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ABSTRACT

This hearing transcript presents testimony on National Collegiate Athletic Association (NCAA) rules related to payments to student athletes. Testimony was heard from individuals and groups concerned with the influence of money on college athletics, unethical and illegal payments to college athletes, the exploitation of college athletes by colleges and universities, and the issue of whether institutions should pay stipends to college athletes. Testimony was heard from: (1) Representative Cardiss Collins; (2) the president of Florida State University (FSU); (3) a former student athlete at Auburn University (Alabama); (4) the co-founder of Student Athlete Incentive Gifts; (5) the president of the Organization for Understanding and Reform; (6) two Florida attorneys; (7) the president of the Sports Lawyers Association; (8) the NCAA; and (9) two FSU football coaches. (MDM)

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STIPENDS FOR STUDENT ATHLETES

ED 379 991

HEARING
 BEFORE THE
 SUBCOMMITTEE ON
 COMMERCE, CONSUMER PROTECTION, AND
 COMPETITIVENESS
 OF THE
 COMMITTEE ON
 ENERGY AND COMMERCE
 HOUSE OF REPRESENTATIVES
 ONE HUNDRED THIRD CONGRESS
 SECOND SESSION

JULY 28, 1994

Serial No. 103-147

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STIPENDS FOR STUDENT ATHLETES

THURSDAY, JULY 28, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND COMPETITIVENESS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2322, Rayburn House Office Building, Hon. Cardiss Collins (chairwoman) presiding.

Mrs. COLLINS. Good morning. This hearing of the Energy and Commerce Committee Subcommittee on Commerce, Consumer Protection and Competitiveness will come to order.

I want to welcome everyone to today's hearing on NCAA rules relating to payments to student athletes. Earlier this year I was troubled to read about the problems at Florida State University where a sports agent took several student athletes on a shopping spree for clothing and sports equipment.

The incident reminded me of our first hearing over 3 years ago, when we heard members of the Knight Commission discuss how college sports were out of control. At that time, we heard testimony that more than half of the Division I-A schools, 57 out of 106 had been sanctioned or put on probation in the past 10 years.

In the following years, the NCAA and particularly college presidents have taken pride in their belief that they have reclaimed control over college sports, but the scandals keep coming. For example, the Auburn football program was sanctioned after allegations of loans and gifts from boosters were proven with the knowledge of the coaching staffs. Other schools, such as the University of Washington have been rocked by similar scandals.

Nearly all of these cases revolve around money flowing illegally from either boosters or agents to student athletes. In some cases the amounts are large. In others, they are not. I do not condone the breaking of the rules. Violations of the rules of sports bring dishonor to all the fine students who play by the rules and foster suspicions about college sports generally.

Yet, the continued succession of these violations suggest that perhaps enforcement of the rules is not the only problem. Instead, the rules themselves must be open to question. It seems entirely possible that the continued violations involving payments to student athletes reflect two other trends in college sports over the past 2 decades. I am referring to the increased revenues for football and basketball and the increased participation by student athletes from very poor backgrounds.

(1)

As I said at our first hearing 3 years ago, college sports is big business, and that is the root of its many problems. We have college coaches signing million-dollar contracts with endorsement deals on the side that are worth several million dollars more. We have athletic directors and college presidents switching their teams from conference to conference, setting up new bowl alliances and altering game schedules, all in search of increased television revenues.

The NCAA college basketball tournament puts college basketball on par with the NBA. Indeed, there is nothing amateurish about college sports with the simple exception of the treatment of the student athlete.

How can one explain to the athlete, who is attending the practices, flying back and forth across the Nation in tournaments, watching the coach cut lucrative deals with a shoe company, that this is amateur sports and that the acceptance of a pair of shoes is illegal? How can we set one set of rules for the coaches and administrators and a different set of rules for the student?

At the same time that college sports have evolved from quaint rivalries that entertained the students and alumni of schools involved into a big business, colleges began recruiting increasing numbers of low-income and minority students to strengthen their teams. Many of these students come from extremely poor backgrounds, unlike the traditional college athlete, who in the past came from a family of means.

Yet the NCAA rules have never been changed to face this reality. In fact, they have become more strict with respect to such matters as laundry money and outside income. While most students would certainly be envious of any student athlete who can attend school on a full scholarship, it must be understood that students of extremely limited means can easily become vulnerable to even modest amounts of outside payments or gifts.

On many occasions, I have heard from coaches who tell me of students who arrive on campus with virtually nothing, yet they are expected to come dressed in a coat and a tie on trips. Even if the student had time for an outside job, it would be illegal.

Similarly, in Chicago, we had a highly publicized case of a 10th grade order, who was one of the top basketball players in the area. An alumnus apparently gave the youngster a \$150 check to encourage him to attend his alma mater. The donor claimed the money was to help this kid rise out of the projects. Regardless of the truth of the statement, it is an argument I hear often that poor students should get special consideration.

During this hearing we will also hear a good deal about the enforcement of the rules or the nonenforcement of some rules. When a violation of NCAA rules occurs, and a school is penalized, the school can suffer severe financial costs, and the remaining athletes, who do nothing wrong, suffer the consequences of the sanctions such as a ban on tournament play. At the same time, the wrongdoers, such as the agents or the student, may suffer no penalty at all. Some would like to see this problem addressed in legislation, most likely at the State level, yet such laws add other complexities.

Shouldn't any student athlete be allowed to talk about his financial career with anyone? Can laws be allowed to abridge the rights

of students or agents? Similarly, while the NCAA puts significant pressure on schools to police themselves and watch for violations, at what stage does this self-policing interfere with private rights?

It is likely that we will find these problems can only be addressed in a patchwork fashion. For example, it would appear that stipends for low-income students would be a step in the right direction. However, no proposal can completely solve the problems of imposing the restrictions on student payments in the name of amateurism in a sport that can hardly be called amateur in today's world.

As Division I-A schools continue to move down the road of professionalism, putting revenues ahead of students, they can hardly be in a position of denying their athletes their fair share of the pie.

Mr. Stearns.

Mr. STEARNS. Good morning and thank you Madam Chairwoman. Let me, first of all, compliment you for your leadership on this issue, for this and many other areas you have taken a leadership position dealing with consumerism and protection of the consumer, and also let me welcome at this time the great president from Florida State, Talbot D'Alemberte. We are good friends, and of course in my congressional district, I think there are as many Seminole as Gator fans. So we certainly welcome you to Washington; also the athletic department and also the other members of your staff, and I hope you will feel welcome and my staff is available to help you with anything other than your testimony here.

Today's hearing will focus on questions surrounding the lack of monetary compensation for student athletes and possible abuses by agents, boosters and others seeking to take advantage of student activities and athletes. This is an issue of tremendous concern to all of us and the distinguished chairwoman, as I mentioned earlier, should be commended for her dedication to this issue.

Nowhere is this a problem more evident than in my own State of Florida. On May 16, 1994, Sports Illustrated revealed that seven members of the Florida State University 1993 national championship football team accepted a total of \$60,000 in cash and gifts from unregistered agents. Even though two agents have pled guilty or no contest to charges stemming from this incident under Florida's tough sports agent law, I am deeply concerned about the effect episodes like these have on both student athletes and the institution they attend.

Financing a college education is not easy for any family, particularly when they may have difficulty meeting their own day-to-day living expenses. Athletic scholarships have often provided families of limited means the opportunity to send a talented child to college, an opportunity they would not have had otherwise. While these scholarships may cover the cost of attendance, they usually cover little else, meaning that student athletes are on their own to provide for normal living expenses, like clothes, shoes, transportation and other incidental expenses.

For an athlete whose family may be unable to help financially, the easy money offered by, quote, "street agents" and boosters often presents too great a temptation to resist. The NCAA has tried to respond to these concerns by permitting additional need-based grants and setting up a \$3 million special assistance fund to cover

uninsured medical care, emergency travel for family emergencies or up to \$200 for clothes and shoes. These are important steps forward and illustrate the fact that the NCAA recognizes the problem.

Whether these reforms are sufficient to stem the flow of illegal money to student athletes is still uncertain. Many of our witnesses today, including the president of Florida State University, will be proposing specific reforms designed to address these issues. Some witnesses will even suggest that the Federal Government begin to play a role in regulating sports agents and amateur athletics. I find that suggestion of very great concern.

There is an old saying around here that says, "Be careful what you ask for, you might get it." Those who advocate a strong Federal role should think very carefully about getting the Federal Government involved in the regulation of amateur athletics. I have seen a number of programs that have started out small, but quickly became bureaucratic monstrosities, far beyond the intent of the original sponsors.

Madam Chairwoman, I look forward to hearing from our witnesses today and hope that they can provide some insight and possible solutions into this very important problem. Thank you.

Mrs. COLLINS. Mr. Pallone.

Mr. PALLONE. I have no comments, thanks.

Mrs. COLLINS. All right, thank you. Our first panel today was to have been you, Mr. D'Alemberte, Mr. Bobby Bowden, who is the head coach at Florida State; Mr. Charlie Ward of the New York Knicks; and Mr. William Floyd of the San Francisco 49ers. I just learned as I was walking here that unfortunately Mr. Bowden is ill and could not be here today; and the others, for other various significant reasons could not either so you are on the panel all by yourself.

You may begin your testimony at this time. Let me say that we work under House rules which say that each person is allowed to give 5 minutes of their testimony before the panel with the full knowledge that their entire written testimony will be made a part of the record. You may begin at this time.

STATEMENT OF TALBOT D'ALEMBERTE, PRESIDENT, FLORIDA STATE UNIVERSITY

Mr. D'ALEMBERTE. Thank you, Madam Chairwoman. First of all, let me apologize for Coach Bowden. He very much wanted to be here. He hurt his back very severely over the weekend. He went to bed to rest and expected to rest and be here today, but his doctor told him that it might be a choice of either making this hearing or being ready for the football season and I urged him to make the second choice.

Mrs. COLLINS. I'm sure you did.

Mr. D'ALEMBERTE. So he has actually gone to Gainesville today for possible surgery at Shands Hospital. So he does send his regrets.

In his place the Chair wanted to hear testimony consistent with that Coach Bowden would offer, and we have brought Coach Odell Hagans, who is a two-time All American, great professional football player, who we are very proud to have recruited back to Florida State to come to his alma mater and coach, so Odell is here.

Mrs. COLLINS. Let me say this, that I would prefer to hear from your head football Coach Bowden at some later date. Perhaps we will have another hearing.

Mr. D'ALEMPERTE. In my testimony we hope to offer you an opportunity to do that. If I may, before beginning, introduce several other people. Mark Rogers is here who is a sports agent from West Palm Beach. I will have some bad things to say about some agents, but I am not talking about all agents, and Winsome McIntosh, who I think is known to the Chair and other members of the committee is here as well, and if the panel had any questions of those people.

First of all, I wanted to thank you very much for the work that you have done in following reform efforts in collegiate athletics. We very much applaud results of these changes that have occurred already in the NCAA and we look forward to even further changes. We believe we have done a good job in areas of student athletes' academic performance and enhanced gender equity. There is much more to do. But I want to talk about something that has happened to me very recently.

I became the president of Florida State University on January 2, 1994. It was the day after Florida State University had won the national football championship and I must tell you we were in a state of considerable euphoria about that championship.

President Clinton had invited us to the White House and I had a chance to introduce the team members, and I introduced them then as examples of Mr. Jefferson's aristocracy of virtue and talents, and I still believe that is true, for the vast majority of our team members have been great citizens. And yet we learned, much to our shock, that a few of our players, just a few, succumbed to the temptations and offers of unscrupulous sports agents. They violated the rules and they disappointed their university and their teammates.

Tomorrow, the university will announce the discipline of those players, who are still with our program. We will withhold those players from games, depending on the infractions for each of them. We do not, however, have any basis for disciplining those people who no longer have eligibility. We will withhold the national championship rings, but apart from that, there is really not much else we can do.

Now, one of the things that I want to make sure is clear is that the Florida State episode that was reported this spring has not been completely investigated, but we are fairly far along in the investigation, and this is not a case where boosters are involved or coaches are involved or members of the athletic department are involved. We have here a pure case of agents coming in to corrupt student athletes, and the Chair referred to some of the causes perhaps that set up that possibility of temptation. But right now we are dealing strictly with an agent problem.

Madam Chairwoman, I would like to conclude just by saying that our strong hope is that in addition to the efforts we have made at Florida State to improve the kind of program we are running, that we will be able to, through these hearings, be able to get the interest of other people. We already have the commissioners for uniform State laws agreeing to look at a model State law perhaps patterned

along the lines of Florida's law where we have now seen the first three of the bad sports agents prosecuted in the Nation.

We also think there are other things that can be done, particularly by the professional sports associations and I hope we can discuss those with the members of this committee. Thank you.

[Testimony resumes on p. 22.]

[The prepared statement of Mr. D'Alemberte follows. Exhibits A through E are retained in the subcommittee files.]

SUBCOMMITTEE ON COMMERCE, CONSUMER
PROTECTION AND COMPETITIVENESS
OPENING STATEMENT

Talbot D'Alemberte
President, Florida State University
July 28, 1994

Madam Chairwoman, I am Talbot D'Alemberte, President of the Florida State University and I am pleased to be with you.

I confess that I read the sports pages a bit more carefully these days than I did before I became President of FSU. My reading does not always give me as much pleasure as it used to. Florida State is a Carnegie Foundation Research I university, and our faculty are engaged in significant research and creative activity and in high quality teaching. I would like to spend more time with those activities, but my time is now being spent largely on problems caused by unethical people outside of the university.

I would like to thank the subcommittee for its interest in intercollegiate athletics. I have read the testimony offered in previous hearings, and I join with those who applaud your continued interest. I believe that because of your work, the efforts of the Knight

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Commission and the revitalized President's Council of the NCAA, great steps are being made in the reform of intercollegiate athletics.

Florida State University can be offered as an example of that progress. This subcommittee has expressed an interest in the record of academic performance of student-athletes, and I am proud to report that FSU's athletic department has made great strides in this area. I do not presume to take credit for this, but I am proud of the athletic department, the athletic director, the coaches and the academic advising system which is in place at FSU.

The documents attached as Exhibit A illustrate these achievements as well as a graduation rate that continues to improve. The exhibit also shows solid recent academic performance by most student-athletes. FSU was one of only nineteen schools in the country to earn honorable mention recognition in the annual graduation rate survey conducted by the College Football Association. Two of our football athletes received academic All-American recognition, and five received All-Atlantic Conference academic awards.

This committee has also expressed interest in progress toward gender equity and again I am pleased to report to accomplishments of our athletic department.

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The Exhibit B attachments show that FSU funding for women's athletic programs rank second or third in each sport among the nine Atlantic Coast Conference schools.

We are not here today to celebrate our accomplishments but, rather, to address a problem which we believe is very serious: the problem of corrupt agents who compromise student-athletes.

I became president of the Florida State University on January 2, 1994; the day after our football team won the national championship. My term as president began in a wave of euphoria. When President Clinton invited the team to the White House last February, I introduced them as examples of Mr. Jefferson's aristocracy of virtue and talents. I believed that to be the case. I still believe it is true for the vast majority of those young men, but now I know it is not true for all of them. The last several weeks have been marked by media reports of violations and misconduct, and we are in the painful process of discovering all of the facts.

We know, this morning, that a few of our players have succumbed to the offers of unscrupulous agents and have accepted gifts and favors in violation of institutional, conference and National Collegiate Athletic Association rules and regulations. They have disappointed their teammates and their university. The University will discipline those players who are still with our program. We,

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however, cannot truly discipline the players who have no remaining eligibility. We are withholding their National Championship rings until restitution is made, but that appears to be all we can do.

A vigorous prosecution of unscrupulous agents and their representatives is underway. So far as we have been able to determine, the first successful prosecutions of agents who tempted athletes to break rules have taken place this month in Tallahassee. Two have been arrested under Florida law and other arrests will be made, but I fear we cannot punish these agents to the extent warranted. Florida requires that agents register with the Department of Business and Professional Regulation; failure to do so is a third degree felony. I wish greater penalties could be imposed. That is why I welcome this opportunity to testify this morning. Colleges and universities across the nation that are engaged in intercollegiate athletics need your help.

Florida State has long enjoyed a national reputation not only for having good athletic teams, but also for having a clean athletic program. We worked hard to build such a program. I have examples of the materials (see Exhibit C, attached) we have developed to make sure our players, employees, supporters and friends know the rules and regulations they must obey. We have, for many, many years emphasized compliance, not just to stay out of trouble, but because we are the kind of school that plays by the rules.

However, last May, we began to learn that our good program was not good enough. Sports Illustrated published a sensational exposé of a shopping spree in which the representative of an unregistered agent purchased clothing and sports equipment for several members of our football team.

Since the allegations and our investigation, which has shown that the allegations were, in some cases, true, we have been in agony. Our reputation as one of the best athletic programs in the country has been damaged, and we want to know what we could have done to prevent this. There are some answers, but I want this subcommittee to know that our examination of the record shows that the FSU program of compliance is very, very good.

The public allegations against a handful of our student-athletes have been analyzed, as have the records of our educational programs and our compliance efforts. Our only interest has been in finding the truth and making every effort to restore our good reputation.

What we have found is that the FSU program was examined extensively by an academic committee in 1984 and controls were put in place. Since then, our program has been repeatedly inspected by outside reviewers. We have been reviewed by The Florida Board of

Regents, by one of the most respected athletic conferences in this country -- the Atlantic Coast Conference, and, most recently, we have been examined during the course of the accreditation site inspection by the Southern Association of Colleges and Schools. The high quality of our program has been noted by these outside agencies, and I believe that we have deserved the reputation we have enjoyed. (See report attached as Exhibit D.)

