

**UNIVERSITY OF MEMPHIS**

**RESPONSE**

**TO**

**NCAA NOTICE OF ALLEGATIONS**

April 24, 2009

## INTRODUCTION

This document is the Response of the University of Memphis (the "University" or "Memphis") to the NCAA Notice of Allegations dated January 16, 2009. At the direction of University President Shirley Raines, this Response has been prepared by University Counsel Sheri Lipman with assistance from Nicole Green, assistant athletic director – compliance, and from Mike Glazier and Steve Morgan of the Overland Park, Kansas, law firm of Bond, Schoeneck & King, PLLC.

The Notice of Allegations is substantially the product of an investigation initiated by the University in regard to its women's golf program in the late spring of 2008 and the result of a review of issues after a letter concerning a member of the men's basketball team was received by the University and the NCAA in May 2008 from the Educational Testing Service. The golf violations discovered were self-reported to the NCAA. The NCAA enforcement staff initiated its review of the situation and sent a September 5, 2008, letter to the president notifying her of the investigation. The University has cooperated fully in the investigation and has worked with Jackie Thurnes, assistant director of enforcement, to thoroughly examine all issues addressed in the Notice of Allegations and this Response. The case involves issues in women's golf and men's basketball as discussed below.

### Women's Golf

In late April 2008, a women's golf student-athlete approached Nicole Green, the University's assistant athletic director for compliance, regarding a potential retaliation claim against women's head golf coach Jennifer Bruun. The student-athlete alleged that Bruun was insisting that she repay money for golf clubs in order to graduate, and the student-athlete did not believe that she owed the money. In the course of the conversation with Green, the student-athlete revealed information that led Green to be concerned that the coach had engaged in, or attempted to engage in, inappropriate relationships with women's golf student-athletes. Green and her superior, Lynn Parkes, associate athletic director for compliance, contacted R.C. Johnson, athletic director, who contacted Lipman, University legal counsel, as to the appropriate next steps. It was recommended that the student-athlete be immediately referred to Michelle Banks, the University's Affirmative Action/EE officer, because the situation appeared to involve a potential sexual harassment issue, which would be Banks' responsibility to investigate.

Banks conducted her investigation over the next several weeks, interviewing the golf student-athletes and gathering documents and other evidence from them. Part of the evidence gathered by Banks was information about gifts given to the student-athletes by Bruun. At the conclusion of her investigation, Banks opined that the coach had engaged in inappropriate and unprofessional behavior, but could not conclude that the behavior included sexual harassment. Banks submitted her report and conclusions to the President as is appropriate under University procedures. The President then referred the matter back to athletics, given the potential NCAA rules-compliance issues involved, specifically concerns about possible NCAA extra benefits.

At that point, the athletics department's compliance office, in conjunction with the University's office of legal counsel, began an investigation into whether Bruun had provided improper extra benefits to the student-athletes. At the time this investigation began, which was late May 2008, the academic year had ended and it was difficult to interview the student-athletes in person. Those conducting the investigation (Green, Parkes and Lipman) interviewed several student-athletes via telephone but conducted as many in-person interviews as possible. An interview also was conducted with Bruun, who in June 2008 categorically denied all allegations of extra benefits, as well as any other NCAA violations, and denied any inappropriate relationships with student-athletes. Given the vast weight of the evidence presented by the student-athletes, however, including apparent violations, as well as unprofessional conduct in the way in which she treated her team members (by fostering relationships with certain members of the golf team which were not appropriate for the coach/student-athlete situation), the University terminated coach Bruun's employment.

### Men's Basketball

In late October 2007, the University was contacted by the [REDACTED] Public Schools Office of Inspector General regarding an investigation into possible grade changes at a [REDACTED] public school. The investigation centered on a number of students' records at one school in particular, namely [REDACTED]. Specifically, Memphis' cooperation was sought in connection with the investigation as it related to then [REDACTED]-year men's basketball student-athlete [REDACTED]. The Inspector General's office was trying to confirm its suspicion that one grade for one semester for one course had been changed on [REDACTED] record and wanted information from [REDACTED].

about his knowledge of, or involvement with, the change. The Inspector General's office also noted in conversation that there was a rumor that ██████ had not taken his ACT test, but instead had someone else take it for him.

