaw 13.2.2-(c), specifically prohibited arrangements and benefits include the cosigning of loans. Relatedly, pursuant to Bylaw 13.02.9, a booster is known, or should have been known, by an institution to have made financial contributions to the athletics department or assist in recruiting prospects.

Bylaws 14 and 16 address eligibility for competition and benefits, respectively. Bylaw 16.8.1.2 requires institutions to provide only eligible student-athletes with actual and necessary travel expenses for competition. Similarly, Bylaw 14.9.1 requires institutions to withhold ineligible student-athletes from competition. Pursuant to Bylaw 14.9.4.1, a student-athlete is denied eligibility for competition if the student-athlete competes while ineligible without being reinstated.

The head coach arranged for his father to provide an impermissible recruiting inducement to the student-athlete, which the athletics director approved. Specifically, after he learned that the student-athlete did not qualify for aid because of his immigration status and could not obtain a student loan, the head coach arranged for his father to cosign a loan to cover the student-athlete's cost of attendance for the 2015-16 academic year at CMSV. The athletics director involved himself in arranging for the loan when he approved the cosigning in June 2015. The head coach's father cosigned the loan on August 1, 2015. During the arrangement and at the time of the cosigning, he was a booster under Bylaw 13.02.9 because he donated funds to the men's soccer program in 2014. Accordingly, the head coach and the athletics director violated Bylaw 13.2.1 because they arranged for the cosigning of the loan, which Bylaw 13.2.2-(c) prohibits. Likewise, the head coach's father, as a booster, violated Bylaw 13.2.1 when he cosigned the loan.

Because the head coach and the athletics director did not recognize the inducement as a violation, CMSV failed to declare the student-athlete ineligible and permitted him to compete during the fall 2015 semester and beginning of the fall 2016 semester. As a result, the student-athlete competed and received actual and necessary travel expenses while ineligible in violation of Bylaws 14.9.1, 14.9.4.1 and 16.8.1.2.

CMSV changed its position on the allegation at the hearing. CMSV initially disputed the allegation in its entirety in its joint response to the NOA, disagreeing that the head coach's father was a booster although it previously acknowledged that he was a booster in its self-report to the enforcement staff in October 2016. AMA staff also issued an interpretation in June 2017 determining that the father was a booster when he cosigned the loan, although AMA staff was not aware that the father donated \$100 to the men's soccer program when it issued the interpretation. At the hearing, CMSV diverged from its initial position, asserted that the head coach's father became a booster when he cosigned the loan and agreed with the impermissible inducement, impermissible travel expenses and impermissible competition violations. CMSV and the athletics director, however, continued to dispute the athletics director's involvement in the violations and denied that he was aware of and approved the cosigning.

Substantial information in the record demonstrated the athletics director's involvement in the violations. The head coach and three other credible former athletics staff members—the next head coach and the associate and assistant athletics directors—corroborated that the athletics director was aware of and approved the head coach's father cosigning the student loan. The head coach consistently stated in multiple interviews and at the hearing that the athletics director was aware of and approved the cosigning. Likewise, the next head coach and the associate and assistant athletics directors verified these statements during their interviews and on COI examination at the hearing.

In particular, the next head coach stated in his interview that he spoke with the athletics director about the loan after the student-athlete revealed the cosigning to him. In this brief conversation, the athletics director told him that he was aware of and approved the loan. The associate and assistant athletics directors confirmed this conversation. Specifically, they stated in their interviews and the associate athletics director reaffirmed at the hearing that, shortly after the next head coach's conversation with the athletics director, the next head coach told them that the athletics director advised that the cosigning was permissible. The assistant athletics director further recalled in his interview that the next head coach informed them that the athletics director approved the cosigning. The three accounts of the same series of events were remarkably consistent. These accounts, however, also reflected some of the turmoil within the athletics department.