I have also asked the athletic director to compile materials which relate to the specific public allegations and I have a copy of that study here today for your review. I believe you will conclude, as I have, that the FSU compliance program is well conceived and well executed. If you watch videotape of our athletic department officials addressing compliance issues you cannot doubt their sincerity nor their passion.

The very quality of our program and the fact that bad agents corrupted players in such a program gets to the fundamental problem I hope to address today.

Since the news of the Foot Locker incident involving alleged NCAA rules violations, I have received some incredible suggestions about what our coaches can do or should have done. For instance, some columnists (and a number of reporters who were allegedly writing straight news) have given their opinion that the coaches

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"should have known," because some of our athletes were wearing new shoes or jackets. This view is based on the idea that it is acceptable for coaches to intrude into the personal and financial affairs of the students and that the player/coach relationship should be laced with cynicism and suspicion.

I do not accept that view. In our zeal to insure that our athletes do not violate NCAA rules, I do not want to see us descend into a police state mentality. Our students are young, but in modern universities we treat them as adults. We explain the rules, and we expect the students to follow the rules. FSU is a friendly school, and our campus life is based on principles of mutual trust and respect. Athletes are already subject to special rules, and we will follow those rules; but I do not want to create an atmosphere of adversarial relationships between coaches and players.

The answer to the agent problem is not to establish a program that segregates athletes into a ghetto where no privacy exists and every step is closely monitored by a suspicious athletic department official. That solution destroys any opportunity for the student-athlete to be a part of the vibrant life of a university, and it teaches the athlete lessons about life that are antithetical to the lessons of citizenship which we hope to teach.

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Happily, the NCAA seems to agree with this approach. NCAA rules which limit the contact time between coaches and players and a new requirement that universities break up the athlete-only housing arrangements are proof that the NCAA wants the student-athlete to have the opportunity to become a part of the larger campus life with all its intellectual excitement and social richness.

If athletic programs are not to be patterned on some Orwellian vision of total control and constant supervision -- as I hope they will not be -- then how are we going to prevent the problems of corruption? How are we going to stop dishonest agents and the sub-species called "bird-dogs" who, surreptitiously, attempt to point and retrieve players for those agents who are unscrupulous?

Today, this panel of witnesses hopes to sketch out a program.

Bobby Bowden will give you his views on increased payments for players, a view which I endorse in principle, recognizing that we will never be able to fully compensate our athletes for all they contribute, but that we can still move toward greater equity, a direction in which I believe the NCAA has been moving recently.

Mark Rodgers is a lawyer from West Palm Beach, Florida, and he is a sports agent. He is an FSU graduate, who

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has been concerned with the honesty of agents. He is not scheduled to testify, but can help answer questions about the Florida agents law and other state laws on athlete-agents. Mark has co-authored a law review article entitled, "Tightening the Defense Against Offensive Sports Agents," and I commend it to you. (See Exhibit E.)

In my remarks, I will try not to intrude into the areas covered by others except to say three things: First, we do not all agree on all aspects of recommendations made by the other panelists, but I do agree that all of these perspectives will be useful in reaching a solution.

Second, having disclaimed intrusion, let me add a footnote to Mark Rodgers' written testimony concerning the agents' registration law. We believe that this law will work for at least some of the people involved in this activity, and we are very hopeful that law enforcement officials will conclude their investigation, make further arrests and prosecute more of these unethical agents and their so-called "bird-dogs" in the very near future.

Third, and, again, this intrudes into an area where Mark Rodgers is far better informed, I hope that we can have agent regulation laws in all of the states. I recognize that this result could be achieved through federal legislation, but my Jeffersonian instincts

tell me that this is an area where the states can act and, to that end, I have written to Dick Hite, Chair of the National Conference of Commissioners on Uniform State Laws, to suggest that this organization consider development of a proposed uniform law on agent registration. I also offered him the assistance of Florida State University with this project. I am happy to report an affirmative response, and that later this week, this matter will be placed on the Commissioners' agenda.

* * *

I would now like to spell out the steps we have taken at FSU to deal with the agent issue and, following that, address the steps that we believe will be most effective in dealing with the problem of corrupt agents -- steps which must be taken by others.

First, we at FSU are embarrassed by the reports that our athletes did not follow the rules. We have examined our programs and we believe that they are largely sound in that they do succeed in communicating the rules to the players. All players involved in the so-called "Foot Locker Incident" admit that they knew this was wrong. We are also comfortable with our procedures of reporting any known infractions to the NCAA. We have a good record of self-reporting and our athletic department comes through our

examination with very good marks. However, we believe that we can do better in several areas:

1. We believe the University should administer strict punishments to those players who are still in our program and who violated rules, and we will announce those penalties tomorrow when we issue another interim report from the outside law firm investigating the violations.
2. We believe that our internal auditor should conduct examinations into our NCAA Compliance Program, and we have begun to develop a program for these audits, the reports of which will come directly to the university president.
3. We have decided that there should be a lawyer available to the athletic department on a regular basis to answer legal, ethical and compliance questions. This attorney will be available primarily to the athletic department but will be hired by, evaluated by and report to the University's General Counsel.

4. While I want to be very careful about intruding into the privacy of our student-athletes, I recognize that the automobile is a particular problem and that dishonest agents have often used the offer of a new car to tempt players in the past. The NCAA does not have a registration rule, but FSU has rules which predate our entry into the ACC, and we have initiated procedures to improve and audit our registration process.

5. Although we are very pleased with our educational program -- all players involved in the "Foot Locker incident" knew they were breaking the rules -- we believe that we can do better. Particularly, we will ask the players who have learned a very important lesson about dealing with dishonest agents to help us educate other players.

There may be other steps we can take, and we will consider any suggestions from any source. Our consideration will be from a university perspective, the perspective of an institution which seeks to promote human values and citizenship. We will not abandon our core values. We will not stigmatize our student-athletes with rules grounded in distrust.

We now know that universities with very good coaches and very good compliance programs, universities like FSU, that try to do the right thing, are not going to always be successful in preventing the corruption of big money and the greed of unethical agents. We will do all we can, but the patterns of deceit we have discovered in our investigations convince us that there will be ways for bad people to reach players unless others help out.

The "others" who must help out are the organizations of professional sports -- the NFL, the NBA, organized baseball, and the Canadian Football League -- the organizations which benefit from the talents of students recruited and trained by intercollegiate athletics.

This is not the place and I am not the person to analyze the rules of the various professional sports organizations and assess their impact on our colleges and universities. But, this *is* the time and, after the experience we have had at FSU, I *am* the person to call on professional sports organizations to adopt rules dealing with the problem of agents and players who break the rules intended to safe-guard amateur athletics. There are many possibilities, including rules which prohibit players from dealing in any manner with agents who have been convicted of violating sports agent

registration laws and I cannot, today, catalogue or assess all those alternatives.

I do suggest one rule for immediate consideration. This rule would deny to any player who has violated the rules of a university or collegiate athletic association or related laws of a state: 1) Membership in a players association, 2) The right to negotiate a contract with any professional team, 3) The right to hold any position within sports organizations.

This simple rule, first suggested to me by Jon Moyle, now Chair of the Florida Board of Regents, would immediately communicate to players the perils of dealing with dishonest agents and the risks of violating established university policy. The corrupt gift bearer who tries to tempt players with dreams of future riches will have to explain to the players why they should take the risk of losing all hope of playing pro sports. I am certain that players will be much more careful about violating university rules when they know that the dishonest agents offer them fool's gold.

I have written to the Commissioners of major professional sports leagues and associations suggesting that such a rule could, in effect, take away the "brass ring" and instill a powerful deterrent to corrupting activity. This rule would enhance the integrity of both

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intercollegiate and professional sports and help this country restore the perspective for its sports programs that we all know it needs.

I have also written to owners of professional teams in Florida and have already received promise of support from one owner.

We can all spend more time thinking about the details of such a rule, about ways to avoid unfairness, about ways to avoid legal complications, but I am convinced that the time to start is now. If this sub-committee can help us get the attention of the professional sports organizations and the players associations, we at FSU would like to participate in that dialogue, because we feel that our players and our good reputation have been victimized by a group of greedy people whose activities should be shut down. I believe that the ingredients of a program to address the problems of the bad agents are before the subcommittee today, and I hope you will help keep their reform effort alive.

Again, I believe this is the time to face problems in college athletics and begin to correct them. Last week, I met with Al Neuharth, The Chairman of the Freedom Foundation. Among other things, Mr. Neuharth is well known as the founder of USA Today. He wanted to know how he could help in this budding crusade. I asked him to sponsor a small conference of academic, athletic, and governmental leaders to consider the whole question of agents and student athletes. He agreed and such a conference is being planned for this fall in Orlando, Florida. Madam Chairman, I hope you and other members of this committee will be able to participate. Perhaps you could consider holding another hearing in Orlando in connection with the conference.

Mrs. COLLINS. Thank you, Mr. D'Alemberte. Many coaches have contracts with shoe companies and do you know whether or not Coach Bowden has any contracts with any shoe companies?

Mr. D'ALEMBERTE. He does not right now because that contract has been on my desk for some months waiting for review. I have been in some quandary about what to do about those contracts, and there is no signed contract now. There has been a contract in the past. Well before this episode broke out I was troubled about the shoe contracts and I thought that we ought to review those as a matter of public policy.

Mrs. COLLINS. I am concerned, of course, about the students and the student athlete. And I guess my next question is do you have any problems explaining to the students why, if the schools or the coaches in the past have had contracts for shoes and T-shirts and whatever else that they have, that the student themselves cannot accept any money from shoe companies or from other sources?

Mr. D'ALEMBERTE. I have a terrible time explaining that.

Mrs. COLLINS. What do you say to them.

Mr. D'ALEMBERTE. Well, honestly, I have not given advice directly to the players, but I think—

Mrs. COLLINS. What do you say to your coaches, if I may interrupt you, who say that students come to them and ask them that question.

Mr. D'ALEMBERTE. Well, honestly, I have not had that directly reported. I would not be surprised that that is the case. I think what we ought to do is maintain amateur athletics. I am not willing to go as far as some others are willing to go. I am willing to see—in fact, I would urge that we continue the reform movement within the NCAA rules that would allow not only for students to get Pell Grants, students to be the beneficiary for the emergency fund, which is now available, but I would go further and say these athletes, who are not able to take jobs in the same way that other students can take jobs, our students should at least be allowed to be compensated at least at the level of student employment and I think that is where I would draw the line for now.

I would not go further than that because I still believe it is possible to preserve amateur athletics.

Mrs. COLLINS. Some of the later witnesses are likely to discuss what they believe are student rights. They appear to believe that only the student athletes have been left out of the money and you, I think you kind of answered the question a little bit about what do you think those student rights are and—you know they get scholarships already. You just now mentioned you think if they are financially unable that they should be permitted to get—were you saying that they should be permitted a stipend of some kind at a certain level?

Mr. D'ALEMBERTE. We can give students now Pell Grants.

Mrs. COLLINS. Beyond that.

Mr. D'ALEMBERTE. I would personally go beyond that to at least allow them to receive compensation of a type that other Pell Grant students could get; that is, that they can go out and work. Our student athletes cannot go out and work because they are practicing all the time.

Mrs. COLLINS. Suppose they cannot find a job.

Mr. D'ALEMBERTE. No, I am saying I would have the university in Division I programs, I would have the university pay that stipend. But I would not go—at that point, Madam Chairwoman, there will still be inequities. Let me make clear that I do agree that universities and particularly universities with successful programs are drawing a substantial amount of revenue out of these programs. But I think there is some peril at least of starting such a bidding war that we now only allow the very successful programs to win that war.

Now, if we started a bidding war, we would fare fairly well, I believe, but I do not think that is good for amateur athletics in this country.

Mrs. COLLINS. I just have a final question at this moment. In your testimony, you suggested that perhaps there should be—well, I almost had.

Mr. STEARNS.

Mr. STEARNS. Thank you, Madam Chairwoman.

I just want to thank you for your openness and applaud the efforts that you have done in handling this situation, and I think you are to be commended in that because I know this is difficult for you becoming the new president.

You did not have a chance really to finish your opening statements. Are there any comments in your opening statement that you might want to make certainly under my time?

Mr. D'ALEMBERTE. Very much appreciate it, Congressman. The steps I think we should take at the university are various. We need to audit our compliance programs better. We hope to have an attorney, an internal auditor available. We certainly want to see prosecutions go forward where we find bad agents are coming in. There are a lot of things we can do and I think good, strong law enforcement demonstrated for the first time in Florida, has got to be a part of that.

But I also think, in line with your opening remarks, that we can look at a uniform State law rather than a Federal law and we have been in communication with the commissioners of uniform State laws, who have agreed at least to consider this as a possibility.

Now, finally, I might say that something I did not have a chance to mention is that we now have got support from the Freedom Foundation, for a conference to be held in Orlando sometime this fall. I suspect, Congressman, as I told you, that we hope to have it somewhere in connection with an FSU, Notre Dame game and at that time we hope to open up some solutions to this problems of bad agents.

Mr. STEARNS. Well, good, you are taking a leadership role and that will benefit not only Florida, but I think what you do could be replicated throughout the United States.

I know that you have written letters to the players association of the various professional sports leagues, as well as the National Conference of Commissioners on Uniform State Laws regarding what is needed to curtail this behavior. In those letters you explain the need to professional membership for athletes who violate NCAA regulations and for States to adopt stricter athlete-agent laws. What kind of response have you received from those organizations?

Mr. D'ALEMBERTE. Gosh, we have heard from the Commissioners for Uniform State Laws. They indicated in an interest in this. Dick Hite, from Kansas, has indicated he will step forward and raise this at a meeting, I think beginning tomorrow. We have heard from the NCAA that they at least might be interested in this conference I told you about earlier.

I must say I am very disappointed we have not heard from the Players Association or from the NFL, NBA, Canadian Football and the other organizations that really benefit very largely from the program of amateur athletics in our colleges and universities today. So that is of great disappointment to me. I hope perhaps we will hear from them at some later time and perhaps they would be willing to participate in this conference that we hope to hold.

Mr. STEARNS. When I looked at this and read some of the background information, what I was struck with was how much responsibility it is on the individual athlete and what responsibility is on the sports agent. And so this is just sort of for my own information philosophically. Is the athlete—even though the athlete does come from a deprived and financially dire situation, is there anything that the university can do to stress this, to combat it, and maybe you might talk about the balance here. Because what we have here is we are talking about maybe legislation. And when we are talking about individual responsibility, both the agent and the athlete here, I think the balance here is important.

Mr. D'ALEMBERTE. Well, Congressman, I brought with me a book of our own study of what we have done in the last few seasons, particularly to address our educational program. We do our best to educate our athletes and we have documented much of this education: Transcripts of videotape and a number of other details about everything we have done to warn players. No player from FSU who was involved in the shopping spree as a result of the bad activity of the agents has ever said they were not informed of the rules. They knew the rules and they broke the rules.

Now, I am so glad that law enforcement in Florida comes in and puts the focus where it really ought to be. Our players will be sanctioned, but honestly, they are victims, too. People come in and try to manipulate them, try to talk to them in terms of the inequities. They will say the things that we all know, that universities and coaches and other people make large money out of college athletics and these people are not, sometimes not even able to do some very basic, fulfill basic human needs. And so we think where we are now will focus on agents.

The university has a responsibility to keep doing what we have been doing. We can do it better than we have done it, but there is no way we can handle this agent problem without turning our athletic program into a ghetto, and we do not want to do that.

Mr. STEARNS. Thank you, Madam Chairwoman.

Mrs. COLLINS. Would you be able to tell me how you can differentiate what your school does in order to make a profit off of a successful football team when you recruit a high school student and what an agent does when he recruits a college student?

Mr. D'ALEMBERTE. Well, in terms of the direct benefit to the student, I would really like to think that programs of integrity, and I certainly believe ours belongs in that category, does its best to see

that a student gets a college education. And in that, Madam Chairwoman, I must say I am delighted to be on the very short list of universities which are graduating 70 percent from the football program. We have a very high graduation rate. That is a 5-year graduation rate, and we have improved our graduation rate in the last few years. We ought to be acting in the interest of the student athlete. That is what we should be doing.

I have a sign on my desk drawn from the boiler room of the Clinton campaign. I think their slogan is, "It's the economy, stupid." The sign on my desk is, "It is the student, stupid." And I hope that everybody in our university will think that way.

When you get to the agents, I see absolutely no indication that these bad agents have the interest of the students at heart. They are coming in tempting the students to violate the rules, exposing them to a great deal of very, very unfavorable publicity, potentially ruining their college eligibility, and in that way impacting their career. They do not have the interest of the student at heart. I believe we do.

Mrs. COLLINS. What do you think you should do about the agents? In your written testimony you make a statement.

Mr. D'ALEMBERTE. We outline several things. We think, first of all, a good, strong agent registration law and enforcement of those laws is the critical first step. We are doing that in Florida now. The first bad agent prosecuted under any of the 22 State laws was done in Florida over this incident.

The second and third have also been done in Florida over this incident. We are delighted with the way law enforcement has stepped up to the problem. We have discovered problems with the agent registration laws as we have gone through the prosecution, so we hope to change the Florida law.

Representative Jim King, who testified before your committee in an earlier time, has indicated he has some ideas about ways to change and we hope that, again, the Commissioners of Uniform State Laws will take an interest in line with what Congressman Stearns said that we can have the States take some direct action that will take place.

But finally, the rule of—if we would have the NFL and the NBA adopt rules, which would now threaten the players' ability to play in the National Football League or the National Basketball Association if they violated these rules, then the agent, the bad agent is going to have a much harder sell when they go to the player and attempt to persuade the player to break the rules.