The University fully cooperated with this investigation, reviewing ██████ high school transcript and the other academic documents submitted in support of his admission. In addition, the University interviewed ██████, as well as the men's basketball coaching staff, regarding any knowledge they had of these allegations. All were questioned about the alleged grade change, as well as the rumor regarding the test. As to the test, it was noted from the academic records that ██████ was admitted to the University and approved by the NCAA Eligibility Center based on his SAT score, not his ACT score. The University also attempted to obtain documents from the Education Testing Service about this matter but was told that the documents would not be released.

Based on the interviews and the review of the documents, the University concluded that neither ██████ nor the coaching staff had any knowledge of the grade change. In fact, the one grade for one semester for one class change (from a B to a C) would not affect ██████ academic admissions and eligibility status with the University or the NCAA Clearinghouse in any manner. The University provided the information about this situation and an updated transcript to the NCAA Eligibility Center by letter dated November 19, 2007.

As to the test score issue, the University found insufficient evidence to conclude that ██████ did not take the SAT test (the test on which his admission and eligibility was based) himself. It

appeared to also be clear from the interviews that the men's basketball coaching staff was not involved in, and had no knowledge of, when ██████ took the test and what his scores were. In fact, ██████ testified that his mother would not even tell him what his scores were after he took the test, but instead would only say whether he "passed" it or needed to take it again. He took the standardized tests several times.

In follow-up conversations with the Inspector General's office, the University was informed that while they were certain that ██████ grade had been changed, they did not believe that ██████ had any knowledge of, or involvement with, the grade change. In addition, and most significantly, they informed the University that the alleged source of the rumor that ██████ had not taken the ACT test was questioned, and that she denied ever making that allegation. Given this information, along with the results of the University's investigation, it was determined that there was insufficient information to believe that ██████ had not taken the test.

Nothing more was heard about this matter until the University received an e-mail on May 13, 2008, AFTER the conclusion of the basketball season, as well as the entire academic year, notifying it that ██████ SAT score had been invalidated. As is now apparent from the file, Educational Testing Service first sent ██████ a letter on March 17, 2008, to his ██████ address raising questions about his test score and giving him the opportunity to submit information. The letter stated that he was to submit information by April 9, 2008. At the time this letter was sent to ██████ in ██████, he was on campus at the University of Memphis. In addition, the University played its first NCAA tournament game on March 21, 2008, in Little Rock, Arkansas. By April 9, the deadline to submit information, the University had also traveled to Houston to

compete, and had competed in the NCAA championship game, which occurred on April 7, 2008, in San Antonio. Apparently, [REDACTED] did not submit any information (and it is unclear whether he even received the letter) because another letter was sent on April 10, 2008, again to the [REDACTED] address, and again requesting information. The deadline contained in that letter was April 24, 2008, which was the study day on campus before the start of final examinations for the spring semester. Again, [REDACTED] apparently did not respond to the letter because by letter dated May 5, 2008, his scores were invalidated. The University was notified by e-mail on May 13, 2008. This was the University's first notice that an issue remained concerning [REDACTED] SAT score. None of the previous attempts to communicate with [REDACTED] had been forwarded to anyone at the University, and [REDACTED] had not advised anyone of the matter.

As for the matters involving [REDACTED], [REDACTED] traveled to several away basketball games during the 2007-08 season to watch his [REDACTED] compete. While [REDACTED] was charged for most of these trips, because of administrative oversights, he was inadvertently not charged for a few of the trips. Those failures to charge him immediately for his expenses are the bases for Allegation 4. The administrative issues related to the failures to charge [REDACTED] have been corrected.

#### University Compliance Commitment

Even before the initiation of the investigation and reporting of the matters that are the subject of this case, the University not only had in place an engaged and functioning NCAA compliance program but also had a strong desire to know if there were failures to comply. In the fall of

2007, when there were concerns and rumors about [REDACTED] academic qualifications, the University examined the situation fully. In the spring of 2008, when issues were raised concerning the relationship of the head women's golf coach with members of the team, the University investigated the situation and identified violations that are the bases for Allegations 1, 2 and 3.