While the turmoil did not rise to the level of a failure to monitor, it contributed to the violations. In just a six-month span during which the violations largely occurred—from May 2015 through October 2015—four individuals held the athletics director position. Likewise, during nearly the same period, three different individuals served as the primary compliance officer, including the athletics director on two occasions. This extensive turnover over a short period confused coaches on compliance roles and responsibilities. Indicative of this confusion, the head coach and former head coach turned to the athletics director with compliance questions related to the cosigning of the loan, although he was no longer in charge of compliance at the time. In addition, contrary to their arrangement during the transition, the athletics director himself never conferred with the former compliance officer after he approved the cosigning. The turnover also impacted rules education as CMSV did not hold standalone compliance meetings with coaches or consistently

provide compliance newsletters until the transition to the assistant compliance director in 2016. Just as significantly, the athletics director did not maintain constructive relationships with the head coach and former head coach. His relationship with the head coach was particularly contentious and the two were not communicating when the head coach sought his guidance on the cosigning. An athletics department with clearer compliance roles and responsibilities, better working relationships between staff members and more proactive rules education could have prevented the events underlying the violations. Instead, a single violation—an inducement designed to help a student-athlete in a financial predicament—went unidentified for months.

Time and again, institutional administrators, athletics staff members and boosters have operated to subvert the Division III model to provide some form of financial assistance or benefits to student-athletes to secure their attendance. Some of these cases, like this case, involved impermissible recruiting inducements. *See College of Staten Island* (2013) (finding head coach facilitated the visa process and provided cost-free housing for international student-athletes) and *Hobart College* (2011) (finding booster offered to help fund college tuition to prospects and provided transportation for them to enroll or take official visits). Other cases involved impermissible financial aid. *See Susquehanna University* (2016) (finding booster provided \$14,860 in funds, at the student-athlete's mother's request, to pay outstanding educational expenses incurred by a student-athlete) and *Baruch College* (2016) (finding institution provided aid based on athletics criteria to several student-athletes with a financial hardship). No matter the intent, the COI has consistently concluded that violating legislation cannot be an option to secure the enrollment of student-athletes, even those needing financial assistance to attend the institution. Here, like in these cases, CMSV, the athletics director, the head coach and his father cannot undermine the Division III model to provide financial assistance to a student-athlete.

Pursuant to Bylaw 19.02.2, the impermissible recruiting inducement, impermissible travel expenses and ineligible competition are major violations. The violations provided a substantial benefit to the student-athlete and resulted in a significant recruiting and competitive advantage for CMSV. The COI has regularly concluded these violations to be major. *See Staten Island and Hobart*. Like in these cases, the impermissible recruiting inducement, impermissible travel expenses and ineligible competition in this case are major violations.

B. UNETHICAL CONDUCT [NCAA Division III Manual Bylaws 10.01.1, 10.1 and 10.1-(d) (2016-17)]

The athletics director acted unethically when he knowingly furnished false or misleading information to the enforcement staff and CMSV. The athletics director disputed the allegation. The COI concludes a major violation occurred.

1. NCAA legislation relating to ethical conduct.

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

2. The athletics director engaged in unethical conduct during the investigation when he knowingly furnished false or misleading information concerning his involvement in the violations to the enforcement staff and CMSV.

The athletics director acted unethically when he knowingly furnished false or misleading information concerning his involvement in the violations to the enforcement staff and CMSV. In two interviews with the enforcement staff and institution, the athletics director denied that he was aware of and approved the head coach's father cosigning the student-athlete's loan. The weight of the record, however, contradicts these denials. The athletics director's conduct violated Bylaw 10.

As with all institutional staff members, athletics directors have an affirmative obligation to conduct themselves in an ethical manner as set forth in Bylaw 10. Pursuant to Bylaw 10.01.1, the general principle of ethical conduct requires athletics directors to always practice honesty and sportsmanship. Bylaw 10.1 identifies behaviors that constitute unethical conduct. These behaviors include knowingly furnishing false or misleading information concerning involvement in or knowledge of matters relevant to a possible violation to the enforcement staff or institution, as specified in Bylaw 10.1-(d).

The athletics director denied during his interviews with the enforcement staff and CMSV that he was aware of and approved the head coach's father cosigning the loan. Specifically, in his March 28, 2017, interview, the athletics director denied that the head coach asked him whether his father could cosign the loan. Likewise, in his June 8, 2017, interview, he denied that he told the head coach that it was permissible for a family member to cosign a loan for the student-athlete.

The athletics director disputed that he knowingly furnished false or misleading information during these interviews despite multiple credible athletics staff members reporting otherwise and his own inconsistent and shifting positions. The athletics director contended that the COI should not rely on the statements by the next head coach and the associate and assistant athletics directors. In particular, he argued that the next head coach was not credible because the athletics director held him accountable for secondary and conference playing rules violations, the associate and assistant athletics directors vouched for the next head coach and did not have independent knowledge of the conversation, and the statements of the next head coach and the associate and assistant athletics directors were inconsistent with each other. Likewise, CMSV argued that it believed that the athletics director was more credible than the head coach, next head coach and associate and assistant athletics directors, and that CMSV was in the best position to judge credibility. CMSV also asserted that the next head coach and the associate and assistant athletics directors had poor relationships with the athletics director and institution, particularly in their departure from CMSV.