Mrs. COLLINS. Well, I have a little bit of a problem here and I will tell you what it is. It is my understanding that basically it is the president of these universities who write the NCAA rules.

Mr. D'ALEMBERTE. That is my understanding as well.

Mrs. COLLINS. That has been my understanding for quite a while. The agents don't write the rules. They don't play by the rules at the NCAA, therefore the presidents write. And it seems to me the burden lies with the college and university presidents because, if they permit this kind of thing to go on, it is going to continue, as it has done in the past. And it seems to me if the primary function of an educational facility is to educate students, then I think that perhaps somewhere along the line that either the presi-

dent and all the administrators in the NCAA have lost sight of their mission. Their mission does not seem to me to be making all the money that they can possibly make by making sure that they are on television and getting all this big money from the sports; that the coaches' primary concern should not be winning a game so that their schools can get money from the alumni, and of course, from the television moneys and all of this kind of different things.

Coaches should not be personally concerned about whether or not they are going to be signing contracts and making side money from the shoes that their students wear or the T-shirts that they wear and all this sort of thing. What about educating these students? If these students, in fact, happen to be students who have great talents and you want them to come to your school to play, it seems to me the rules ought to be more fair to those students.

Mr. D'ALEMBERTE. I think I have indicated that I agree with you. The rules should be changed. I would not change them so vastly that we had set up a bidding war where only the most successful programs could even compete for the players, and I think that is a mistake. And I think if we would get into that kind of business, FSU and Notre Dame and a few others would do well, a number of schools in Florida would do well.

But Congresswoman Collins, I want to make sure that I tell you my own feeling; that we do a good job at FSU of educating our student athletes. We can do better, we have done better in the last few years but we are on the right path in doing that and I am actually proud of what has been done by the athletic department.

Mrs. COLLINS. The thing that still bothers me is when these issues arise at these past hearings, the problem is at that time the NCAA punishment seems to be placed on the wrong people, you know, that is the student.

I will give you an example. The University of Illinois was found guilty of several illegal uses of, by coaches, of tickets to the Final Four; coaches were providing housing for a player; and they were recruiting at the Final Four; and a booster gave favorable car deals to players, and they received a 3-year ban on post-season play along with scholarship and recruiting amendments. As a result, it was later players that paid the price for these violations.

And my questions are, first, do you think the current system of NCAA penalties adequately punishes the guilty party without punishing the innocent?

Mr. D'ALEMBERTE. Well, I honestly think it does punish the guilty party. I want to make clear that the example you gave is not anywhere close to the example I have had to deal with. We had no coaches involved, nobody in the athletic departments has been involved. This has been a matter where corrupt agents came down and dealt with players to try to get players to violate the rules. And so the players that violated the rules will get sanctions. I have a great deal more sympathy for the players than I do for these corrupt agents.

So, yes, in the case I am talking about now, the case I know best, there are sanctions on the right people. We are now seeing corrupt agents getting jail terms and significant fines, and so in terms of dealing with the agents, we are on the right track in my judgment.

Mrs. COLLINS. Well, the final part of that question and my time has expired, given the fact that every school has to live with real terrors such as sanctions, how do you explain what happened at your school?

Mr. D'ALEMBERTE. Well, quite easily, that we do not run a police state. We do not try to guard every minute of every day and in every player's life. Indeed, the NCAA regulations limit the amount of contact our coaches can have with our students. Coaches keep time reports to make sure they do not spend any excessive amount of time with the players and violate the NCAA rules. So this means that the players are going to be out on their own.

The explanation for what happened at FSU is quite simple. People came in to corrupt the players. They used some of the arguments being voiced here in this committee, those arguments where this is not fair, the university getting these things. The coaches are getting these things, you ought to get some things. And even though you know it is against the rule, you ought to violate the rules.

I think the university needs to take these postures: A, we ought to try to get a workable set of rules. And I agree with the Chair on some modification of the rules. I am not sure how far the Chair would go. I would go at least to the point to allow players to earn what they could earn if they were out working in a student job.

And I think that is very important, the university could do that. The university can also see that we tighten down on our education programming. It is already very good, we hope to make it better. In part because the players who violated the rules, I now have met with them and they have come to me, some of them, and said we would like to help educate other players. We would like to be the people to warn our teammates against dealing with these bad agents because these students have been through a hell of a summer. They have been through an awful time. And you now see that they have got remorse both for their action, which has embarrassed them and embarrassed their teammates.

Mrs. COLLINS. And their families.

Mr. D'ALEMBERTE. And their families, absolutely. And indeed, I have talked to some of the families who have indicated the same thing, that just a great regret about this. But this was done because agents came down and told them to break the rules.

We have got to live by the rules until they are changed. I think that has to be the message and we want to do everything we can to push these bad agents out. Frankly, the people who will come down and ask students to break the rules, if they get the contract for the student athlete, they are not going to be very good representatives of them. They won't do a very good job for them. We ought to say to students, play by the rules. This university believes the rules can be changed in some measure, but until they are, we are going to make sure that we do everything we can to follow the rules.

We are not going to set up an athletic ghetto. We will not wall off student athletes from the other students. That is not the way universities should operate. But we will make sure we run a strong educational program and that we do everything we can to go after the bad agents.

Mrs. COLLINS. Mr. Stearns.

Mr. STEARNS. Thank you, Madam Chairwoman. I think you can sense maybe a little bit that both Mrs. Collins and I both are a little concerned about the punishment put on the student athlete, where it is too draconian, you and I both know that going back to an 18-year-old, 19-year-old, 20-year-old and particularly when they come from a very difficult background how susceptible. So we both have a concern about that.

I know your letter to the Players Association talked a little bit about what should happen for a minor violation and maybe you might elaborate on the minimum threshold or judicial discretion for punishment and what sort of due process protection you think they should be allowed in that respect.

Mr. D'ALEMBERTE. Well, first of all, Congressman, I share with you the concern about the way players get treated in this, particularly sticking with the agent problem. These people are the victims, and yet some sanctions fall on them as well. But they have broken rules and there have to be some sanctions and I think the university's interest in amateur athletics has to say we do support the concept of amateur athletics. There are people who do not believe this in that principle.

I still believe we ought to at least try to maintain, but we ought to make decisions within the university that care about these athletes as students and try to do everything we can to integrate them fully into student life.

Now, in terms of the—there has been an awful lot said about due process for students and for colleges and universities when NCAA violations are being investigated. Florida does have such a statute that calls for due process, whether it is constitutional or not I don't know, I am not here as a lawyer to pass any opinion on that subject. But it is on the books and we follow it. We do not—we are seeing that it is followed.

I think there is a great deal of thought now going into a statute such as Florida's. Honestly, I have not made up my mind about whether it is a good thing or a bad thing. As a lawyer, I generally believe in due process.

Mr. STEARNS. I guess I am trying to move towards if an athlete has committed a de minimis violation, should they be barred from the NFL for life?

Mr. D'ALEMBERTE. No, I see. I am sorry, and I really appreciate your picking up. No, the idea that student athletes who violate the rules, the institution does not learn about it until after they have left, there are no sanctions available. At some point, I would propose as a starting point for the discussion, which I hope to have at this conference next fall, that athletes have to make peace with their university before they would go forward and play. And I think if you had that rule in place, any agent who shows up to talk to a player is going to have a pretty hard sell, because what you are looking at now is the agent is walking up, telling the player to violate rules which could cost them their career and I think at that point the players will see that they don't deal with bad agents anymore.

Mr. STEARNS. Moving now toward the agent sides of it, I think, myself and staff were talking about this, and how do you control

agents when you have a Florida statute, but you have an agent from outside the State and these agents come in from all over the country from States where there are no statutes. So my question is maybe what should we do on that?

Mr. D'ALEMBERTE. You are again right on point. We do have to worry about that. We have learned a little bit about that problem.

Let me take your hypothetical in another direction. What happens where the agent stays out of the State and sends in these birds dogs? This is slang for the people who point to the players and retrieve the players for the bad agents. Now, what happens there? They stay in Las Vegas or Los Angeles or Chicago and they send other people down to try to recruit the players?

What do you do with them? I think we need to begin to look at uniform State laws and I think that is the way we have solved a lot of probables in this country without having a Federal law or Federal bureaucracy, but we need to have, when someone comes—it needs to be a violation of Illinois law when somebody from Illinois sends someone to Florida to recruit and that there ought to be no question about that being a violation in my judgment. I think there are a lot of legal issues to work out but I am convinced they can be done through uniform State law.

Mr. STEARNS. You know, the insurance agency does this through their own voluntary national board they set up, and they try to work through—we have run into the same problems on the insurance side because there are various State insurers.

Mr. D'ALEMBERTE. Exactly.

Mr. STEARNS. Would you suggest Federal regulation? I am not putting you on the spot.

Mr. D'ALEMBERTE. No, I really would like to see us go the route of a uniform State law and see if the purposes can be accomplished that way. I think it is more likely to be accomplished that way if this committee continues an interest in this subject, and I hope that you will.

Mr. STEARNS. Thank you, Madam Chairwoman.

Mrs. COLLINS. Just a couple more questions. Is it not true if a student breaks one of your honor codes or rules, such as cheating or plagiarizing, the whole class does not get punished?

Mr. D'ALEMBERTE. That is correct.

Mrs. COLLINS. Given the financial implications for your school's students breaking the NCAA rule by accepting gratuities, what kind of programs do you think or do you know that you have had in the past for explaining this to the students and being alert to the problems?

Mr. D'ALEMBERTE. Well, I am not sure. In terms of explaining the rules to the students?

Mrs. COLLINS. Yes.

Mr. D'ALEMBERTE. Oh, Madam Chairwoman, this—

Mrs. COLLINS. This big book.

Mr. D'ALEMBERTE. I did not make a copy of this for the committee.

Mrs. COLLINS. I'm glad you didn't.

Mr. D'ALEMBERTE. The 50 copy rule deterred me a bit, but we have done a great deal of education in the program. I am really proud of the way we run our compliance program. The education

end runs very, very well and I believe they do a good job of following up. We have done an extensive amount of investigation and we have not found any credible allegation that any of the coaches or athletic departments people were involved in these violations.

Mrs. COLLINS. Well, let me talk about that big book again.

Mr. D'ALEMBERTE. OK.

Mrs. COLLINS. I have that great big book there. That basically is the book, is it not, containing the NCAA rules?

Mr. D'ALEMBERTE. No.

Mrs. COLLINS. What is that.

Mr. D'ALEMBERTE. That would take many more books than this, Madam Chairwoman.

Mrs. COLLINS. I was afraid of that.

Mr. D'ALEMBERTE. This is only the activities that we have taken in connection with the public allegations, the sports illustrated story and so forth. These are the things that we have done, including asking the NFL to send in representatives to FSU to lecture our players about the problem of dealing with bad agents, a number of other steps that we took well before we heard of any word of the so-called foot locker incident.

Mrs. COLLINS. Well, my question is leading to, you say there would be many, many more books, and I agree with, that's correct, there are so many rules that actually—that the students have to know about and what have you. Don't you think that with all these rules that maybe you might actually deter students or coaches from even raising questions about the rules violations because the sanctions could be so very devastating?

Mr. D'ALEMBERTE. Well, Madam Chairwoman, perhaps so in some areas. In the area we are dealing with, or at least I have been concerned with in the last few months, I think the rules are pretty clear. I am convinced all of our players were informed that what they did was against the rules. I think they knew better, and I suspect, after the time that they educate their teammates, we will not have this problem again, hopefully for many, many years. Because this has been an educational process for some people who might not have been willing to listen to university presidents or even to coaches, but they will listen, I hope, to their teammates.

Mrs. COLLINS. Would you be able to give us an estimate for your football budget for the coming season?

Mr. D'ALEMBERTE. Gosh, I apologize, I don't, but it is high. Congresswoman, I would say that it is—from a university president's standpoint, it looks like it is a budget which any other department in the university would envy. And because the way we do our budgeting we do not break it apart just for football because there are a number of other academic support elements, training and other elements that relate to football programs, so I can't give you a figure for it, but it is large.

Mrs. COLLINS. And the revenues from sports is a large part of that budget.

Mr. D'ALEMBERTE. At a university like FSU, at least the football program, it is very profitable to the university, and I am very thankful for that because it has let us do some things in gender equity and other areas we simply could not have done without it.

Mrs. COLLINS. Thank you, thank you. That is one of the things I am very interested in, as you know.

Mr. D'ALEMBERTE. We are making some movement now and I am proud of the movement, but I won't promise you we are there yet.

Mrs. COLLINS. Well, maybe in a little while we will have another time to talk with you about gender equity and I hope since you are just now becoming the president, but I hope by the time we have another gender equity hearing you will be in a position to have been president for a while and can give me some very wonderful results of increases you have done on your watch.

Mr. D'ALEMBERTE. Give us 1½ years and I actually might come here and express some pride.

Mrs. COLLINS. Thank you.

Mr. STEARNS. Madam Chairwoman, I just have one last question and this is in Exhibit E of your testimony. I think you have provided maybe an answer to some of the things we have talked about earlier in terms of dealing with the agents who are out of State. You provided a Florida State University Law Review article written by Mr. Mark Rogers called, "Tightening the Defense Against Offensive Sports Agents."

This article States that under the new Florida State Sports Agency law if an agent directly or indirectly solicits an athlete in the State of Florida, then the agent is subject to the act, even if he does not reside in Florida and there is no contract signed in Florida.

Do you think that these provisions in this article can be successfully used to prosecute or deter out-of-State agents from these improper actions?

Mr. D'ALEMBERTE. The coauthor of that article, Mark Rogers, is here, and is who I introduced earlier. And, again, that article was written long before we ever heard of bad sports agents. I am proud, incidentally, that he is an SFU law graduate who took the initiative to write that article and concern himself with the problem long before we knew how it would affect us.

You have hit the core point that worries me. We believe that language can be used to handle the example I gave earlier, of someone in Illinois who sends somebody to come to Florida. But that has not yet been tested, and we think that we can strengthen that provision if we give it a little more thought, change the Florida law, and perhaps get Illinois and California and Nevada to adopt laws as well.

Mr. STEARNS. Thank you, Madam Chairwoman.

Mrs. COLLINS. We thank you very much for your testimony, Mr. D'Alemberte, and we may have some more questions in the future to ask you. We will do so in writing and we ask that you send the responses back to us within 5 working days.

Mr. D'ALEMBERTE. Delighted to do that, and also hope that the Chair and committee members might join us when we put together that conference to talk about solutions, which we hope will be sometime this fall in Orlando, Florida.

Mrs. COLLINS. Thank you very much.

Our next panel will be Mr. Eric Ramsey of the Albany Firebirds; Mr. Dick DeVenzio, cofounder of the Student Athlete Incentive Gifts; Ms. Jo Miller, president of the Organization for Understand-

ing and Reform, better known as OUR. Won't you come forward, please?

Mr. Ramsey, we are going to begin with you. I want to welcome the entire panel here today, and all of our witnesses today, as a matter of fact, but we will start with you, Mr. Ramsey. It is good to see you again.

Mr. RAMSEY. You too.

Mrs. COLLINS. You may begin your testimony at this time

STATEMENTS OF ERIC B. RAMSEY, ALBANY (NY) FIREBIRDS; DICK DeVENZIO, COFOUNDER OF STUDENT ATHLETE INCENTIVE GIFTS; AND JO AND J.E. MILLER, PRESIDENT, ORGANIZATION FOR UNDERSTANDING AND REFORM

Mr. RAMSEY. Good morning, Chairwoman Collins, members of the subcommittee.

Mrs. COLLINS. Good morning.

Mr. RAMSEY. I am very honored to be here. Before I begin, I would like to personally thank you for allowing me to come and testify before the committee. I also want to thank you for all the support that you have given to me and my family. Also I would like to thank you for the leadership that you have demonstrated in pressing for needed NCAA changes in college athletics. It is solely because of this commitment I attended your workshop in 1992.

Also, Mrs. Collins, I think it is pretty rare to have a congressional staff member, something said about him, but I would like to personally thank Donovan Gay for all the effort he has put out and all the support he has given to me during my whole entire ordeal with Auburn University. Thank you, Donovan.

Before I begin, a lot of people would like for me to say do a little Auburn bashing, but to bash Auburn is not my objective. I am here because there is corruption in college athletics. Although I was treated unfairly by Auburn University and the State of Alabama, I have since forgiven them and I want to move on with my life.

However, because my experience is at Auburn University, naturally I am inclined to speak about Auburn. College football, to me, is a hundred yard line. Corruption in college athletics didn't begin with Eric Ramsey and it is not limited to Auburn University.

From the beginning, it is built on hypocrisy and exploitation. College football is child abuse, where athletes, especially minority athletes, are exploited and imported as cheap slave labor to earn their respective universities millions of dollars.

Now, you may ask why is it this way? It is this way because the college football establishment saw the need for black participation in the sport. As such, the football establishment set up a modern day plantation system to lure black athletes, many of whom come from economically disadvantaged backgrounds, to play with the deceptive promises of fame and fortune as a reward for their efforts on the football field, but with no real promise of guarantee of this same success in the classroom.

Recruited black athletes were never told that less than 2 percent of college athletes who play football make it to the rank of professional football. These recruits are not told Auburn has one of the worst graduation rates for its athletes for major NCAA schools.

From the athletic departments's perspective, its income is made by the athlete's performance on the football field and not in the classroom. The performance in the classroom will in no significant way become financially beneficial to the athletic departments.

As a way to pacify black student athletes and detract them from the importance of their education, many of these athletes are given a type of financial assistance from coaches and alumni that is prohibited by NCAA rules. I was one such athlete who received prohibited financial assistance from my coaches and football boosters. I tape-recorded many of the transactions, and when I met with the subcommittee's staff in October 1992, I shared with them the information from these secretly recorded conversations and reported other NCAA rule violations to you.