Later in 2008, upon the involvement of the NCAA enforcement staff, the University cooperated fully with, vigorously participated in and embraced the efforts to investigate whether there were problems that needed to be addressed. Throughout the processing of this matter, the president and director of athletics have remained actively engaged and informed. The joint investigation between the NCAA enforcement staff and the University has fully evaluated the matters that are detailed in the Notice of Allegations and in this Response. In addition, other concerns were examined and evidence did not support findings of further infractions.

From the president through the institutional and athletics administrators, the University is committed to further strengthening its compliance program and its dedication to operating within the letter and spirit of NCAA and Conference USA regulations. Although a strong commitment to compliance already existed at the time of the violations addressed in this case, the University will utilize these matters as educational tools and reminders to all involved with the intercollegiate athletics program of the importance of avoiding infractions and of the possible impact of inappropriate behavior by coaches and others. The University's goals include making Memphis not only one of the most competitive athletics programs in the country but also one of

the best administered and most focused on rules compliance. The corrective and disciplinary actions taken in this case are intended to further those efforts and to be responsive to the violations.

4. [NCAA Bylaws 16.02.3 and 16.11.2.1 (2008-09 NCAA Manual)]

It is alleged that during the 2007-08 academic year, the institution provided approximately \$2,260 in extra benefits to [REDACTED], in that he sometimes received free transportation on the men's basketball team's charter plane to and from away-from-home contests, as well as free lodging at the men's basketball team's hotel during away-from-home contests. Specifically:

- a. On February 19 and March 4, 2008, [REDACTED] was permitted to travel on the men's basketball team's charter plane at no cost. The total value of this transportation was approximately \$1,125. [NCAA Bylaws 16.02.3 and 16.11.2.1]
- b. On December 14, 15 and 18, 2007, and January 29 and 30, 2008, [REDACTED] was permitted to stay at the men's basketball team's hotel at no cost. The total value of this lodging was approximately \$1,135. [NCAA Bylaws 16.02.3 and 16.11.2.1]

Please indicate whether this information is substantially correct and whether the institution agrees violations of NCAA legislation occurred. Submit evidence to support your response.

### CONCLUSION

Although the University agrees that the information included in this allegation is substantially correct in that [REDACTED], [REDACTED] inadvertently failed to reimburse the institution for certain travel-related expenses, the University disagrees with the manner in which this violation is characterized, which suggests that the expenses were intentionally provided at no cost to [REDACTED] and the value assigned to the hotel charges. The University agrees that violations of the extra-benefit regulations cited in the allegation occurred.

### DISCUSSION OF THE CIRCUMSTANCES

As a result of the investigation of this matter, the University determined that no travel or hotel stay was intentionally provided to ██████ at no cost. Rather, although the University had a credit card number for ██████ which he had provided to be charged to cover his expenses related to air travel, this process was inadvertently not done on two plane trips (a total amount of \$1,125). Charges to the credit card were properly handled on five other trips during the season, resulting in payments to the University of \$3,150. The failure to do so on the two trips that are the subject of Allegation 4-a was an administrative error in the University's Athletic Business Office. This failure had nothing to do with men's basketball, and nothing to do with the fact that ██████ was a student-athlete's family member. Frankly, the same error could have occurred for any member of the public traveling with the men's basketball team.

As for the hotel charges referenced in Allegation 4-b, the University found three instances in which ██████ hotel room inadvertently was charged to the University, even though in each case ██████ was NOT included on the list of rooms for which the University would pay. Unfortunately, the University does not receive itemized bills for hotel rooms until several weeks after a trip has concluded, and, in these instances, the bills were not reviewed in sufficient detail to discover that ██████ room inadvertently had been billed to the University. Upon review after the fact, it was discovered that this occurred on three occasions, but did NOT occur on five other occasions when ██████ stayed at the same hotel as the University travel party.