The COI carefully examined the credibility of the athletics director, head coach, the next head coach and the associate and assistant athletics directors at the hearing. The head coach credibly described his conversation with the athletics director regarding the permissibility of the cosigning. The next head coach and the associate and assistant athletics directors verified the head coach's description of the conversation with their own statements. The COI acknowledges that the next head coach was involved in secondary and conference playing rules violations, the athletics

director and the associate athletics director had a poor relationship and the next head coach and the associate and assistant athletics directors departed CMSV, some on bad terms. Their statements during the investigation and before the COI, however, were credible and consistent with each other. Further, while their statements contained some minor discrepancies (e.g., how long the next head coach's conversation with the athletics director lasted and the length of time between the conversation and when the next head coach reported the conversation to the associate and assistant athletics directors), the discrepancies did not impact the substance of the statements. In addition, none of the three spoke with the head coach regarding the cosigning of the loan and there was no indication that they collaborated with each other to influence their statements during the investigation or at the hearing.

On the contrary, the athletics director's position failed under the weight of the record. First, his own arguments and statements on critical issues were inherently inconsistent. While denying that he was aware of and approved the cosigning, he set forth an entirely different position in his joint response to the NOA. In this response, he raised the possibility that his approval—if it occurred—was simply a good faith error. Similarly, he provided conflicting information regarding his conversation with the next head coach about the loan during his interviews with the enforcement staff and CMSV. In his March 28, 2017, interview, the athletics director initially stated that the next head coach may have made him aware of the student-athlete's situation. Later in that same interview, however, he stated that he could not recall a conversation with the next head coach regarding the loan. The athletics director then outright denied a conversation with the next head coach in his June 8, 2017, interview. The athletics director never clarified this shifting stance. If the athletics director approved the cosigning and regretted the decision as a good faith error, or could not recall a conversation with the next head coach regarding the loan, he should have clarified this during the investigation. Instead, the athletics director's inconsistent and shifting positions became symptomatic of the turmoil in the athletics department.

Based on this examination of credibility and the record, the athletics director knowingly furnished false or misleading information during his interviews with the enforcement staff and CMSV when he denied that he was aware of and approved the head coach's father cosigning the student-athlete's loan. These denials constituted unethical conduct pursuant to Bylaw 10.1-(d) and violated Bylaw 10.01.1.

Being honest and forthcoming during an investigation into potential violations of NCAA legislation is critical to the infractions process. The COI has consistently concluded that the knowing provision of false or misleading information is unethical conduct. *See York College* (2017) (concluding that the head coach provided false or misleading information to the enforcement staff and institution when questioned about his knowledge and role in impermissible student-athlete certification); *Staten Island* (concluding that the head coach provided false or misleading information to the enforcement staff and institution when he denied arranging impermissible benefits); and *Illinois College* (2012) (concluding that the head coach provided false or misleading information to the athletics director when questioned about sending impermissible texts). Failing to give the enforcement staff and institution truthful information during an investigation significantly harms their ability to conduct a thorough and timely investigation. In

this case, the athletics director's failure to furnish truthful information regarding the case impacted the enforcement staff's ability to conduct a thorough and timely investigation.

Pursuant to Bylaw 19.02.2, the ethical conduct violation is major because the violation involved dishonest conduct that seriously undermined or threatened the integrity of the NCAA collegiate model. The COI has consistently concluded unethical conduct is a major violation. *See York, Staten Island and Illinois*. Like in these cases, the athletics director committed a major violation when he engaged in unethical conduct.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the COI concludes this case involved major violations of NCAA legislation. 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. As part of this evaluation, the COI considered CMSV's cooperation in all parts of the case and determines it was consistent with CMSV's obligation under Bylaw 32.1.3. The COI also considered CMSV's corrective actions as set forth in Appendix One. The corrective actions demonstrate the athletics director's and institution's efforts to strengthen the compliance program. By defining the role and responsibilities of the assistant compliance director, facilitating direct communication between athletics staff and the assistant compliance director, improving internal compliance processes and emphasizing rules education, the athletics director and CMSV have begun to address areas impacted by turmoil. Considering these corrective actions, the COI prescribes the following penalties:

Penalties for Major Violations (Bylaw 19.5.2)

1. One year of probation from May 3, 2018, through May 2, 2019.
2. During this period of probation, CMSV shall:
 - a. Continue to develop and implement a comprehensive compliance and educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for ensuring compliance with NCAA legislation on recruiting, benefits and eligibility;
 - b. Submit a preliminary report to the Office of the Committees on Infractions (OCOI) by June 18, 2018, setting forth a schedule for establishing this compliance and educational program;

- c. File with the OCOI a final compliance report indicating the progress made with this program by March 22, 2019. Particular emphasis shall be placed on rules education regarding adherence to recruiting, benefits and eligibility legislation;
 - d. Inform men's soccer prospects in writing that CMSV is on probation for one year and detail the violations committed. If a prospect 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 prospect 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 program and a direct, conspicuous link to the public infractions decision located on the athletic department's main webpage "landing page" and in the media guides for men's soccer. The institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the case; and (iii) give members of the general public a clear indication of what happened in the case to allow the public (particularly prospects and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.
3. Following the receipt of the final compliance report and prior to the conclusion of probation, CMSV's president shall provide a letter to the COI affirming that CMSV's current athletics policies and practices conform to all requirements of NCAA regulations.
 4. Public reprimand and censure.
 5. A student-athlete competed while ineligible as a result of the violations in this case. Therefore, pursuant to Bylaw 19.5.2-(g), CMSV shall vacate all regular season and conference tournament records and participation in which the ineligible student-athlete competed from the time he became ineligible through the time he was reinstated as eligible for competition.⁴ This order of vacation includes all regular season competition and conference tournaments. Further, if the ineligible student-athlete participated in NCAA postseason competition at any time he was ineligible, CMSV's participation in the postseason shall be vacated. The individual records of the ineligible student-athlete shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, CMSV's records regarding its athletics programs, as well as the records of head coaches, shall reflect the vacated records and 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 affected head coach shall similarly reflect the vacated wins in his 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 toward specific honors or victory "milestones" such as

⁴ The COI has consistently prescribed a vacation of records in cases that involved student-athletes competing while ineligible. *See Susquehanna, Hunter College (2016), Staten Island and Occidental College (2013).*

100th, 200th or 500th career victories. Any public reference to the vacated records shall be removed from the athletics department stationary, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in these sports shall be returned to the Association.

Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the sports information director (or other designee as assigned by the athletics director) must contact the NCAA Media Coordination and Statistics office and appropriate conference officials to identify the specific student-athletes and matches impacted by the penalties. In addition, CMSV must provide the NCAA Media Coordination and Statistics office with a written report detailing those discussions. This written report 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. A copy of the written report shall also be delivered to the OCOI at the same time.

6. CMSV shall pay a \$1,000 fine.
7. Outside audit of CMSV's athletics policies and procedures, with a particular emphasis on compliance policies and procedures, rules education and the athletic department's organizational structure. The audit shall ensure that the compliance policies and procedures comply with NCAA legislation. CMSV shall implement and abide by the reviewer's recommendations. The results of the audit and steps taken to implement and abide by the recommendations shall be included in the institution's final compliance report.
8. The athletics director violated ethical conduct legislation when he knowingly furnished false or misleading information to the enforcement staff and CMSV concerning his involvement in the violations. Therefore, the athletics director shall be subject to a one-year show-cause order from May 3, 2018, to May 2, 2019. During this one-year show-cause period, the athletics director shall attend an NCAA Regional Rules Seminar. Any member institution employing the athletics director during the show-cause period that does not agree to the restriction shall contact the OCOI to request an appearance before the COI to contest the show-cause order. If the institution agrees to the restriction of the show-cause order, the institution shall file a report with the OCOI at the end of the show-cause period verifying that the athletics director attended the Regional Rules Seminar pursuant to the show-cause order and documenting the compliance education provided to the athletics director during the Regional Rules Seminar. If CMSV continues to employ the athletics director, this report shall be part of the final compliance report.