Because of your effort, the NCAA stepped up its investigation. You have watched over this investigation, and 22 months later, after countless hours and money I spent with the NCAA, the NCAA found Auburn's football program guilty of six major infractions, including cash payments. Pat Dye was forced to resign, but he was exonerated of willfully violating these rules.

The institutional penalties that are given to the university, they are fine, but what about the student athlete who suffers loss of scholarship opportunities? What about athletes who can no longer showcase their athletic talents before the television cameras? Are these fair NCAA enforcement practices? And just who is really being punished?

All student athletes suffer from unfair and unjust NCAA rules, but black players are usually the primary beneficiaries, the targets, of the financial assistance prohibited by NCAA rules. Unfortunately, it is these black athletes who usually do not obtain their college degrees by the time their eligibility is over.

My experience as a black student athlete at Auburn University is not unique. It happens to black student athletes all over the country, but with your help, Chairwoman Collins, and with the help of your subcommittee, perhaps we can change this modern-day plantation. Thank you.

[The prepared statement of Mr. Ramsey follows:]

TESTIMONY OF
ERIC B. RAMSEY
BEFORE
THE HOUSE SUBCOMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND COMPETITIVENESS
ON
A HEARING EXAMINING STIPENDS FOR STUDENT-ATHLETES
JULY 28, 1994

Good Morning Chairwoman Collins and Members of the Subcommittee. I am very honored to be here. Before I begin, I would like to personally thank you, Mrs. Collins, not only for inviting me to appear before your Subcommittee this morning, but for all the support you have provided for my family and for me, and the leadership you continue to demonstrate in pressing for needed National Collegiate Athletic Association reforms that protect all student-athletes. It is solely because of your commitment to the student-athlete, that I felt comfortable in bringing my story to you in 1992.

Also Mrs. Collins, I suspect it is rare for Congressional staff to receive recognition in these kinds of forums. Today, I must make an exception. Mr. Donovan L. Gay, the Subcommittee's Chief Investigator, seated beside you this morning, deserves much recognition for standing by my side throughout my entire ordeal with Auburn University, and encouraging me, and many others in collegiate athletics, to stand up for what they believe to be right.

Thank you for allowing me to state these things for the record. I am Eric B. Ramsey. I am the son of Walter Ramsey and the late Ms. Doris Simmons. I was raised in a single parent household with nine brothers and sisters in a rough Birmingham housing project.

As a youngster, I saw the violence, drugs, despair, and hopelessness of life in the ghetto. I was strong enough to resist these self-destructive influences, and by the eighth grade, I was able to escape this environment by going to live with my grandmother, Mrs. Clarice Ramsey, who lived in a small suburban area of Birmingham called Homewood.

With this move, I subsequently marched on toward a violence and drug-free adolescence. At age 18 I was recruited as a football player by many of the top schools around the country. During the recruiting process, I was frequently warned and cautioned by current and former football players not to enroll at Auburn because Auburn treated its players like dogs and didn't stress the importance of getting an education. As luck or ill luck would have it, I chose to enroll at Auburn University where I played football from 1986 to 1991.

As an African-American athlete at a predominately white university, my years at Auburn University were quite an experience for me. I knew that the experience for black student-athletes would be different from that of white athletes from the moment I arrived on campus.

The dormitory in which I lived was desegregated, but no blacks and whites lived in the same room together. I gathered at the time this was designed to keep down racial tension should a problem arise.

White administrators at Auburn probably believed that if something was stolen in a room occupied by mixed roommates, it would definitely be the black occupant who was responsible for the theft.

This was one of the first signs of racism and disparate treatment between white and black athletes that I recall being warned against by other players.

There were other problems I experienced as a student-athlete at Auburn University, but I am going to limit myself to what I felt then and what I believe now is the biggest one--the problems of how primarily, black athletes fared in the athletic world compared with white student-athletes.

In my opinion, we did not fare well at all. Black student-athletes are not recruited at Auburn to prepare for the real world; they are brought there only to play football for a few years and that is all.

"Former" Auburn head football Coach Pat Dye's famed athletic system was not set up to prepare the black student-athlete for life after football, or even to know about the temptations of potential market-worth to others while one campus. The main job of the Athletic Department's Academic Counselor while I was at Auburn, was to make sure that the athlete remained eligible to play. Nothing else.

Over the last six years, the overwhelming majority of white players on the football team have either graduated or are about to graduate from Auburn. About four or five of the 100 or more black football players during this same period have graduated from the University.

Now you may ask, "Why is it this way?" It is this way because the college football establishment saw the need for black participation in this sport. The football establishment recognized this "slave labor" would generate millions and millions of dollars for the coaches and university.

As such, the football establishment set up a modern-day plantation system to lure black athletes, many of whom come from economically disadvantaged backgrounds, to play with deceptive promises of fame and fortune as a reward for their efforts on the football field, but with no real promise or guarantee of this same success in the classroom.

Recruited black student-athletes were never told that less than two percent of college athletes who play football make it to the rank of professional football. These recruits are not told that Auburn has one of the worse graduation rates for its athletes (51%) for major NCAA schools. From the Athletic Department's perspective, its income is made by the athlete's performance on the field and not by his performance in the classroom. The performance in the classroom will in no significant way be financially beneficial to the Athletic Department.

As a way to pacify black student-athletes, and detract them from the importance of an education, many of these athletes are given the type of financial assistance from coaches and alumni that is prohibited by NCAA rules.

I was one such athlete who received prohibited financial assistance from my coaches and football "boosters." I tape recorded many of these transactions, and when I met with your Subcommittee staff, October, 1992, I shared with them information from these secretly recorded conversations, and reported other NCAA rules violations to you.

The NCAA stepped up its investigation only after you, Chairwoman Collins, informed them of your interest in these matters. Your vigilant watch over this investigation and twenty-two months later after countless hours and money I spent with the NCAA, the NCAA found Pat Dye's program guilty of six major infractions, including cash payments. Coach Dye was forced to resign, but was exonerated of "willfully violating the rules."

Because I spoke up about these violations of cash payments, illegal stipends, and other special gifts, Auburn University got barred for two years from post season play, and television appearances for one year. Restrictions on scholarships were also assessed against Auburn.

These institutional penalties are fine. But what about the student-athlete who suffers loss of scholarship opportunities, what about athletes who can no longer showcase their athletic talents before the television cameras? Are these fair NCAA enforcement practices? Just who do the rules really protect?

All student-athletes suffer from unfair and unjust NCAA rules. But black players are usually the primary beneficiaries, the targets, of the financial assistance prohibited by NCAA rules. Unfortunately, it is these black athletes who usually do not obtain their college degrees by the time their NCAA eligibility is over.

My experience as a black student at Auburn University was not unique. It happens to black student athletes all over the country. With your help, Chairwoman Collins, and the help of your Subcommittee, perhaps we can change this modern-day plantation system.

THANK YOU.

Mrs. COLLINS. Thank you very much.
Mr. DeVenizio.

STATEMENT OF DICK DeVENZIO

Mr. DEVENZIO. Thank you, I am going to respond to the comments of the president from Florida State because my feeling is I disagree with him so thoroughly that—

Mrs. COLLINS. Would you use the mike.

Mr. DEVENZIO. I disagree with the comments of the president of Florida State so thoroughly that I want to make sure I just cover those points in particular and just summarize in a few seconds the testimony that I have written.

First of all, the idea of a shopping spree is a tremendous misnomer. To call it a shopping spree, they unleashed six athletes in a Foot Locker store. My hope would be for athletes that are generating millions of dollars for a university, their response should have been I don't have time to go down to the Foot Locker today. I have all the sneakers and T-shirts I need.

The idea of a bidding war for players that is supposed to hurt the universities and their football programs, as he said, the Notre Dames and the Florida States and the Floridas and Oklahomas would all do fine. I don't know that Central Florida or Stetson or Rollins College are now competing with Florida State for players.

A bidding war would be great for the athletes. It would be great for the families. It would be great for everybody except that the colleges would get less money and the players and their families would get the money.

The idea about reviewing Coach Bowden's contract, check the record. In a few months the contract will be there. Bowden will get his money, but the president got off the hook today by saying it has been on his desk for several months, but he has some real concerns about it. It is amazing that the universities always talk theoretically when it comes to doing things involving administrators or coaches, but when it comes to the athletes, it is not theoretical anymore. There is that big book that restricts everything they do.

The idea of corrupt agents—I think agents are a player's best friend. When I was at Duke playing basketball, one of those so-called unscrupulous people let me drive a convertible to Fort Lauderdale. It was one of the nicest weeks of my life. A lot of these other unscrupulous people, that are so-called boosters, take you to dinner or take you to their home or buy you a dinner or fix you a dinner. Some of the nicest associations I have back from my college days is eating with these people and being associated with them.

As far as these so-called shady characters giving cash to players, the only reason they are shady is whenever you try to deal with the player athlete on a campus, you are kept out of there. I, myself, tried to organize a college players' meeting in the past and the College Football Coaches Association sent out warnings to every school in the country saying the players, if they peaceably assembled in order to meet, they said this might jeopardize their eligibility. It is one of the famous NCAA phrases, "might jeopardize your eligibility."

In calling the Coaches Association, I said I realize every player's eligibility is always in jeopardy, but are they ineligible for attending this meeting or not? And all they will tell you is, well, it might jeopardize their eligibility. So it scares all the players away. If anybody goes on a college campus wanting to talk about anything that is not exactly what the coaches and the presidents want you to, you are a persona non grata and you are not allowed to talk to anybody.

As far as this commitment to amateurism, as you said in your opening statement, this is not amateur sports. This is professional sports. NCAA already has Division 3 athletics. It works fine for meeting all the missions of the NCAA. There you do not pay coaches exorbitant amounts. You do not charge admission to the games and you don't have to travel 3,000 miles and players do not miss classes. But players miss a lot of classes in Division 1 sports.

As far as the embarrassment and the negative publicity the athletes got for going on this terrible shopping spree reminds me of people saying to this guy, look at the disgrace you brought on your university. Because I read the Birmingham News and know the kind of things they said about him. It reminds me of somebody trying to take advantage of the underground railroads and people telling him look at the disgrace you brought on this plantation and you are responsible for these good people being whipped.

He talked about a plantation system. That is what the system is. There is no reason that the NCAA has anything to do or colleges and universities have anything to do with the amount of money that a player can make based on his talents. And universities are doing, I would say, according to what I read in the chronicle of higher education, a lot of people think they are doing a mediocre job of educating students. They should stick to that mission and quit lining their pockets with economic funds.

We do not know that amateurism is morally superior to professionalism, but we do know that thousands of American families and athletes are being deprived of the opportunities they could have to enrich themselves through their sons' and daughters' sports abilities.

As far as the president's letters to the Professional Players Association, I would urge him to form a College Players Association.

Am I finished?

Mrs. COLLINS. Go ahead.

Mr. DEVENZIO. I would urge him to.

Mrs. COLLINS. Finish your thought and move to the next one.

Mr. DEVENZIO. I will stop there.

[The prepared statement of Mr. DeVenzio follows.]

NCAA -- National Conspiracy Against Athletes

The NCAA, each year, is systematically depriving thousands of athletes (and their families) of the opportunity to receive just economic rewards in exchange for their highly valued and coveted talents in football and basketball.

There is no crucial purpose for this deprivation. But rules have become more stringent in recent years as the financial value of college basketball and football has grown explosively and (not coincidentally, I think) as the racial makeup of the recruited athletes has become more Black.

I don't think the major universities and the NCAA have any excuse for this systematic deprivation except the claim that "we didn't get paid when we played, so why should they?"

All the typical reasons for requiring that athletes remain penniless in the universities' multi-million dollar basketball and football enterprises are suspect.

-- They are getting an education (Most recruited basketball and football players in Division I are unable to take advantage of the education being offered. Less than 30% manage to get diplomas.)

-- A scholarship is pay enough. (Who ordained university administrators as the Grand Deciders of how much is enough?)

-- They are amateurs. (How so? And why? Is amateurism morally superior to professionalism?)

There is no crucial reason that athletes at major universities should not receive the benefits commensurate with their talents But NCAA rules prevent athletes from using their popularity and personal initiative to maximize their value.

Universities should focus on educating students, not on limiting the economic opportunities of their athletes.

The NCAA manual claims that students must participate in sports for social, physical and recreational benefits -- as an *avocation*. Why force athletes to sign statements to this effect when everyone knows that many athletes (and their coaches) are in this enterprise at a level far beyond "avocation"? Why can't the NCAA acknowledge openly that many athletes view their sport as their primary

NCAA - National Conspiracy Against Athletes

interest in life? And why can't these athletes pursue their interests with an equal intensity? Should ALL athletes be limited to 20 hours a week of practice? If so, why don't universities limit Chemistry students to 20 hours per week of research? Universities already support three divisions which permit various levels of competition. Why not openly acknowledge that, at the top levels, the competition is more than a hobby for those participants?

Universities generally are proud of the diversity of their student bodies. So, why is there such an effort made by the NCAA to make sure that athletes are "like regular students." What regular students are they talking about when they use that phrase? Statistics show that over half the college students in America are over 25 years of age and that nearly half the students in America are part-time students. Why isn't part-time status available to NCAA athletes?

Why must all NCAA athletes fit one narrow mold? Why shouldn't the NCAA allow athletes from technical schools, junior colleges, and community colleges to participate in their games? The NCAA should be trying to accommodate the variety of needs of its prospective student-athletes the way the universities are trying to do for students in general. Why should NCAA competition be only for students in four (or five) year, degree-granting programs? If the NCAA and the universities were truly trying to meet the needs of student-athletes, they would offer broader opportunities instead of trying to make every athlete fit one narrow mold.

Equal opportunity does not require equal treatment. It is ludicrous to require that athletes in non revenue-producing sports get the same benefits as athletes in revenue producing sports. It is not economically feasible for non-revenue sports teams to travel from Seattle to Tucson or from Chestnut Hill to Miami. Neither tax payers nor football players should be forced to pay for travel expenses of non revenue-producing athletes when those athletes can easily play games with just as much social, recreational and competitive value within 200 miles of home.

The NCAA exploits basketball and football players. It appears to be the intent of the major universities to continue to try to get as much money as possible from basketball and football in order to pay for all of the other sports and their ever-growing sports bureaucracies. There ought to be at least a plan to wean the other sports from dependence on basketball and football revenue. Currently, this is not even an issue being considered.

The NCAA also curtails the so-called "minor sports" and limits the opportunities of minor sport athletes. Few efforts are being made to insure that

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NCAA - National Conspiracy Against Athletes

other sports have the chance of growing into self-sustaining programs -- and more popular programs -- the way basketball and football have. Currently, these other sports are actually suffering from the cycle of welfare-dependence as a result of the subsidies they get from basketball and football. They are not being permitted to grow, nor are they being permitted to promote themselves in order to become self-sustaining.

What crucial purpose is being served by keeping athletes penniless?

There is no convincing proof that amateurism is morally superior to professionalism. What negatives would occur if athletes were permitted to receive money from Nike or Chevrolet or any other commercial enterprise -- the way coaches can now? What if trust funds, not actual cash, were permitted athletes? This would obviously benefit athletes and their families tremendously. Why is this not allowed? What terrible thing would happen if athletes were permitted to benefit financially from their special talents and popularity? Trust funds linked to educational achievement would obviously encourage more athletes to get diplomas; and there are no known negatives.

The NCAA should not be permitted to continue to make rules which deprive athletes of enjoying the economic opportunities that come along with excellence in a popular American sport.

The NCAA mission -- to provide exercise, competition and social benefits through sports -- is accomplished fully through Division III sports. So what justification is there for entering in multi-million dollar TV contracts which force athletes to miss classes in order to accommodate TV schedules? There isn't anything wrong with games of this nature. What is wrong is that the NCAA persists in making a set of claims about the purpose of sports and then goes out and gets involved in contracts that have very different purposes.

Martin Luther King, Jr., in his famous letter to clergymen from Birmingham jail in 1963, defined clearly the litmus test for determining the morality of rules and laws and he explained clearly why some rules should be obeyed and others disobeyed. He cited two simple criteria: (1) did you have a vote in making the law or rule (athletes have no vote within the NCAA) and (2) do the rules or laws apply equally to lawmakers and others subject to the laws. Of course, in the NCAA system, the laws made by the NCAA apply very differently to athletes than to others. Martin Luther King, Jr. would not see any morality in rules that allow coaches and others to benefit from the system -- with for example million dollar contracts from Nike -- but which do not allow athletes to take advantage of their economic opportunities. Currently, secretaries in many of the

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NCAA - National Conspiracy Against Athletes

big-time sports offices across the nation drive courtesy cars provided by local car dealers, but athletes are not permitted so much as a free ride across campus.

By what right, what charter, can state universities limit anyone's economic opportunities? Shouldn't educational institutions stick to educating students instead of limiting their economic opportunities? It seems our institutions of higher learning should be proud of helping their students to maximize their opportunities, not limit them.

The NCAA has shown no willingness nor the ability to make positive reforms on behalf of athletes and their families. The courts have consistently ruled that athletes come under the umbrella or rules of voluntary associations; therefore the athletes have received no justice judicially. And it is very difficult for athletes to help themselves due to the transitory nature of their experience. It is incumbent upon Congress to step in as an advocate on behalf of athletes.

Congressional intervention is particularly important now. About five years ago, the NCAA signed a new contract with CBS, raising annual revenue from its basketball tournament from 32 million dollars to 143 million. But in the past five years no basketball players have received any increased benefits. In fact, fewer basketball players get scholarships now than did five years ago. The restrictive rules merely continue to tighten. Now, there is movement in the direction of a football national championship that will bring another new 100 million dollar rise in revenue -- and the NCAA will no doubt use that new money also to grow its national sports bureaucracy instead of helping athletes.