The University also believes that the value assigned to hotel stays as the "extra benefit" asserted in Allegation 4-b is incorrect. The NCAA enforcement staff contends that the hotel room rate charged to ██████ should be the regular rate at the hotels at which the stays occurred. It argues that the rate that Memphis has assigned to the rooms is a discounted rate obtained through the University, and therefore inappropriate for him to receive. However, as a part of this investigation, the University has identified rates through the involved hotels that are what the hotels would have charged any member of the public traveling with the men's basketball program or to attend its games. Specifically, the December 14-15, 2007, stay was for two nights at the Nashville Marriott Vanderbilt, and that hotel has reported that ██████ would have been charged a rate of \$149 per night without special arrangements by Memphis. The December 18, 2007, stay was at the Marriott Kingsgate Conference Center in Cincinnati, and that hotel has reported that anyone who indicated that he was traveling for the game would have received a rate of \$99 per night. The January 29-30, 2008, stay was at the Marriott Houston West Loop, and that hotel has indicated that ██████ would have qualified for a group rate, as someone coming in to watch the team, at \$99 per night plus a \$50 charge for a late check out. Accordingly, the University has concluded that the correct value of the benefit received was \$546 plus applicable taxes rather than the \$1,135 value set forth in Allegation 4-b.

In summary, the amount of the hotel charges inadvertently paid for by the University and the air travel charges inadvertently not charged to ██████ credit card by the University are as follows:

Charges ██████ inadvertently did not pay:

1.	Total for Hotels:	\$588.85 (i.e., \$546 plus applicable taxes)
2.	Total for Flights:	\$1,125
	<b>Total Amount Owed</b>	<b>\$1,713.85</b>

For the Committee on Infractions members information, ██████ immediately paid all charges related to the other travel he took to watch his ██████ play. Those charges paid during the 2007-08 season are as follows:

Charges ██████ DID pay:

1.	Total for Hotels	\$1,828
2.	Total for Flights	\$3,150
	<b>Total Amount ██████ Paid</b>	<b>\$4,978</b>

RESPONSES TO SUBQUESTIONS

Also, please provide the following:

- a. A copy of all charter plane and hotel records pertaining to ██████ extra benefits. Please provide a summary of charter plane transportation and hotel accommodations that ██████ paid for as well as those that he did not pay for.

See Discussion of the Circumstances above and Exhibits 4-1, 4-2, 4-3, 4-4 and 4-5.

- b. A statement describing the athletics department procedure used to monitor charter plane transportation used by student-athletes' relatives.

See Exhibit 4-6.

- c. A statement describing the athletics department procedure used to monitor hotel accommodations used by student-athletes' relatives.

See Exhibit 4-7.

5. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(h) (2008-09 NCAA Manual)]

It is alleged that [REDACTED], prospective men's basketball student-athlete, failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics for his knowing fraudulence or misconduct in connection with his entrance examination. Specifically, on [REDACTED], an unknown individual completed [REDACTED] SAT, with [REDACTED] knowledge, which was used to obtain his admission into the institution and to certify his NCAA eligibility. [REDACTED] subsequently competed for the men's basketball team through the 2007-08 season, which included his participation in the 2008 NCAA Division I Men's Basketball Championship.

Please indicate whether this information is substantially correct and whether the institution agrees violations of NCAA legislation occurred. Submit evidence to support your response.

### CONCLUSION

The University does not have sufficient information to conclude that [REDACTED] engaged in unethical conduct in regard to a [REDACTED] taking of the Scholastic Aptitude Test (SAT). Specifically, the University has no knowledge that [REDACTED] did not complete the SAT entrance examination. Accordingly, the University does not know whether the information included in the allegation is substantially correct and is unable to conclude whether a violation of the cited NCAA regulations has occurred.

### DISCUSSION OF THE CIRCUMSTANCES

In late October 2007, the University was contacted by the [REDACTED] Public Schools Internal Audit division regarding potential inappropriate grade changes that had occurred within their system, possibly involving [REDACTED], among others. The University cooperated in the investigation and

interviewed █████ about those allegations. Although the investigation did show that someone had manipulated one of █████ grades for one class in one semester, it was determined that █████ had no knowledge of this change, and therefore was not involved in inappropriate conduct. In fact, that grade did not make a difference in his admittance to the University of Memphis or to his NCAA initial-eligibility certification status. Information related to this incident, however, was provided to the NCAA Eligibility Center, with a corrected transcript, by letter dated November 19, 2007. See Exhibit 5-1.