Although each case is unique, the show-cause order is consistent with those prescribed in prior cases. *See Elmhurst College (2017)* (prescribing a one-year show-cause order for a financial aid director who engaged in unethical conduct when she knowingly provided improper aid to student-athletes over four academic years); *Baruch* (prescribing a one-year show-cause order with restrictions for a head coach and institutional vice president who engaged in unethical

conduct when they knowingly influenced the awarding of financial aid based on athletics to student-athletes over multiple years); and *Illinois* (prescribing a two-year show-cause order with restrictions for a head coach who sent hundreds of impermissible texts to dozens of student-athletes, failed to promote an atmosphere for compliance and engaged in unethical conduct when he knowingly provided false or misleading information to the athletics director concerning his involvement in the violations). Like in these cases, the athletics director's unethical conduct warranted a show-cause order.

As required by NCAA legislation for any institution involved in a major infractions case, CMSV shall be subject to the provisions of Bylaw 19.5.2.3 concerning repeat violators for a five-year period beginning on the effective date of the penalties in this case, May 3, 2018. The COI further advises CMSV that it should take every precaution to ensure that it observes the terms of the penalties. The COI will monitor the penalties during their effective periods. Any action by CMSV contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the probationary period, prescribing more severe penalties or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS

Effel Harper
Tracey Hathaway
Gerald Houlihan, Chair
Nancy Meyer
Gerald Young

APPENDIX ONE

**CMSV'S CORRECTIVE ACTIONS AS IDENTIFIED IN ITS
DECEMBER 8, 2017, RESPONSE TO THE NOA**

1. Reassignment of the role of compliance coordinator to the head athletics trainer in December 2015.
2. Distribution of a monthly compliance newsletter beginning January 2016.
3. Regular one-on-one meetings between head coaches and the compliance coordinator beginning January 2016.
4. Creation of an interpretation request form in January 2016 allowing coaches to document concerns and seek clarification on interpretive issues and the compliance coordinator to address themes from the requests.
5. Monthly compliance meetings beginning in January 2016.
6. Commitment to sending at least two athletics staff members to NCAA Regional Rules annually beginning in May 2016.
7. Creation of internal processes through a manual for the compliance coordinator in March 2017.
8. Revision of the coaches' manual in September 2017.
9. Ongoing rules education for student-athletes and coaching staff.

APPENDIX TWO
Constitution and Bylaw Citations

Division III 2014-15 Manual

13.02.9 Representative of Athletics Interests. A "representative of the institution's athletics interests" is an individual who is known (or who should have been known) by a member of the institution's executive or athletics administration to:

- (a) Have participated in or to be a member of an agency or organization promoting the institution's intercollegiate athletics program;
- (b) Have made financial contributions to the athletics department or to an athletics booster organization of that institution;
- (c) Be assisting or to have been requested (by the athletics department staff) to assist in the recruitment of prospective student-athletes;
- (d) Be assisting or to have assisted in providing benefits to enrolled student-athletes or their families; or
- (e) Have been involved otherwise in promoting the institution's athletics program.

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 prospective student body determined on a basis unrelated to athletics ability.

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

- (c) Co-signing of loans.

Division III 2015-16 Manual

13.02.9 Representative of Athletics Interests. A "representative of the institution's athletics interests" is an individual who is known (or who should have been known) by a member of the institution's executive or athletics administration to:

- (a) Have participated in or to be a member of an agency or organization promoting the institution's intercollegiate athletics program;
- (b) Have made financial contributions to the athletics department or to an athletics booster organization of that institution;
- (c) Be assisting or to have been requested (by the athletics department staff) to assist in the recruitment of prospective student-athletes;

(d) Be assisting or to have assisted in providing benefits to enrolled student-athletes or their families; or

(e) Have been involved otherwise in promoting the institution's athletics program.

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

(c) Co-signing of loans.

14.9.1 Obligation of Member Institution to Withhold Student-Athlete from Competition. If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 14.11 if it concludes that the circumstances warrant restoration.

14.9.4.1 Loss of Eligibility. A student-athlete shall be denied eligibility for intercollegiate competition in a sport if he or she participates in intercollegiate competition in that sport while ineligible under this bylaw or other applicable NCAA legislation. The certifying institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility if it concludes that the circumstances warrant restoration (see Bylaw 14.11).

16.8.1.2 Competition While Representing Institution. An institution may provide actual and necessary travel expenses (e.g., transportation, lodging and meals) for a student-athlete to represent the institution in competition, provided the student-athlete is eligible for intercollegiate competition.

Division III 2016-17 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:

(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.

14.9.1 Obligation of Member Institution to Withhold Student-Athlete from Competition. If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 14.11 if it concludes that the circumstances warrant restoration.

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