Personally, I would ask only that Congress force the NCAA to treat athletes like all other American citizens -- able to receive freely offered money and other benefits for their specially valued talents.

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Mrs. COLLINS. OK. Ms. Jo Miller.

Ms. MILLER. Yes, due to a disability, I am a burn victim. I would like to thank you for the opportunity to be here and as I explained to Mr. Gay, I would not have missed it for anything in the world, but due to the heat and the difficulty in travel I have trouble breathing. I have therefore respectfully asked that J.E. be allowed to give the oral presentation, but I would love to entertain any questions at the end with him, if that is possible.

Mrs. COLLINS. Thank you very much. Mr. Miller.

STATEMENT OF JO AND J.E. MILLER

Mr. MILLER. Chairwoman, we appreciate the opportunity of the OUR group to be invited to this presentation. We feel the issues are compelling and we speak on behalf of a volunteer organization that not only recognizes, but appreciates the role of athletics in society, our educational systems, and toward the overall development of our young people. Our sole interest is the welfare of all student athletes within the educational process.

We believe firmly that athletics teaches valuable skills to complete a well-rounded education. However, the image of sports is deteriorating. Just the fact we are here today suggests that this has changed. Some today will no doubt point fingers of fault at the school, some will blame the coach and some the student athlete. Interesting, though, in this process all schools will not become suspect. All coaches will not be castigated, but invariably the representation of all student athletes will be tarnished.

We believe the popular perception that cheating is a common occurrence in collegiate sports is overstated. Cheating, as defined by NCAA rules may very well be, but illegal, grandiose fraud we believe to be rare.

The problem is that because college sports is a multibillion-dollar industry, and because this organization is the sole regulator, and their annual revenue approaches \$200 million, a not-for-profit association, who supposedly acts in the best interest of the students, we feel, though, that the student athlete in this process has become particularly vulnerable to the stresses and abuses discussed here today.

Reform is necessary. To ignore the big business aspects of sports and to continue to enslave, which is a common theme running through this testimony, the student athlete to rigid and antiquated definitions of amateurs as defined in Rule 12.1.1 is ridiculous.

The following is a summary of our observations based on case studies, multiple reports, personal interviews and research. We have presented this to a special committee to review student athlete welfare access and equity for the NCAA. We would like to make mention of the fact that committee on welfare of the student is a temporary committee, while the enforcements division of the operation is a vital and ongoing aspect of that particular organization.

NCAA rules were intended to bring student athletes in line with the general student population. In reality, however, just the opposite occurs. The music student, the theater student, engineering, and entrepreneurial student is seldom restricted by the institution and rarely is a national institutional body such as the NCAA

formed to prevent these students from making money, qualifying for additional talent-based support and financially promoting their abilities.

Can you imagine the furor in a music department should the committee of college and university presidents meet and determine that a music student not be allowed to practice more than 20 hours a day and restrict the time spent with their music coach? The NCAA would do just that, to restrict their opportunities. And Heaven forbid they restrict the stipends of engineering students or not allow the theater student to earn a salary and college credit for their performances.

Concern and frustration has been expressed regarding NCAA practice of sanctioning innocent student athletes. In testimony before a committee in Kansas, their House of Representatives, a former champion basketball player stated just that, that they would probably not, quote, "turn in" teammates violating NCAA rules because they know even if innocent and especially the innocent will be punished.

Academic snobbery and ivory tower jealousy is a reality to the student athlete. Unlike the often popular view that a large number of student athletes receive preferential treatment, we have received and verified several reports to the contrary. Student athletes are often subjected to bias from faculty staff and other students. One female student in a low-profile sport said she concealed the fact that she was a recipient of a sports scholarship in order to avoid the prejudice in the classroom of being labeled a "dumb jock."

It appears certain presidents, chancellors, faculty and other academic administrators are predisposed to holding a damaging viewpoint of athletes. We maintain that unlike colleges and universities, the NCAA, and even coaches, student athletes have never had the luxury of affording public relations services to counterbalance negative publicity. This unchallenged acceptance of negative portrayals of student athletes ultimately sabotages the educational experience and is an unnecessary stress factor in an already strained environment.

In high-profile sports, student athletes from disadvantaged backgrounds suffer severely from these and often the people they turn to the most are the people that are kept from them by the rules to protect them and to support them. Division 1 student athletes in high-profile sports are confronted daily with a huge exchange of money and sports. Their names, pictures, autographs, and jersey numbers are sold on T-shirts, sweatshirts, cards and posters, and yet it is an NCAA violation to buy the student athlete a can of pop or allow them to earn pocket money during the academic year.

These students or these rules are making junior high and high school talented athletes expect large sums of money. They are expecting because of the negative portrayal of things in the papers and on reports these things as common occurrences. However there is no empirical data to support this. Too often the reality differs. I will pause.

[The prepared statement of Jo and J.E. Miller follows:]

STATEMENT OF J.E. & JO MILLER

Thank you for the invitation to address your committee with what we feel are compelling issues. We speak today on behalf of the Organization for Understanding & Reform (O.U.R.) which is a volunteer organization comprising individuals from all over the Nation who recognize and appreciate the role of athletics in our society, our educational system and towards the overall development of our young people. We are friends, family, and fans of former and current student athletes. Our sole interest is the welfare of all student-athletes within the educational process.

Athletics teaches exercise, discipline, and team effort—valuable skills to complete a well-rounded education. As defined in Webster's New Collegiate Dictionary, "sportsmanship" was a common term signifying "fair play." Sports held a very positive influence. However, just the fact that we are all here today suggests that this has changed. Some today will, no doubt, point the finger of fault at the school, some will blame the coach, and some the student-athlete. Interestingly in this process, all schools won't become suspect, all coaches won't be castigated, but invariably the reputation of all student-athletes will be tarnished.

We believe that the popular perception that "cheating is a common occurrence" in collegiate sports is over stated. Cheating as defined by NCAA rules may very well be; but, illegal, grandiose fraud is rare. Because sports has become such a multi-billion dollar industry, student-athletes have become particularly vulnerable to the stresses and abuses being discussed here today. We believe that proper reform of the regulatory practices of the NCAA will correct this. The NCAA can no longer afford to ignore the big business aspect of sports and continues to enslave the student athlete to the rigid and antiquated definition of "amateur" as defined in NCAA rule 12.1.1 and following.

The following is a summary of our observations based on case studies, multiple reports, personal interviews, and research. We presented a summary similar to this to the NCAA Special Committee to Review Student-Athlete Welfare, Access and Equity.

1. The most frequent complaint from student-athletes is the excessive and over-restrictive rules and regulations by the NCAA. This everchanging, evergrowing book is replete with rule upon rule. Too often, these rules are ambiguous with a wide range and varying application as well as interpretations throughout the Nation.

In theory, NCAA rules were intended to bring the student-athlete in line with the general student population. In reality, however, just this opposite occurs. The music, theater, engineering, and entrepreneurial student is very seldom restricted by the institution. Rarely is a national institutional body such as the NCAA formed to prevent these students from making money, qualifying for additional talent based support, and financially promoting their abilities. Can you imagine the furor of the Music department, should a committee of college and university presidents meet and determine that a music student not be allowed to practice more than 20 hours a week and restrict the time spent with their music coach—and heaven forbid they restrict the stipends of engineering students or not allow theater students to earn a salary and college credit for their performances.

2. Concern and frustration was expressed regarding the NCAA practice of sanctioning innocent student-athletes. In recent testimony before a committee in the Kansas House of Representatives, a former champion basketball player stated that student-athletes would probably not "turn in" a teammate violating NCAA rules because they know even the innocent will be punished too. "Academic snobbery" and "ivory tower jealousy" is a reality to the student-athlete.

3. Unlike the often popular view that a large number of student-athletes receive preferential treatment, we have received and verified several reports to the contrary. Student-athletes are often subjected to ridicule and negative bias from faculty, staff, and other students. Female students in low profile sports said they often conceal the fact that they are recipients of sports scholarships in order to avoid this prejudice of being labeled a "dumb jock."

It appears that certain presidents, chancellors, faculty and other academic administrators are predisposed to hold a damaging viewpoint of athletics. We maintain that unlike colleges and universities, the NCAA, and even coaches, student-athletes have never had the luxury of affording "public relations" services to counterbalance negative publicity. After all, the unchallenged acceptance of this negative portrayal of all student-athletes ultimately sabotages the educational experience and is an unnecessary stress factor in an already strained environment.

4. In high profile sports, student-athletes from disadvantaged backgrounds have reported severe emotional stress related to the dichotomy of their current status as both student and athlete coupled with worry and knowledge that their families remain in an environment filled with financial, social, and emotional stress. They

have expressed deep feelings of isolation, frustration, and depression. Often, the coach has been the adult on campus to whom they would naturally turn for assistance; however, the NCAA has limited the time a student-athlete can spend with their coach.

Division I student-athletes in high profile sports are confronted daily with the huge exchange of money in sports. Their names, pictures, autographs, and jersey numbers are sold on T-shirts, sweatshirts, cards, and posters—and yet it is an NCAA violation to buy the student-athlete a can of pop or allow them to earn pocket money during the academic year. Talented junior high and high school student-athletes have mistakenly been led to expect large sums of money and gifts from prospective colleges and universities. They are given the false perception that this type of behavior is a common occurrence. However, there is no empirical data to support this. Too often, the reality differs greatly from the popular and accepted image.

For instance, the NCAA charged Deon Thomas and the University of Illinois' basketball coaches with allegations of \$80,000 and a vehicle. This allegation was widely published in national newspapers and discussed on national radio and television broadcasts. The fact that Deon Thomas and the U of I basketball coaches were found innocent of those charges and found guilty of a \$10 pizza loan and a "gift of value" a Polaroid snap-shot was never revealed by the NCAA. Instead, that organization perpetuated the myth of a large sum of money by irresponsible press statements and sanctioning the school with horrendous vengeance.

In their process through their own admission, the NCAA makes no provision for having a "category for innocence." So, to the NCAA a \$100,000 inducement is the same as a \$1 inducement. Both bearing the same label with no correlation to the punishment given.

Excessive rules, unfairly restricting the amount of earnings a student-athlete can make, limiting the time they can spend with their coaches, and not allowing them to seek the assistance of agents in a reasonable and legitimate way only compounds the problem. We have found that the regulation process of the NCAA only fosters and unwittingly encourages the abuse of money and ultimately the abuse of student-athletes within collegiate sports. Their obstinate resistance to any real reform, any recognition of valid criticism, and refusal to acknowledge error keeps them from being capable of managing the real issues within collegiate sports.

There are no warm blooded members of the NCAA. NCAA membership is comprised of colleges, universities, and conferences—all institutions. Naturally, the voting representatives of the NCAA must have the interests of their respective institutions as their number one priority and not the student-athlete.

For example, the NCAA enforcement division is a long standing, permanent committee and yet the Special Committee to Review Student-Athlete Welfare, Access and Equity is a temporary committee with only advisory capacity. I suppose that after today, the NCAA will establish yet another committee to "look into" the issues that we are discussing. We are here saying that collegiate sports is a valuable aspect of higher education and that better management of it is necessary.

Mrs. COLLINS. Thank you very much.

Mr. DeVenzio, you had a thought you wanted to complete when the light went off. Do you want to continue your thought at this point?

Mr. DEVENZIO. Yes, because there is a certain nervousness just to get out everything that you would like to say here.

Mrs. COLLINS. Five minutes runs fast.

Mr. DEVENZIO. I would just say that. I don't favor any agent law enforcement actions of any kind. I think to prosecute agents—really, if you did what I think would be best for the athlete, you would prosecute the universities under those same laws they are trying to make.

They are the cartel that is formed, a conspiracy, whatever you want to call it, to keep the athletes from getting their just do from the popular sport they are playing. So I think the ultimate agent would be the university. These other people, I don't think they would need regulations at all for agents if the athletes were allowed to get what was coming to them.

Nobody has to worry about the agent, professional agents being regulated so that, let's say Michael Jordan can sign a contract, because you are not worried about Michael taking money he is not supposed to get. He is paid well enough anyway. He can sort through those himself. The idea that the university is doing the athletes a favor, I just do not buy that at all.

Mrs. COLLINS. Mr. Miller, you had a thought you wanted to expound on?

Mr. MILLER. I do and it is an instance that has been brought up before in terms of the Illinois situation with which I am most familiar. The NCAA in that particular event charged Dion Thomas and the Illinois University basketball coaches with allegations of \$80,000 inducements and a vehicle. The allegations were widely published in national newspapers and discussed on national radio and television talk shows.

The fact that Dion Thomas and the University of Illinois basketball coaches were found innocent of those charges and instead found guilty of a \$10 pizza loan and a gift of value which turned out to be a Polaroid snapshot was never revealed by the NCAA. Instead, the NCAA perpetuated the myth of a large sum of money by irresponsible press statements and sanctioning the school with horrendous vengeance. So we have determined from this, and by their own admission, because they said they make no provision for a category for innocence, that a process that has no category of innocence seems like a sham to me to begin with.

So to the NCAA, a \$100,000 alleged inducement is the same as a \$1 inducement. Both bearing the same label with no correlation to the punishment.

Mrs. COLLINS. Well, as I asked earlier, Mr. DeVenzio, you have almost answered the question, does it make sense to let the coaches sign shoe deals and schools to sign bowl deals, but not let the student—he cannot accept a nickel? Is that any kind of reasonable proposition?

Mr. DEVENZIO. I think it is absolutely un-American and out of the scope of universities. They should not deal with that at all.

A good example of the school I came from, Mike Shasheski gets a million-dollar contract from Nike. Nike only gave that because they wanted to give the money to Grant Hill, the player, but because NCAA rules prevent that, now suddenly the coach gets enriched. I don't understand—I think if we started out to build a sports system, I don't think the president from Florida State or anybody else would set out to build a system the way we have it.

I think we are saddled with what we have and as you said probably will need a piecemeal or quilt-like solution to the problems, but I don't see there is any justification for the present system; to allow a coach to get enriched in a contract because a player supposedly has to remain an amateur.

I would like to hear a good argument that I have never heard from the NCAA for what they are upholding within this so-called amateur system. I don't know any athletes or families that would be worse off if they were allowed to receive money.

There is a lot of creative ways for athletes to get money. Nike, for example, could say we will put the million dollars in a trust fund for Grant Hill and he could never touch it unless he gets a

diploma. I would think every college president would applaud that; in fact, encourage all moneys that could come into the system to please come in through the universities coffers is put into trust funds.

And now if you want to look at graduation rates, once you had a system like that, that is a 70 percent graduation rate that they are proud of, I think that would soar. Because if an athlete had a million-dollar trust fund there and knew he had to go back to school a couple of years, I don't think he would need all the compliance services and tutoring services and academic advisers. He would just have to look at that million dollars and go to school like everyone else.

Mrs. COLLINS. Do you see a distinction between a college recruiting, a high school prospect with an offer of a 4-year scholarship worth thousands of dollars and an agent offering a college student money or gifts for signing a contract with him?

Mr. DEVENZIO. It is interesting that the president referred to recruiting as a bidding war. I never hear anybody calling it bidding war when Xerox is trying to get a CEO from IBM. There, it is American enterprise.

Mrs. COLLINS. Go ahead, answer the question.

Mr. DEVENZIO. So I mean the whole idea of a bidding war and a recruiting of college—I mean recruiting athletes, these people have value. If they have value and a university wants them, a lot of us don't care whether someone throws a football at Florida State or Gainesville. But if somebody wants to pay Charlie Ward a million dollars to throw his football in Dallas instead of Gainesville or FSU, should they care about that? They should care about what kind of student that young man is.

Mrs. COLLINS. Mr. Stearns.

Mr. STEARNS. Thank you, Madam Chairwoman. Mr. Miller, I was a little concerned by your statement in which you said, I don't know if you said the university, but you used the word continued to "enslave." Aren't the students there for an education? Isn't the purpose of this to pretty much get them the scholarship so that they can get an education and to make sure that there is incentive to stay in school? What do you mean by continued to enslave.

Mr. MILLER. We are talking here about two separate issues; one of economics and one of equity. And while in an economics case, a free market economy may very well work to the detriment of the student or the student athlete, because as the institutions recognize, that is a renewable resource, a replenishing resource.

In terms of equity, we are talking about bringing the student who happens to be an athlete in line with other students. What other student has to comply with the rules of an outside organization that happens to be the sole regulator of that particular area to maintain that talent-based scholarship? Does a debater? Does the art student? And so what we are saying—

Mr. STEARNS. Tennis star, a swimming star.

Mr. MILLER. The lower profile sports, too. And those athletes, those student athletes, have to comply with archaic rules, what we believe to be archaic rules.

Mr. STEARNS. I don't know. "Continue to enslave" is a little bit strong, don't you think?

Mr. MILLER. Well, I earned my way through college. I am not an attorney, by the way, but I earned an education because of a debate scholarship. If I had been told when I was flying, as a student that had very little spending money and was also there because of Federal grants and other moneys, that I had to turn some of those moneys in to compete in this process, and when I would be flown from my college in rural Tennessee to Denver, Colorado, and have to stand there and watch and have to count my money out because an outside organization told me, no, you are not entitled to this money because other students are—you are doing something that may lead you to something grand and great, and so because of that we can step in and limit those things, I have a little bit of compassion for that student.

Mr. STEARNS. Don't you think if we followed your line of reasoning there might not be an incentive for students not to stay in school, which is the whole purpose?