In the course of the investigation related to the grade issue, the █████ Public Schools contact also stated that there was a rumor that █████ did not actually take the ACT but instead had someone else take it for him. Although this was only a rumor, University officials questioned █████ about this issue as well. █████ described the various times he took either the ACT or the SAT, and what he did to prepare. See Exhibit 5-2. The University also attempted to obtain materials from the testing services, but was unable to do so. After reviewing the information that was in the University's possession, as well as that obtained through the interviews of █████ and the men's basketball coaching staff, the University concluded that there was not sufficient evidence to indicate that █████ did not take the test. Interestingly, in early November 2007, the █████ Public Schools contact reported to the University that the teacher believed to be the source of the information about the testing discrepancy was finally interviewed and denied any knowledge of this situation.

During the course of this investigation, the University has encouraged █████ to cooperate with the NCAA completely. Through University Counsel contact with █████ counsel and through John

Calipari's contacts with both [REDACTED] and his [REDACTED] ([REDACTED]), the University's position that [REDACTED] should cooperate with the NCAA in this matter has been quite clear. The consistent response received by the University is that [REDACTED] took the test at issue, has answered questions about this already (in the fall of 2007 interview with the University) [REDACTED]

[REDACTED]

The only evidence known to the University suggesting that [REDACTED] did not take the [REDACTED], SAT is that provided by Lee Ann Harmless, a forensic document examiner retained by the NCAA.<sup>1</sup> Even Harmless does not conclude definitively that [REDACTED] did not take the exam. She wrote only that [REDACTED] "probably (emphasis added) did not write the questioned hand printing or cursive writing" on the exam form. See Exhibit 5-3. As noted in the Conclusion, this is not sufficient evidence for the University to conclude that [REDACTED] knowingly engaged in fraudulent conduct related to the exam.

### RESPONSES TO SUBQUESTIONS

Also, please provide the following:

- a. An overview of the academic history for the identified prospective student-athlete, including the (1) name of the high schools attended and date of graduation; (2) cumulative and core grade-point average on the date of graduation; (3) dates of all ACTs and/or SATs completed, as well as scores received; and (4) certification status issued by the NCAA Eligibility Center.

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<sup>1</sup> A March 4, 2008, memorandum concerning this issue included in the ETS materials sent to Jackie Thurnes on June 5, 2008, is less conclusive because, as noted by the examiner, there is confusion about who produced the comparative samples. See Exhibit 5-5.

██████████ attended the ██████████ and graduated on ██████████. His cumulative high school grade-point average was ██████████ and the core grade-point average was ██████████. ██████████ took the ACT on ██████████, and received a sum score of ██████████. He took the SAT on ██████████, and received a ██████████. He was certified by the NCAA Eligibility Center as a qualifier in ██████████ and that status was changed to nonqualifier in the spring of 2008 after the Educational Testing Service cancelled the ██████████ score that was utilized in his certification.

- b. An overview of the institution's recruitment of the identified prospective student-athlete, including the (1) identities of the athletics department staff members involved in the recruitment of the prospect, (2) dates of unofficial and official paid visits to the institution's campus completed by the prospect, (3) duration of the institution's recruitment of the prospect, and (4) date the prospect signed a National Letter of Intent to attend the institution.

Then head men's basketball coach John Calipari and then assistant men's basketball coach Derek Kellogg were actively involved in ██████████ recruitment. Joseph Luckey, Director - Center for Athletic Academic Services, and Richard Hogans, director of performances, at the University each met with ██████████ during his official visit. ██████████ made his official visit to the Memphis campus ██████████, and his student host was men's basketball student-athlete ██████████. He did not make an unofficial visit. ██████████ signed a National Letter of Intent to attend the University on ██████████ during the ██████████

- c. An overview of the attendance and athletics participation at the institution for the identified prospective student-athlete, including the (1) dates of enrollment at the institution and any other two- or four-year institution, (2) eligibility for practice and competition for each academic year enrolled, (3) amount of athletically related financial aid provided for each academic year, (4) average number of minutes and average number of contests participated in for each season of competition, (5) number of contests started

for each season of competition, and (6) number of NCAA postseason events participated in for each season of competition.

[REDACTED] was enrolled in the University throughout the [REDACTED]

[REDACTED] He did not attend any other collegiate institution. He was certified as an initial-eligibility qualifier by the NCAA Eligibility Center in [REDACTED]

and was eligible for practice and competition throughout the 2007-08 basketball season. [REDACTED]

received a full grant-in-aid with a value of [REDACTED] He [REDACTED]

d. A copy of [REDACTED], SAT.