Mr. MILLER. Sure. We lose doctoral students constantly where I work because the outside incentive is greater. But should we prohibit—

Mr. STEARNS. If we followed your line of reasoning, students might not even stay in? The whole purpose is for them to get the education that is free and to value it and to show a little personal responsibility and to say this is right and this is wrong. But if you are going to throw out all these regulations, aren't you going to change the whole—

Mr. MILLER. When we are talking about comparable worth, and we are looking at a 4-year degree, letters that might be bachelor of arts or bachelor of science—and recognize at some point in that process an organization could come in, as in the case of a recent MBA draft, and tell a student you can make close to \$100 million. Don't you think we are being a little ridiculous to expect that student has every opportunity, should they live, to come back and finish a degree, but are those letters any more important to the student than the ability to make that revenue that they can while they can do it?

How many graduation rates of engineering schools are actually measured in terms of offers given before they receive the degrees? I would tell you from personal experience, working with Ph.D. programs, that the opposite holds true, at least Ph.D.'s in business; that they often will exit without those three letters, Ph.D.

Mr. STEARNS. Do you think what you are talking about should apply to the Air Force Academy, Naval Academy, West Point?

Mr. MILLER. We are finding out recently a lot about the rules we pass out to those institutions.

Mr. STEARNS. So you would like what you are talking about for the students, young men and women who go to the academies, you want to also say it applies there, too?

Mr. MILLER. They may make the choice I did to go to a school or be part of an organization that does not participate at that level. Is there any reason they should feel compelled as an institution—and by the way, only institutions are members of this organization. No warm-blooded person is a member of the NCAA, only institutions are members of this organization. So if those institutions choose not to belong, that is their choice.

Mr. STEARNS. You know, a lot of times when you talk about these things, and I see it in Washington, people will take a very narrow example, that occurs frequently, and make a huge argument that vastly changes things when it is just a very small example. But I have had my time.

Mrs. COLLINS. Eric, could you tell us why you accepted cash and other special favors if you knew you were violating NCAA rules?

Mr. RAMSEY. Well, first of all—

Mrs. COLLINS. Mike please.

Mr. RAMSEY. Considering the fact that the people that helped me violate these rules, they are the ones who were in charge and they were, they come to you and say if you need something, give it to me. At the time, you know, I was married and my wife was pregnant with a child and I felt like I needed the money and I accepted it. I accepted it willingly and because I needed it.

If I had to do it all over again, I would do it again. Because why shouldn't I be paid for something I am doing. I am out there every day risking my life, risking being paralyzed for a sport who after 5 years of playing for the university don't give a damn about me. And so I felt like I should get it.

And back to the question that Mr. Stearns asked Mr. Miller, if I am a student athlete, if I wasn't good enough to play football, the university wouldn't be recruiting me. They didn't recruit me to get an education, they recruited me to play football for them. So the bottom line is for the player to come there to get, to play football. You get the education if you want it. I wanted my education and that is why I have mine. But you are not brought there, you are not recruited by the university to get an education.

Mrs. COLLINS. You stated my sports workshop in September of 1992 that you believed it may take special legislation to provide for monthly stipends to student athletes. Do you believe that students ought to be paid?

Mr. RAMSEY. Wholeheartedly. I think the student athletes should be paid—well, I have been thinking for the last 3 years about everything that has been going on with my situation, for instance, and I believe that student athletes should get paid. You talk about a trust fund, I think the student athletes should get paid between \$3,000 to \$5,000 a month. And what should happen is, I think that the university should set up a trust fund where you are allowed to receive this money, but it is put away for you and regardless of whether you get the education or not because you worked so hard on the football field. After everything is said and done, I think that money should be yours to do whatever you want to with it because you deserve it.

Mrs. COLLINS. You say it should be put away for you, do you mean it should be put away for you until after you graduate?

Mr. RAMSEY. Until after my eligibility is over.

Mrs. COLLINS. Until after your eligibility is over. Now, let me give you a hypothetical. Suppose a student comes from a low-income area, and the parents are not able to provide or the parent, usually it is a one-parent home situation, the parent has other children, is not able to give that student a credit card, is not able to send money on a monthly or weekly basis to that student, the student comes without a car, without a credit card, without any hope

of having regular money sent to him from home, and he sees all of his other students able to take a girl out for some pop or a movie or something like that.

Even if you got this money set aside until after his eligibility period, do you think that he would be inclined—do you think he should have a stipend to go along with, to help support him in an extreme case like that before his eligibility?

Mr. RAMSEY. Of course I do. I think—you know, we talked, the president of Florida State talked about Pell Grants. I think if the university would not get half of the students Pell Grants, then most of the time anyway Pell Grants are for low-income students. And they should continue to allow the student to get the Pell Grants, but the university should not take half of it. I do believe there should be a stipend along with that payment.

Mrs. COLLINS. Were you able to graduate from Auburn?

Mr. RAMSEY. Yes, under a lot of—yes, I was able to graduate from Auburn. I graduated with a degree in criminology.

Mrs. COLLINS. With a degree in criminology.

Mr. RAMSEY. Yes, ma'am.

Mrs. COLLINS. What advice do you have for any other student athletes?

Mr. RAMSEY. My advice would be that if you—well, this is the advice I give to my son. I tell him if you have something that you believe in and you are committed to that belief, regardless of whatever obstacles are thrown at you, stand up for what you believe in.

I have risked a professional career, I have risked my life, there have been a lot of death threats and everything put in front of me, but I accepted the challenge. I knew when I started out on this venture I would have to deal with the outcome. So, fortunately, I am still standing right now.

Mrs. COLLINS. Yeah, we certainly applaud the courage you have shown during the time that you have been before our subcommittee, a couple or so years ago and we know you and your family have been through a lot and the very fact that you are here today tells me that you are a courageous man and we applaud you for that.

Mr. Stearns .

Mr. STEARNS. Thank you, Madam Chairwoman.

Mr. DeVenio, let me ask you a question about implementation here. Are you in favor of a Federal bureaucracy? Let me rephrase it. Are you in favor of the government getting involved?

Mr. DEVENIO. I liked your term before, monstrosity and it is a great characterization of the NCAA. I don't know of a more grand bureaucracy monstrosity than that.

Mr. STEARNS. Would you like the Federal Government to get involved?

Mr. DEVENIO. If they were willing to say that the system was deregulated so we would not need this book, I think that would be wonderful. I would like just the athletes to be treated like all other American citizens.

Mr. STEARNS. Would you want Congress to then become, to force the NCAA and the university presidents—

Mr. DEVENZIO. To enforce an antitrust act, yes. Antimonopoly, whatever laws would be necessary to keep the NCAA from having a monopoly over the athletes.

Mr. STEARNS. So you are saying you want Congress to enact legislation.

Mr. DEVENZIO. No, just enforce would be ideal.

Mr. STEARNS. You cannot enforce anything generally without some kind of legislation and you have to set up a board and that means—

Mr. DEVENZIO. Well, I would say whatever it takes.

Mr. STEARNS. So I could say extending your idea, then, is that you want the Federal Government to enforce this by whatever means it takes?

Mr. DEVENZIO. I thought in the past that the courts would do it, but the courts have continually ruled that athletes come under the rules of voluntary associations. And as Mr. Miller has said, there is only institutions in that association, there are not individuals. So I am not—I am not an expert on the points as to what has to be done legislatively, but I think, obviously, some change has to be made because thousands of athletes every year are exploited unfairly by the NCAA. It seems to be there are laws on the books that would account for the situation, but the courts have not ruled accordingly.

Mr. STEARNS. You know, I asked my staff just briefly, what is the average amount of money that a scholarship is worth for a 4-year college and they said that the 4-year average for a public institution is \$25,000 a year and \$6,400 a year for a private university. So you are talking about over a 4-year period \$100,000 up to—

Mr. DEVENZIO. Talking about the revenue from a football game for the whole team basically.

Mr. STEARNS. But you could also say the analogy, in fact, if you have an entrepreneur creating something, and you are saying the entrepreneur who created this, and then you are talking about distribution of salary ranges, that everybody should be compensated based upon—

Mr. DEVENZIO. Value.

Mr. STEARNS. Value, but you are talking about a university here whose purpose is education. And I think your comparison—you keep talking about the private sector. We are talking about a university where the purpose is education. Where a person is the chess master of the university, is that the same type of thing?

Mr. DEVENZIO. No.

Mr. STEARNS. Are you going to open it up to the one that is on a dancing scholarship?

Mr. DEVENZIO. I am not in support of paying athletes. I am not in support of universities paying athletes.

Mr. STEARNS. What I am saying is, it seems to me if a student is getting anywhere from \$120,000 to \$250,000 for a scholarship, and I know football takes a lot of time, but certainly that is a very high value given to a young man who is coming out of high school and that should be the focus, is his education and the scholarship he has given, and not the benefits of the university, which, obviously, are going to improve the education and improve the university's overall program, which is getting into things that the chair-

woman was talking about, is trying to provide more programs for women athletes.

Mr. DEVENZIO. I am 100 percent for that. I am 100 percent for that.

Mr. STEARNS. So why are we going after the university when we are already giving the student?

Mr. DEVENZIO. I am 100 percent for what you said. I don't agree that universities should be involved in Division 1 sports entering in contracts with CBS for a billion dollars over 7 years. It is the universities that have made that choice and they have stepped beyond a pure educational mission. I agree with you 100 percent. If they kept to their Division 3 model I would agree with you entirely.

Mr. STEARNS. Thank you, Madam Chairwoman.

Mrs. COLLINS. In answer to his question and you just said if they kept within the Division 3 level, where everybody is on an amateur level, it is OK. But given the fact that today college sports is big business, and you replied to his earlier—Mr. Stearns' earlier question that you are not in favor of paying athletes.

Since it is big business, are you in favor of paying stipends to those students, student athletes who are providing the money for the big business, such as football and basketball players on television and so forth in these conferences and things?

Mr. DEVENZIO. I think the problem with stipends is that they create a morass of additional probables. Who gets them, how much on what sports and I think the easiest way so you don't need a book even bigger than that is just to deregulate the system.

If you have a coach making a million dollars that wants a certain player to play for him, he could tell a player that he will pay him. The university does not have to do it. I say staunchly a university should stick to educating. If a coach cares enough to get some player and wants to pay them, pay some players to play, I think that would not bother me. If Chevrolet or Nike wanted to pay some players to do commercials or whatever, that would not bother me.

I don't think that it makes any difference where somebody gets money. You sit in class at a university and the guy next to you might be a millionaire's son and somebody might be the son, like I think of that Charlie Ward's roommate in Florida State whose mother was killed in the line of duty. Here is a kid that had tremendous value to Florida State, who has six little brothers and sisters living with a grandma, and Mr. Stearns is saying, well, the kid is getting \$125,000. Well, it will be interesting to see if Florida State offers scholarships to those six brothers and sisters.

Now, if a football player has enough value right now, that if there were an open market, Florida State would be happy to pay for six more scholarships for that person's little brothers and sisters. But since they don't have to now, they will never do that.

Mrs. COLLINS. Do you think that the universities and colleges should be having their games shown on television?

Mr. DEVENZIO. I don't think it is a bad thing as long as they are not hypocritical about their purposes. I think universities supporting professional athletics—they support women's research and religious studies and all kinds of art and whatnot. I think universities are generally proud of their diversity, and so I don't have any problem with professional sports, but they have professional sports.

They are making this grand distinction between what they have in professional sports and claiming it is amateurish, and as you said, the only thing amateurish about it is that the players are kept penniless.

Mrs. COLLINS. And you don't want those players to have stipends?

Mr. DEVENZIO. I am saying they would not—

Mrs. COLLINS. Yes or no, do you want those players to have any stipends?

Mr. DEVENZIO. No.

Mrs. COLLINS. OK, thank you. You suggest in your testimony that student athletes should have a voice and a vote in making the laws or rules governing their contract. Who do you think is standing in the way of making this happen?

Mr. DEVENZIO. Universities make it very difficult for athletes to have any kind of voice. Clearly, the universities are in the way. The universities now subsidize an athletic director's convention each year, subsidize coaches conventions. They could easily subsidize a players convention, but they don't because they don't want the players to have a real voice.

As soon as athletes have a voice, you know, we have a baseball strike looming. No one likes the idea of a strike. As soon as college athletes like Eric had a voice, they would get together and they would not stand for the treatment they get.

Mrs. COLLINS. So when you say get together, do you mean something like unionizing themselves.

Mr. DEVENZIO. That is what they need. Everybody recognizes the value of unions. Even the president of Florida State wrote the players unions at the professional level. Clearly, the college players need a union, but it is very difficult for them to form one specifically because of the transient nature of their experience. If they were around for 10 years they would have one.

Mrs. COLLINS. Mr. Stearns.

Mr. STEARNS. Thank you, Madam Chairwoman. Let me just continue the questioning that the chairwoman—are you in favor or would you like to unionize all the athletes at universities in the United States?

Mr. DEVENZIO. I would like to unionize the revenue-producing athletes in particular.

Mr. STEARNS. Not all the athletes, just the ones making the large dollars.

Mr. DEVENZIO. Yes.

Mr. STEARNS. And towards that end, what would be the goal of unionizing them, just the top—you say I want to unionize the top athletes. What would be the goal, the next step once you had them? Can you explain to me what your modus operandi or what your goal and mission would be?

Mr. DEVENZIO. Yes, I would like them to have the opportunities of all other American citizens free to receive value for their special talents.

Mr. STEARNS. Does that include putting them on strike?

Mr. DEVENZIO. I think necessarily, yes. I mean I think that is why baseball players are going on strike. Athletes do not get what they have coming to them via the benevolence of their owners.

They have always gotten what they have gotten through strikes. I think college players, the day will come when the Rose Bowl is about to be played and the athletes will say we are not doing this unless we get some of the money that has been collected.

Some athletes are going to be involved in the final four which is worth about \$143 million a year. CBS pays the NCAA. It cannot be too far in the future when a group of athletes will recognize it is foolish to keep playing in a \$143 million tournament for nothing.

Mr. STEARNS. Do you think also the strike would include their education, that I don't want to have to go to school? I mean, obviously, if you had these athletes in that position and they said to you we are finding these courses are difficult or we are finding these courses are a problem and they are hurting, would you also include strikes for education?

Mr. DEVENZIO. Well, there is such a thing as student walk-outs in the past. When the university is not meeting the needs of its students, there are avenues to take. So whether a group of athletes would take any avenues, I think athletes should have all the avenues open to all other American students.

Mr. STEARNS. In your argument here, have you ever heard of the Striker Replacement Act? Do you know what that is in Congress? That is an act that prevents the corporation from replacing the worker once they strike. It has been a very—I can just tell you contentious issue. Would you favor, then, if you put the players on strike, what rights would the universities have, then? Would they be able to replace these athletes in your mind?

Mr. DEVENZIO. I am sure they would try. And I think it would come out the way it came out. Eventually, universities have to treat athletes like American citizens. But whether or not one group of athletes suffered like air traffic controllers suffered several years ago, I imagine the first group that took the step would suffer, and that is probably why more athletes have not taken dramatic steps.

You know, the first people are pioneers. It is difficult to take that first action because usually there will be some suffering.

Mr. STEARNS. Following your line of reasoning, if you called and talked to these athletes and you had them unionized and you put them on strike, would the university, in your mind, continue to pay the scholarships?

Mr. DEVENZIO. That would be up to the university. Universities usually claim when their representatives are in a recruit's home that they will muster all the resources of the university to see that the person develops in a maximum way athletically, academically and even socially. So I would guess if the university stuck to its words, in case there was a strike on the field, they would not have any problem with the athletes still promoting their educational goals. But that would, again, be up to the university.

Mr. STEARNS. Let's be specific, OK. We are taking the example you have used before a major bowl game and you talk to the athletes and you put them on strike. Would the university, in your mind, have the right, since they are being paid for a scholarship for their education, and their room and board and tuition, what rights do you envision the university having at this point?

Mr. DEVENZIO. Well, I think the university would—I don't know what rights they would have. But I think the university would

probably threaten to take away scholarships because coaches threaten that all the time.

Mr. STEARNS. That is because the scholarship is based upon them playing. You have them on strike now. They are not playing and yet they are getting scholarships.

Mr. DEVENZIO. Your point was, though, that the whole purpose for your words, the whole purpose for students attending college was for an education. So I would not think, I bet if we push to the president here and ask him if he would pull away the academic opportunities for his students in case there was some problems on the football field, my guess would be that he would say that he would not abort their opportunities academically just because there was some problems on the field.

Mr. STEARNS. Thank you, Madam Chairwoman.

Mrs. COLLINS. Final question for Mr. Miller.

In the early 1980's, the NCAA began an auto leasing program for its employees. I understand they started off with Chevrolet Caprice classification for the executive level directors. They even offered low interest or low-interest mortgages for other employees.

I also understand that it is common practice for an association member to fly, for NCAA meetings at all of these lovely resorts, on first-class flights. Some employees, like the former college director, pilot the NCAA's \$1.7 million jet to his meetings. With all this money, is there any question in your mind that student athletes should not get at least their share?

Mr. MILLER. I have to, not on behalf of the OUR group, but hear-say in terms of me and from what I have read and what I understand, there is no doubt in my mind that they should receive compensation for their activities.

Mrs. COLLINS. Could you tell us what your experience has been with athletes who are students coming from lower socioeconomic backgrounds? Do you believe any special treatment ought to be provided protecting them from rules violations regarding financial assistance?

Mr. MILLER. I believe that the idea, the concept of due process should be provided to the individual and right now, as has been mentioned, Florida has that law in place. The State of Illinois has that law in place. And when one president of a university questioned me about what good that law would do, we said, well, you have to understand that you folks have to come in, the NCAA has to come in and botch that process, deny due process before we can test whether that is the case.

Mrs. COLLINS. Has your research shown whether or not the laws in Florida or in the State of Illinois have been enforced by anybody?