See Exhibit 5-4.

e. A transcript of [REDACTED] November 7, 2007, interview with the institution.

See Exhibit 5-2.

f. A copy of all investigative records pertaining to [REDACTED] SAT supplied by the Educational Testing Service.

See Exhibit 5-5.

- g. A copy of a September 2, 2008, report pertaining to [REDACTED] SAT handwriting examination prepared by Forensic Document Examiner Lee Ann Harmless.

See Exhibit 5-3.

- h. A statement indicating whether the provisions of NCAA Bylaws 31.2.2.3 and 31.2.2.4 apply to the institution as a result of [REDACTED] potential involvement in the violations outlined in this allegation.

The University has concluded that the consequences described in regard to NCAA Bylaws 31.2.2.3 and 31.2.2.4 are not appropriate in this case. Although the Educational Testing Service (ETS) notified [REDACTED] and the University by letters dated May 5, 2008 (after [REDACTED] last competition on behalf of the University), that [REDACTED], test scores had been canceled, and those were the scores that had been utilized to certify his eligibility, the University was in no position to know of a problem with the scores at the time of [REDACTED] participation. He had been certified on behalf of the NCAA as having met the initial-eligibility requirements and was a regularly admitted full-time student at Memphis.

The University exercised due diligence in the fall of 2007 prior to [REDACTED] competing on behalf of the University. It took all reasonable steps to confirm that [REDACTED] had met eligibility requirements. The University took the additional steps of pursuing allegations raised by the [REDACTED] Public Schools concerning [REDACTED] grades in high school and even attempted to evaluate the validity of a rumor about the legitimacy of one of his tests. After it took all practical actions to evaluate [REDACTED] records and eligibility (and received input from the [REDACTED] Public Schools), the University had no reason to be concerned about [REDACTED] qualifications.

Even though the test scores ultimately were canceled, it is not clear that ██████ actually engaged in fraud such that he should have known that he was ineligible. When asked directly about the tests he was reported to have taken, ██████ responded that he took each of them himself. That questioning took place prior to ██████ competition. He left the University in the ██████ and has declined to participate further in the investigation of his eligibility. ██████ did not pursue any of the opportunities made available to him by ETS to attempt to validate his scores. The first notice of these opportunities was sent very late in the basketball season, may not have actually reached ██████, and included a deadline for response that was after the season. At this point, there is not sufficient evidence on which to conclude that he knew or should have known that he was ineligible at the time of his participation in the NCAA championship.

Certainly, the University of Memphis should not suffer a financial penalty or vacation of records for the 2008 NCAA tournament as a result of this allegation. ETS canceled ██████ score on May 5, 2008, literally after the completion of the entire basketball season as well as the entire academic year at the University. The University received NO indication that there was even an issue with the test scores until it received a copy of that May 5 letter. Bylaws 31.2.2.3 and 31.2.2.4 clearly indicate that the Committee on Infractions' authority is discretionary. They state that the sanctions set forth "may" be imposed by the committee. The University believes that fundamental fairness to the institution, its other student-athletes and coaches, and its community makes this a case in which the committee, even if it concludes that it has the authority to penalize under these provisions, should exercise its discretion to take no punitive action.

## 6. [NCAA Constitution 2.8.1 (2008-09 NCAA Manual)]

It is alleged that the institution violated the principle of rules compliance as it relates to Allegation No. 4, in that the institution did not monitor and assure compliance related to the men's basketball charter plane and hotel accommodations and the use of both by [REDACTED]

Please indicate whether this information is substantially correct and whether the institution agrees that a violation of NCAA legislation occurred. Submit evidence to support your response.

### CONCLUSION

Based upon a review of the evidence and all of the circumstances related to the issues addressed in Allegation 4, the University believes that the information contained in this allegation is not substantially correct. Specifically, the University had procedures in place to attempt to avoid impermissible charges to the institution and assure compliance with relevant NCAA rules and monitored the use of the men's basketball charter planes and hotel accommodations. Although the inadvertent violations detailed in Allegation 4 took place, the University does not agree with the statement that it "did not monitor and assure compliance." Rather, the University agrees that a more narrow violation of NCAA Constitution 2.8.1 occurred only to the extent of its limited failure to monitor concerning the improper charges.