Mr. MILLER. To date it is my understanding they have not.

Mrs. COLLINS. So they might as well not be there.

Finally, let me say this—well, I guess not finally. Eric, Mr. Ramsey, did you or any member of your family receive threats of any kind when you sort of blew the whistle on Auburn. Were their threats ever carried out? Were you investigated? Could you tell us a little bit about what happened to you?

Mr. RAMSEY. Yes, ma'am. First of all, we were, my wife—

Mrs. COLLINS. Talk on the mike.

Mr. RAMSEY. I am sorry I keep forgetting. My wife and I were investigated by the FBI in Alabama. The IRS did an audit of us. And there were several death threats on my life. One instance somebody shot at my mother-in-law's house and they put a bomb in a trash can that exploded, one of those big green trash containers. That exploded. And when I attended my graduation I had to wear a bulletproof vest because there were a lot of death threats on my life.

I mean even to this day I have continued to hear that people still want a piece of Eric Ramsey. So, yes.

Mrs. COLLINS. I believe you said that earlier in your statement that after even after going through all of that, you would still choose to do the same thing again.

Mr. RAMSEY. Yes, ma'am, I would.

Mrs. COLLINS. Why?

Mr. RAMSEY. Because you have to have some kind or some level of integrity. Like I said earlier, when I believe in something I will stick by it wholeheartedly regardless of the amount of threats I receive or who don't like it. I mean crucify me because I thought I was doing what was right or I did what I thought was right.

I mean I'm going to—I mean life is too short to worry about what people want to do to you or as far as whatever you may say. My outlook on life is I just treat everything like water off a duck's back. If people threaten me, so be it. If I die, if I leave out here right now and I die, I am just dead. But as long as I believe in—as long as I know that my son knows that his father stood up for what he believed in then I am going to continue to do the same thing. So what, I don't have a pro football career anymore. Life goes on.

Mrs. COLLINS. Mr. Stearns.

Mr. STEARNS. Thank you, Madam Chairwoman. I just have one concluding question and this, I guess, could be for Ms. Miller or Mr. Miller.

I think you talked about college athletics also teaching the idea of discipline, team efforts and fair play. What do these words mean in terms of accepting illegal payments and do you believe that moral values like trust and honesty are an important aspect of a student athlete's education?

Mr. MILLER. Yes, I believe that as we stated that sports, in its purest form, encourages those concepts of fair play, of playing by the rules and of team spirits. But I also think that when you have an arbitrary situation that the external demands sometimes can force, until, until a change can be brought within an organization, sometimes external forces have to move to make that organization balance the externalities with the inequity inside.

As I stated earlier, I believe firmly that from an economic standpoint it may not be in the best interest of student athletes as a category to go the free market route. Because, and the baseball example was brought up earlier, a bimodal system where not every professional baseball player earns those large and attractive salaries that we see headlining, but it is, there is a disparity there. So the economic route might not be the purest form in this and I am surprised that in some areas free market is not applied and in some areas free market is applied.

But there are also internal standards of equity, and so when you deal with that, the idea of being sanctioned equally for a violation of accepting a free bottle of pop from someone and the alleged inducements of multithousand-dollar offers, is that teaching fairness? And I would say, no, it is not.

Mr. STEARNS. Mr. Miller, do you share Mr. DeVenizio's idea about the unionization of athletes? I mean pretty much what he said, does that speak to you, too? Do you agree with it at all?

Mr. MILLER. These are personal views again, and let me step back and express those as my personal views.

You talk about the striker replacement. Currently, we are talking about for noneconomic awards. And so, yes, these students, if they are not economically motivated, they would not be able to be replaced. So we are talking workplace safety and a variety of issues that I think the student athlete unionized would be protected by. I do believe in the collective bargaining agreement.

Mr. STEARNS. You favor unionization?

Mr. MILLER. I favor collective bargaining agreements, but not the striker replacement law.

Mr. STEARNS. Yes or no, do you favor all athletes in college being unionized, yes or no.

Mr. MILLER. Yes.

Mr. STEARNS. Does that include the academies? Yes or no?

Mr. MILLER. Honestly, I have not thought that out. I have not thought of the ramifications with academies. I don't know whether they would fall under military or whether they would fall under civil servant.

Mr. STEARNS. Mr. DeVenizio, I forgot to ask you, do you favor the unionization of military academies?

Mr. DEVENZIO. I favor associations. The coaches do not call it a union. So I would say actually you have to make a distinction since the coaches do. I think the athletes ought to be associated in the same way that the coaches and athletic directors are.

Mr. STEARNS. Thank you, Madam Chairwoman.

Mrs. COLLINS. We have been joined by another member of our subcommittee.

Mr. Towns, of New York. Mr. Towns, do you have any questions at this time?

Mr. TOWNS. Basically a comment, Madam Chairwoman, that I would like to thank you very much for holding this hearing. I think that this is a very, very important hearing as we look at the course of events in terms of what is happening today with athletes, the fact that it is almost like having another job while you are in school.

You are required to practice and, of course, you participate and that is extra, extra kind of hours that you have to put in, and at the same time you are expected to keep up with your course work and that also could be a problem.

So I think that we have reached a point in time where the NCAA, of course, in many instances, has created all kinds of problems, because in terms of recruiting a youngster, a person goes thousands and thousands of miles away and then all of a sudden there is a tragedy in the family and nobody wants to know anything and the person has no resources to be able to get back to

whatever is going on, and then, of course, many things happen in the process; where they violate rules because of the fact that we have not been aggressive in terms of changing rules.

I think there is no doubt in my mind that athletes today should be compensated, being a former athlete myself. I think that you have the insight to look into this. I think it is a giant step in the right direction. Not only that, I think we have to be practical, that an athlete can starve and starve for 4 years and then when he finishes sometimes he gets a million dollars immediately after that. That doesn't make any sense either.

I think we need to come up with some kind of balance here, wherein that during the time a person is in undergraduate school they, too, should be compensated in terms of the actual numbers. I think that could be worked on and thought out, but I think it would eliminate students getting involved in illegal kinds of things, illegal activities. And I know of situations wherein a gentleman had a roommate for 4 years, roommate signs a professional contract, comes back through and contracts for a million dollars, comes back through, gives his roommate \$500 and all of a sudden there is a problem, it is a scandal and the university drawn into being investigated. To me, this does not make any sense in 1994.

So Madam Chairwoman, I want to congratulate you for looking into it and I want to let you know that whatever I can do to further push this along, that you can count on me to do it. So thank you very much for recognizing me.

Mrs. COLLINS. Thank you very much. Let me say, too, for the record that it was your foresight and interest in beginning to look at some of the problems that you saw with the NCAA 3 years ago that began this series of hearings that we have had and legislation that you had written and a great deal of the changes that have been made with the NCAA have come about because of the fact that you expressed the first interest in this subject and you are to be commended, and I thank you for leading us along the path to righteousness.

Mr. TOWNS. Thank you, Madam Chairwoman. Thank you.

Mrs. COLLINS. I say that because he is also a minister.

Thank you very much to this channel—thank you very much to the panel. I said channel. Gee, I'm all into TV myself now. I thank this panel very much for appearing before us and we may also have questions for you and if so, we will give them to you in writing, expect to receive them back in 5 working days. Thanks again.

Our next panel will be Mr. Robert G. Kerrigan, the Kerrigan, Estess, Rankin and McLeod, they are attorneys here in Pensacola, Florida; and Mr. Jack Mills, who is the president of the Sports Lawyers Association. Won't you come forward please?

Mr. STEARNS. Madam Chairwoman, a point of personal privilege. I have to go, so I want to, again, commend you for having these hearings and also to say, if you wish to continue, we would certainly want to be an active participant and I regret I cannot be here for the next panel.

Mrs. COLLINS. Let me say to the gentleman, the gentleman is always, always, a member who pays strict attention to the hearings and markups and everything else that we have and I know that if he has to leave it is a matter of great importance. His attendance

record is 100 percent, and, of course, we know that there are occasions when you may have to leave and we certainly understand that. And thank you very much for your full participation, as usual.

Mr. Kerrigan, we will begin with you.

STATEMENTS OF ROBERT G. KERRIGAN, ATTORNEY, PENSACOLA, FL.; AND A.J. MILLS, JR., PRESIDENT, SPORTS LAWYERS ASSOCIATION

Mr. KERRIGAN. Good morning, thank you very much. It is a pleasure to be here and a great privilege to testify in these proceedings.

As I indicated to the staff, I will announce my impartiality and then proceed to take a partial position, but I started an interest in this inadvertently when I was chairman of Florida's Postsecondary Education Planning Commission, which evaluates educational issues in Florida.

I was not a scholarship athlete and to this day I do not represent athletes and I have an interest in the system as a citizen and I gained a good deal of insight into the problem when I chaired the commission that was asked to study the NCAA.

We were asked to study it because the legislature in Florida can designate studies to the Postsecondary Education Planning Commission. Sometimes they can be politically motivated and I suspect this one was because the University of Florida was involved in an NCAA probe at the time.

We took testimony from witnesses and evaluated various things, and I have issued a brief statement that I have given to the committee, but let me address some things that have been said here this morning which I think will advance our mission or your mission to get to the core of it.

Mrs. COLLINS. Sure.

Mr. KERRIGAN. There is an appendix in the document we produced in Florida. There were 32 institutions at that time in 1990-91 that were under NCAA sanctions. My position is that the NCAA, as an accord with universities, imposes punishments inappropriately.

If you look at these 32 institutions, most of the punishments were a reduction in scholarships, which means that young men and women who might have gone to these institutions could not go because they lost scholarships. That is defended by the NCAA on the basis of leveling the playing field and punishing the institution, but there are youngsters who could not get a scholarship that may not be able to travel 500 miles or 1,000 miles to the next universities and they were denied scholarships.

You have all pointed out, I think appropriately, that the NCAA has a bizarre punishment system; punishing young men and women who graduate from high school for transgressions that occurred years ago. The NCAA was actually ready to impose sanctions against 190 athletes for transgressions that occurred in the late 1970's, and that is all fine, because no one speaks for the student athlete.

In fact, in these proceedings it is difficult to find people that are speaking from a pure motive for the student athletes, and I really think I am. I have no beef against the NCAA, no objection to it as

an organization, but you need to understand that the organization is, in fact, an organization of universities, and as the legal counsel for one of the universities expressed in our public hearings, and I have a transcript of this which I will give to the staff, that the institution sets the rules, not the permanent staff in Kansas City. This was a lawyer speaking. We are doing this to ourselves.

Within the last 3 or 4 years there has been a real difference between the organization on how they should operate. Dick Shultz brought a degree of openness and fairness into the operation. There is a new movement in the NCAA toward reform. Well, isn't that refreshing. It has been in existence since 1910 and here in 1986 they were announcing, yes, we know it hasn't been fair. I mean that is implicit in that comment, but we are moving toward openness and fairness. Well, it is about time they moved toward openness and fairness.

Our study was directed at procedural due process and whether these athletes and coaches and all and the institutions are treated fairly. But we must understand, I think in the analysis of this, that the universities have what they want.

Now, the question is do the athletes have what they want? And I suggest that the athletes really have not been asked is this the system that you want to function under and they really have not had an effective spokesperson. I think most coaches favor the system because it is very lucrative.

When you can come off the back of outstanding athletes and get endorsements for shoe contracts and billboards and things like that, it is pretty logical that is what they are going to do. And I don't fault them for that because under the system they are absolutely entitled to do that, but you would think outstanding coaches would come forward and say this is just wrong for us to have kids' names on a billboard or whatever, make them wear Nike shoes and not tape over the name Nike and things like that.

And, in fairness to Sandy D'Alemberte, I know what that contract situation is, and he is looking at every aspect of that contract to see if it is in the best interest of the athletes. So in fairness to him—and also in fairness to him, and he and I disagree on some of these things, our hope is that President D'Alemberte will lead the NCAA for these reforms, as he has already done, and I will address that in some questions in terms of what he has done thus far to try to make it better for the student athletes.

[The prepared statement of Mr. Kerrigan follows. The attachments to the prepared statement are retained in the subcommittee files.]

STATEMENT OF ROBERT G. KERRIGAN

I have been involved previously in a study performed by the Post Secondary Education Planning Commission of Florida. The PEPC is a statutorily created body of individuals appointed by the Governor to undertake examination of issues relating to post secondary education in Florida. At the time we undertook a study of the NCAA and how it impacts Florida. I was chairman of PEPC.

I am a lawyer and CPA. My interest in the study was perked by media reported complaints from former athletes and coaches. Most had been dismissed by me because only those experiencing sanctions complained. I had read little if any criticism from members who were not under investigation.

When we completed the study I was convinced that the policies and procedures of the NCAA were adverse to the best interest of the athletes. I concluded that

whatever rules and regulations existed were not designed primarily to insure a "level playing field between institutions", but had developed into a well enforced system of mass exploitation of athletes in favor of the institutions.

I favored a much more emphatic statement by PEPC but we were faced with the very real possibility that the University of Florida could be additionally punished by the NCAA if a legislative reprisal occurred before the NCAA had completed its punishment of the University of Florida. PEPC proposed legislation in post secondary education matters following the studies that we did.

What is the problem? First in Florida we have a law designed to address what I believe is universally accepted regarding the NCAA enforcement procedures. That is they are unfair. The NCAA has taken the unofficial position that the law is unconstitutional. They claim to have defeated a similar law in Nevada. The Florida law is attached to this paper.

My comments here are in favor of and from the perspective of the student athlete.

First the rules governing extra benefits and involvement with agents are part of a rule book that is 350 pages. This rule book is rarely given to the athlete. The rules are ambiguous and in many cases depend on how the NCAA elects to interpret these rules. The "would be agent rule" is a good example.

If the athlete accepts anything from a would be agent, he has violated the rules. Apparently the NCAA determines after the fact if the subjective hope of the giver was to some day be an agent the athlete's eligibility is at risk.

What is the rationale that prevents athletes from being compensated for the revenue they generate? What is the rationale that allows only first round draft choices to insure against injury? What is the rationale that allows an institution to receive several million dollars for a bowl game and prevents any bowl bonus to be paid to the athletes.

In every major bowl game you will find the same thing. The athletes are milling around the hotel lobby because they have no money to spend while alumni and University guests are engaged in nonstop celebration.

The alumni and guests are enjoying the comforts of room service and parties and the athletes are doubling up in rooms where their families and friends sleep wherever they can. Even here in the celebration of great victory there is no recognition of who makes it all happen. Athletes can't receive anything of value because of the NCAA's rules prohibiting extra benefits.

Now you would think great coaches with national recognition would be the first to lead the call for a reform of the rules. You would think these coaches would want to press for rule changes that distribute the wealth to those who generate it. Where are they? They are never going to seek changes that cost them money. They are covered up with endorsements that make coaches the highest paid people in "education." They want all the money, it's just that simple. We are now looking at the contracts athletes sign with institutions that allow the institutions to commercially exploit an athlete's name.

We know of shoe contracts with coaches and universities that require athletes to wear shoes on the field enabling the coaches bonuses and benefits. These same athletes could not accept a pair of shoes directly from the manufacturer. Athletes are given clothing with names like Nike and expected to wear it. For the 5 years they are there the coaches make all the money. Is it any wonder you never hear the coaches complain about rules that keep athletes from obtaining any benefit for their labor.

You have a situation where the owners (the universities) have colluded through an "independent" agency (the NCAA) to establish an indentured servant system that ostensibly exists to assure fairness and education. So long as the owners can keep all the money they have little concern for casualties of the infractions committee of the NCAA. Can you imagine anyone arguing that the personal risk of injury and the enormous effort expended by these athletes is worth room and board and tuition? Especially in football and basketball these players hope for professional athletic employment. They are like doctors in residency. Exploited by a system that provides cheap labor and high returns. The difference, doctors all make money eventually.

Let me address the idea that preventing all the athletes from getting any "extra" benefit is a desirable goal. Desirable to whom? Since when has the idea of honest competition recruiting athletes been such a threat to the integrity of games. It's agreement to restrain trade and limit competition. Now that doesn't mean that it should not be the national policy. But understand that the players have never been heard on this issue.

Why haven't educators complained? We maintain the fiction that in football and basketball the real reason the players are there is to get an education. Special admission waivers for athletes start them out behind and guarantees winning pro-

grams and failing education accomplishment. Graduation rates are highly suspect. Keep in mind that if each sport at each school had to substantiate true graduation rates we would be able to see if there is in fact an education component.

By way of an anecdotal observation I attended the graduation of my daughter from Florida State University. I sat near the front for the biggest graduation class ever. I saw no black athletes from the football or basketball program. Thereafter I tried in vain to get reliable data from the State University System or FSU and was never able to identify just which football or basketball players actually graduated. One thing was certain—no one had who was black and over 6 feet tall.

I later inquired of the NCAA through our staff. No statistics are kept regarding any aspect of graduation of athletes. Now who benefits by that? I think you will find it most difficult to obtain reliable graduation information by sex, race, and sport. If football generates millions it doesn't help that the entire table tennis team graduated.

Let's look at extra benefits. When a booster wants to buy a simple dinner for an athlete it puts the athlete's eligibility at risk. A dinner. Not a new car, something to eat. No doubt others will tell you similar tales. Players who can't attend family funerals or return home for special events if transportation is paid. Students are recruited to play miles from home, many without realizing their parents will not be able to afford to come to the games and will be prevented from accepting transportation to see their sons play. Who is victimized the most? The players from families with difficult financial situations. All this in the name of fair competition.

Do these rules that keep the great majority of students impoverished work? No. The boosters who want to get to a prospect work the family. Uncles get considered for promotions. Siblings are offered jobs. Dads get invited to events and things that they would never otherwise be. The creative ways to corrupt recruiting and retention know no limit. It occurs in every program in the country. I call it wink and nod. Everyone espouses the integrity of the process and at the same time wink and nod to the real system which permits wholesale corruption.