### DISCUSSION OF THE CIRCUMSTANCES

The University acknowledges that a portion of [REDACTED] travel expenses "fell through the cracks" and was not charged in the manner it should have been under the departmental policies despite the fact that procedures were in place which should have prevented any inappropriate

Secondary violation

## 7. [NCAA Bylaws 13.01.4, 13.1.2.1 and 13.1.3.5.1]

It was reported that around July 2008, Dave Bronczek, a representative of the institution's athletics interests, made an impermissible telephone call to Oseye Gaddy, the mother of prospective men's basketball student-athlete Abdul Gaddy. During the call, Bronczek had a conversation with Gaddy about the institution's men's basketball program. Gaddy's son was being recruited by the institution's men's basketball program at the time of the call.

Please indicate whether this information is substantially correct and whether the institution agrees that a violation of NCAA legislation occurred. Submit evidence to support your response. Also, please provide a copy of the institution's September 10, 2008, self-report to the NCAA enforcement staff.

CONCLUSION

The University self-reported the secondary violation that is the subject of Allegation 7. It agrees that the information is substantially correct and that the situation is a violation of the cited bylaws.

Specifically, the University agrees that Dave Bronczek is a representative of the institution's athletics interests under NCAA legislation and that he made the call in question to Oseye Gaddy. The University believes it is important to note that Gaddy was an employee of the company of which Bronczek is president. In the course of his duties as a president who takes an interest in the company's workers, Bronczek frequently makes telephone calls to employees. He often makes such calls to congratulate them on their own accomplishments or those of their families, or to offer condolences when appropriate. In this case, Bronczek called to congratulate Gaddy on the academic and athletic accomplishments of her son. Unfortunately, the topic of the University of Memphis men's basketball program came up in the course of the conversation.

As requested in the allegation, a copy of the University's September 10, 2008, self-report of this situation as a secondary violation is provided. See Exhibit 7-1.

Information Requested by the Committee on Infractions

8. Please provide all information concerning other possible violations of NCAA legislation that was discovered by the institution as a result of its review of this matter. In this regard, please indicate the means by which the information was discovered and the institution's position whether a violation has occurred.

Two possible situations of violations were uncovered during the review of this matter, one of which was reported as a secondary violation and the other for which it was determined that there was insufficient evidence to find that a violation had occurred.

Football Student-Athlete

On [REDACTED], a student-athlete's mother returned with the football team from a road contest on the team's charter flight. Specifically, the student-athlete was severely injured during an away-from-home contest at [REDACTED]. He suffered a fracture dislocation of his right ankle that required reconstructive surgery. The team physicians were unsure how the pain medication would affect the student-athlete and, therefore, felt it was unsafe for him to operate machinery (such as a motor vehicle) or make appropriate decisions to care for himself. The concern for the student-athlete's welfare led to the decision to have his [REDACTED] return on the flight with the team so that [REDACTED] could comfort him and care for him upon arrival in Memphis. The student-athlete's family resides in Memphis. The [REDACTED] had driven to the game and would not return to [REDACTED] prior to the arrival of the charter flight. His [REDACTED] did not want [REDACTED] to return [REDACTED] without anyone from the family being there to assist him. The estimated value of the impermissible benefit, which was one-way transportation on the team flight, was \$97.92. The University now recognizes that a waiver permitting the expense in light of the mitigating

circumstances should have been obtained immediately upon the team's return to Memphis, but this did not occur. See Exhibits 8-1 and 8-2.

#### NCAA Complimentary Admission

Another area about which there was some concern that a violation of NCAA legislation concerning the provision of complimentary admissions took place during the NCAA men's basketball championship in 2008. At the NCAA regional site in Houston, Texas, in March 2008, the University received several complaints after the "Sweet Sixteen" game about seating locations for Memphis supporters. One such complaint was received from William Wesley, a friend of John Calipari. University officials interviewed about this incident do not recall exactly what happened and did not provide evidence that any NCAA rule had been violated.

Specifically, one institutional staff member (William Lofton) recalled another institutional staff member (William Lansden) coming to his hotel room on behalf of the athletic director, R.C. Johnson, seeking to obtain two "passes" for Wesley to sit in an overflow section. Lansden does not recall obtaining "passes" from Lofton, and Johnson does not recall making the request. Lofton recalls seeing both Wesley and [REDACTED] during the game with some form of "passes" around their necks. The University was concerned about the nature of the "passes" and how they had been obtained.

[REDACTED] was contacted about this issue and, through his lawyer, responded that he never received a pass from the University. There is no evidence that any member of the men's basketball

coaching staff had any knowledge of, or control over, who received "passes" during NCAA tournament games. The University concluded that there was insufficient credible information on which to base a finding that any violation of NCAA legislation had taken place.

Information Requested by the Committee on Infractions

9. Please provide a detailed description of any corrective or punitive actions implemented by the institution as a result of the violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations upon which the actions were based. Additionally, indicate the date that any corrective or punitive actions were implemented.

In response to the violations that are the subject of the NCAA enforcement staff's Notice of Allegations, the University has taken a series of corrective and punitive actions, as follows:

Corrective Actions

**Policies – Team Travel and Charter Travel** – As a result of the violations concerning impermissible institutional payments for a family member of a student-athlete traveling with the team, which resulted in the provision of an extra benefit under NCAA rules, the University revised its policies concerning team travel and charter travel. The new policies provide for closer monitoring of guests or family members who may accompany a team. The new policies are included with this Response as exhibits in regard to Allegation 4.

**Policies – Recruiting and Official Visits** – As a result of the review of the official visit violations that are the subject of Allegation 2, which resulted in more than the permissible number of student hosts receiving meals during the entertainment of prospective student-athletes, the University reviewed its policies concerning recruiting records and official visits. The current policies are included with this Response as exhibits in regard to Allegation 2.

**Educational Efforts** – Although the University had a comprehensive compliance educational program in place at the time of the violations included in this case and does not believe that ignorance of the rules led to any of the infractions, the University has used and will continue to use these violations as an opportunity to increase the awareness of the entire athletics department staff about potential problems. Particular points of emphasis in educational efforts have been the various aspects of extra-benefit and recruiting-inducement restrictions and the need for careful attention to detail when student-athletes' family members travel with the team to away contests.

#### Disciplinary/Punitive Actions

In addition to the corrective actions outlined above, which the University believes will guard against a recurrence of the violations that are addressed in this Response, the University has taken the following disciplinary and punitive actions in regard to those directly involved in or impacted by the infractions. Included in those actions were the resolution of eligibility issues in regard to those student-athletes still participating in intercollegiate athletics at the University at the time the violations were investigated and found.

**Bruun Employment Termination** – In light of the violations detailed in Allegations 1, 2 and 3 and other behavior found to be unprofessional, the University terminated the employment of then women's golf coach Jenny Bruun, effective June 26, 2008. The action was taken immediately upon a determination that the coach had engaged in conduct that she knew or should have known was contrary to NCAA legislation.

**Admonishments** – In response to the failure to adhere to institutional policies concerning the payments for expenses for a family member accompanying the team on a road trip (as described in Allegation 4), University Athletic Director R. C. Johnson met with William Lofton, associate athletic director for finance, William Lansden, associate athletic director for development, Robert Winn, associate athletic director for external affairs, and Lou Strasberg, travel coordinator. In that meeting, Johnson made it clear that the problems that had arisen with travel were unacceptable and were the fault of everyone. He stated categorically that all applicable policies would be revised to ensure that this never happens again and that everyone would strictly follow the policies.

**Student-Athlete Eligibility** – In response to the violations detailed in Allegation 1, women's golf student-athletes [REDACTED], the only student-athletes with eligibility remaining who had received impermissible benefits, were immediately declared ineligible. The University determined that reinstatement was warranted in each case and processed eligibility restoration requests through the NCAA student-athlete reinstatement process. Each of the young women contributed to charity an amount equal to the value of the benefits she received, and her eligibility was reinstated.

Further, the University reviewed in detail the presumptive penalties for major violations set forth in NCAA Bylaw 19.5.2.1, as well as other penalties available to the Committee on Infractions. The University believes that the additional penalties listed below are consistent with the philosophy of crafting penalties to address the facts of each case, which the committee has utilized in the past. The University has treated this case as a serious matter and has self-imposed