Now the national attention is drawn to a program "in trouble." The NCAA discipline is in fact the discipline the universities desire. Transgressions from years ago are punished by preventing, for example, the televising of games in a season 3 years removed from the violations. More appropriate would be a fine of say a million dollars charged for example to Auburn University. Instead, the new students are punished. Who speaks for these students? Certainly not the NCAA, not the university, not anyone.

The current system is a fiction. An educational fiction, a fairness fiction and a one-sided game. An endless source of free entertainment for alumni and friends. Finally, it is big business and highly profitable because of the captive labor of young men and women who dream of making it. It is an unpleasant commentary on the national love of the games.

Mrs. COLLINS. Thank you.

Mr. Mills.

STATEMENT OF JACK MILLS

Mr. MILLS. Thank you. I want to thank you for asking me here today. I commend you for what this subcommittee is doing. I have been active in representation of professional athletes for going on 27 years now.

I was the founder of the Sports Lawyers Association. I am presently a director and president of that organization and we have consistently over the years sought to bring better ethical standards, better educational requirements for not only people representing athletes as agents, but also people who are functioning as legal counsel in all areas of the sports world, both amateur and professional.

I will be primarily addressing the problems that have been discussed concerning unethical and illegal behavior of agents in solicitation of college athletes, because I believe that is the focus here, the college athletes, and the college athletic environment.

First of all, I wanted just to review the various forms of regulation that exist today. First of all, everyone who represents profes-

sional team sport athletes is currently regulated and certified by the various players associations in the four major team sports, football, baseball, basketball and hockey.

In order for us to be able to represent players in those sports, we must be certified by those players associations. There is a code of ethics and so forth. But, frankly, there is very little enforcement at that level, the same as there is very little enforcement at these other levels we have been talking about.

Then we have 22 different States at this point who have sought and seen fit to regulate the conduct of sports agents in their States. Again, we have very low levels of compliance and a very low level of enforcement and I think the two go together.

I was pleased to hear today about what is going on in the State of Florida, because, to my knowledge, those are the first serious prosecutions for violations of laws that have occurred. The problem with all these State laws is that they are all different, and there are many people who are not in compliance simply because these, it is burdensome, it is expensive and, again, with the lack of enforcement, there is very little incentive for people to comply.

So what we are dealing with here is really, in my opinion, just a maze of State regulation that simply is not functioning very well. You have heard a lot today about the NCAA. Again, while the NCAA cannot control the conduct of sports agents directly, we are certainly mentioned in the regulations and certainly conduct by sports agents with college student athletes that is unauthorized is going to subject those institutions to punishment, again, probably punishing the wrong people. But the NCAA really cannot regulate the conduct of agents.

Then, if you have, if you are involved with attorneys and certainly some agents are attorneys and some agents are not attorneys, we have the various State bar associations to deal with. And, of course, most State bar associations have some type of code of ethics, code of conduct, a lot of it has to do with the ABA standard form or model code of ethics.

Then we have the association that I am involved with, as I mentioned the Sports Lawyers Association. We are an 800-member group. We have no power to discipline our members. We do not intend to perform that function, but we do promote better ethics in the profession and we do promote more professionalism and certainly we try to, by the seminars that we put on, we try to promote better competency.

I think that is the one area that is missing from any legislation that I have seen, and that is there are no competency requirements that I am aware of. So I think if there is going to be legislation, there has to be some minimum level established, to establish competency, whether it is through education, whether it is through testing or whatever the means is to establish competency.

So like any other profession, there are many good agents. We focus on the abuses and the bad agents and certainly that is more newsworthy, and I am very personally concerned and the Sports Lawyer Association is concerned about improving the quality of the people participating in this business. But, unfortunately, it is all voluntary and I personally would like to see some kind of uniform State legislation or Federal legislation in the field.

Thank you.

[The prepared statement of Mr. Mills follows:]

STATEMENT OF A. J. MILLS, JR.

Sports agents, or athlete agents, as they are referred to in various state statutes, are generally thought of as the individuals who negotiate player contracts for athletes. The agent's involvement in many aspects of the athlete's professional and personal life have made the agent a major force in professional sports. A number of problems resulting from the agent-athlete relationship have developed for professional teams, college athletics and the athletes themselves. These problems are largely caused by the incompetence and dishonesty of many agents and the extremely competitive nature of agents seeking to represent the best college athletes who are about to enter professional sports.

In response to the inherent abuse and potential for incompetence, dishonesty and unethical behavior associated with the sports agent business, the Players Associations of the four major professional team sports leagues, the NCAA and several state legislatures have attempted to regulate the activities of sports agents. While most of these attempts of regulations are well-intentioned, there is a low level of compliance with state statutory requirements and even if compliance were more prevalent, there is no real protection to the athlete unless a State is committed to police and enforce its regulations. The Players Associations are in the best position to regulate the conduct of the agents operating in their respective sports because of the power given to the associations to control the certification and discipline of agents under Federal labor laws. Unfortunately, for college athletics, there has been little or no interest in prosecuting agents for unethical behavior in the recruitment of college athletes and this is the greatest area of concern to college athletics as it directly affects the eligibility of student athletes under NCAA regulations. The NCAA is basically powerless to control unethical agent behavior because it only has jurisdiction and power to punish its member institutions. The member institutions cannot effectively control or monitor the conduct of agents; they can only educate and inform their student athletes about prohibited activities with agents while they have college eligibility remaining and hope that the athletes heed the warning and discipline themselves to refuse prohibited conduct with agents. It is basically unfair for a collegiate conference or the NCAA to punish a college athletic program for failing to control an activity over which it has no real ability to monitor and control. The unscrupulous agent will be creative enough to establish contact with an athlete and/or his family and to entice or obligate them with various financial inducements.

Assuming there is sufficient public interest in addressing the problem, then what is the answer to controlling and/or regulating undesirable, unethical or illegal conduct of sports agents, as it relates particularly to the solicitation and agreements for representation of college athletes?

1. Is more state regulation the answer? State regulation can be effective if there is substantial compliance and uniformity of legislation, coupled with the consistent and equal enforcement. I would support a system of uniform state laws, with reciprocity among States, as a possible solution. While agents in the major professional team sports are generally aware of the various state statutes, there is little compliance because of the burden and expense and the lack of enforcement by the various States. Also many agents consider the state laws as unconstitutional on the basis of such laws being an unreasonable interference with interstate commerce and therefore unenforceable.

2. Is Federal regulation a possible solution? Federal regulation would be an improvement over the present maze of state regulations. Uniformity of laws would be a major improvement, but consistent prosecution of violations is the key factor for compliance. To my knowledge, the only Federal legislation which has been proposed in this area was an act entitled the "Professional Sports Agency, Act of 1985." This proposed legislation was never enacted.

3. Do the Player Associations need to pass new regulations or step up enforcement of violations? Certainly the Player Associations could be the most effective means of improving the quality of agent representation available in their respective sports, but the question remains if sufficient priority would be given to policing recruiting practices of agents at the college level, the greatest area of concern for colleges.

4. Finally, will it depend on student athletes enable the athletes to resist the financial inducements offered by sports agents in the solicitation/recruitment process? While I am not in favor of moving college athletics to a true professional status, I feel that the present system of compensation through tuition, books, and fixed monthly living expenses is inadequate and outdated based on the current revenue generated particularly by college football and basketball. However, I do not feel that

the level of stipend which would be paid to a student athlete would be adequate to insulate him from the temptation to accept loans, favors or gifts from sports agents in the recruiting process. Only the most gifted athletes who are rated as good professional prospects are heavily recruited by agents and this excludes the majority of players in most college athletic programs. The financial inducements offered will not usually be for normal monthly living expenses but will be for luxury items such as clothing, jewelry, travel, automobiles and the like for the athlete and/or members of his family—items which would not be covered by a stipend.

Mrs. COLLINS. I guess my question to you, Mr. Mills, would be why aren't the professional associations becoming more aggressive in this field? After all, they were all once student athletes?

Mr. MILLS. Well, I believe that we are going to see more aggressive behavior as far as controlling the agents. Most of my work is done in the National Football League. And for the last 5 or 6 years, NBA was involved in—first of all, they were decertified for a period of time and then they were involved in extensive litigation. And I believe that now that they have reconstituted themselves and they are coming up with a new code of conduct, which will be, I believe, ready this fall, hopefully this is going to have more stringent provisions for punishing agents who do not comply and who do not operate by the code of conduct.

However, you still are going to have the problems of discovery, investigation, prosecution, proof, all those kinds of things. The question is whether or not sufficient resources and sufficient attention will be given to that area. And going back to focus on the one major problem that we are dealing with concerns college athletics is in the recruitment, the solicitation of the college athletes as clients to represent on the professional level. That is a major area of concern. And whether or not—you know, there are other things to be concerned about that is abusive behavior towards the athletes, and the question that still remains is will the players associations focus on this particular area, abuses in the recruitment of college athletes?

Mrs. COLLINS. Mr. Kerrigan, you mentioned that you had hoped that some questions would be, that I would ask you a question so that you could outline some of the measures that the State of Florida is taking to enforce the conduct of sports agents and student athletes. That is my question.

Mr. KERRIGAN. That was not exactly where I was headed with that.

Mrs. COLLINS. Tell me where you were and ask it yourself.

Mr. KERRIGAN. OK. We are talking with Florida State University right now and as I say, we have hopes that somebody who really inherited a bad system, which Sandy D'Alemberte did, and I call it a bad system. He inherited the system, that he will and others like him will lead to reforms in the NCAA.

And in this respect, it is illogical to me that a youngster that plays ball is not guaranteed an education however long it takes him, one course at a time, one book at a time, he should be guaranteed an education for the duration however long that takes. It is not inconceivable to me if we are trying to educate people that they ought to be assured of a graduate education if that is what they want to do, if they are academically talented, played football for 4 years, it is an in-kind contribution from the university.

It does not cost much to do that. I think you can even conceive of matching grants. I think one young man testified before you talked about the scholarships for six of the siblings, but it is not impossible to think you might have a matching scholarship program where an athlete did not enrich himself, but had a chance for a family member to get an education. We are trying to educate people in theory here and it would seem that might be a possibility.

The ideas have been suggested about escrowing an amount of money and paying the athlete on graduation. What is disturbing me more than anything else is the question of disability insurance, compensation for serious injuries to athletes. The NCAA will only allow first- or second-round draft choices in the NFL and first-round NBA draft choices to insure against injury. We think that should be expanded to all of these young men that are playing, particularly these contact sports.

And I did want to mention that President D'Alemberte has been quite open about that and very interested in our ability to defend these as viable options for change within the NCAA.

Mrs. COLLINS. Well, I have just been notified by staff that there was a situation with track in Florida not long ago where they were told to stop giving benefits to their athletes. The benefits the athletes were receiving included medical treatments for injuries sustained during their performance.

Do you consider this a violation of the NCAA rules and is this the kind of example we are talking about when we say the rules are penalizing student athletes?

Mr. Kerrigan.

Mr. KERRIGAN. Well, I do indeed. This is anecdotal evidence, not of much value probably, but we made some random calls to see if anybody understood what these rules were and we had a rather remarkable response from athletic people to say that if you want the big book on that question, it may take the little book, it may take some additional pamphlets.

There is a basic eligibility question. Then if you get to an illegal benefits question, they have more books and more volumes, so to answer your question, I don't know if it is a violation of the rule or not and I suggest no one at the NCAA really knows what these rule violations clearly are. And I do differ with President D'Alemberte about the student athlete clearly understanding the rules. I think there is a serious question whether the student athlete understands these voluminous rules and regulations and how they impact.

Just a quick observation. In Florida, with the FSU problem I am on the other side of that problem, and in fairness, these people did not come down and say we are sports agents and we are here to sign you up. They came under false pretenses that they were there to meet the athletes. They were dealing with some seniors.

They got the merchandise, some was later distributed to some of the under classmen. One of the under classmen made an effort to call to see who these people were. They were not registered as agents in Florida. They were, I think, what has been referred to as bird dogs. So here the athletes, at least one of them, was trying to find out who these people were and trying to do what he said was the right thing and ended up violating the rule.

Mrs. COLLINS. Mr. Towns.

Mr. TOWNS. Thank you very much, Madam Chairwoman. Let me thank both of you for your testimony. I think that there is no doubt in my mind, Mr. Kerrigan. I think that the time has come for some creativity and I agree with you.

I think that education is the key; that if education is the key then why don't we set up a structure that encourages education rather than to create all these kind of rules that eliminates the possibility of a person getting an education, and I agree with you. I think that we should be required, if a person can only take two or three courses after their eligibility is gone that they should be allowed to come and to take courses to try to get a degree. I think that is very, very important.

I also agree with you that I thought that Dick Shultz really had sort of an understanding in terms of where the NCAA needed to go, understanding the fact that it is not easy sometimes to move an organization like that, especially when it has been sitting around doing the wrong things for so many years. So it is not easy to do that overnight.

But I think that when you look at what is happening today in the United States of America in particular, where billions of dollars are being made from sports, and there is no question about it, it is happening all over in terms of the—and for a youngster to go through college for 4 years and in some instances just to barely sort of make it and then for someone to approach him and say here is this or here is that, you have to understand that they are just so receptive to taking and doing because of the fact that they do not have.

And you put your finger on it when you talked about in terms of the amount of money that coaches and everybody else is making as a result of the performance of these young people. And some of them are not able to keep up academically because of the kinds of programs that they were into to be able to win, and that is the big thing, and to be able to win to make the big bucks.

So I think that we need to continue to push to see that these changes come about now.

Mr. Mills, I must admit that I think that inasmuch as that we need to be involved in terms of competency and all the kind of things, but I also feel there should be an obligation and responsibility from your organization to do some policing within the organization. I think that you should some way or another be involved in policing yourself.

What I mean by that is if something is going on that is wrong I think that you should have the ability within your organization to sanction that person that is doing what you consider to be unethical. I think that to have an organization that does not address some of those kind of issues in some fashion, I sort of wonder what could you do other than it being a social kind of getting together.

Mr. MILLS. Well, we are, I certainly would welcome that type of thing, and if we could—you know, we are a voluntary association. We put on the seminars, we meet once a year, we send out a newsletter 6 times a year. We are trying to do things to raise the professional standards and the opportunity to get to know other people.

in the business, this type of thing. It is something that I think was impractical in terms of a disciplinary thing.

I think the players associations are in a much better position to discipline the agent in their particular sports, because they can actually do something that—effectively disbars the agent from functioning as an agent in that particular sport. They have that kind of power. And I think when you have that kind of power, then you can really have some teeth in your regulations.

Certainly, absolutely, we do encourage people to counsel with one another, to speak to someone if you hear of something unethical going on, if it is a member of our association. But as far as being able to deny that person the right to work in that particular business, we do not have that kind of power and I don't think people will submit to that type of a disciplinary proceeding.

Mr. TOWNS. Well, I think you need to have something, because to say he was put out of the organization or she was put out of the organization so when they go to talk to athletes at least they will know there has been some problems. I think some way or another you need to have something, if not, then after a while, you wonder in terms of—I know the seminars are very, very important, but I think organizations should in some way or another begin to police themselves.

Mr. MILLS. I agree 100 percent. I would welcome that. I will bring it up with our board. From a practical standpoint we do not have that much of a staff to enforce and investigate and that type of thing. But certainly we will discuss that. But I still believe the players associations have got the hammer. They are the ones that can prevent you from carrying on your representation services in their sports.

Mr. TOWNS. Thank you very much, Madam Chairwoman. Thank you.

Mrs. COLLINS. I just have a final question and it is for you, Mr. Mills, and in your written testimony you state that the NCAA is basically powerless to control unethical agent behavior because it only has jurisdiction and power to punish its member institutions.

If university and college presidents, and I am speaking of State colleges and universities, are State employees, shouldn't their allegiance be to abide by State laws governing the conduct of their institutions first and then the NCAA second? The question, then, is there a conflict between State laws and NCAA laws and rules and regulations?

Mr. MILLS. I guess you could say there is a conflict, but really the NCAA rules in terms of the agents, they do not really have jurisdiction over the agents individually, whereas the State laws do. And so I think your NCAA is really their target, or their means of punishment is directed towards the institution, whereas the State law can punish the individual who is in violation of the State law.

Mrs. COLLINS. I see. I thank you.

Mr. Kerrigan, do you feel the same way about that?

Mr. KERRIGAN. I am troubled by regulating anything. And I am troubled by the comments about the agents because I think it is virtually impossible. I really lean to this position, that if a young person came to me with a problem and they were in college and

I am a lawyer, I would seek to give them the best advice that I could.

Do you realize that is a violation of the NCAA rules to give pro bonus service to an athlete; that athlete's eligibility is at risk because he talked to a lawyer and the lawyer didn't send a bill?

These athletes are trying to wind their way through this maze with no help from anybody. Maybe we ought to let more of the free enterprise system work in terms of letting them at least talk to agents that are registered with the States, however you would do that, so that they can make informed decisions.

I had an athlete walk into my office the other day and he had a big Nike shirt on, and I when I asked him why he said, they gave it to me. I explained to him why he shouldn't wear it, and so he got another shirt on.

They don't understand they are being exploited in pretty basic ways and they can't go to anybody for help. They cannot go to a lawyer or to an agent. So who tells them how to get through all of this where these big money interests are pressing from both sides? I don't think they have any help at all, and I think that is one of the biggest problems that you are facing is how to get them help to make informed decisions?

Mrs. COLLINS. Well, those two bells mean we have a vote on the Floor of the House so, first of all, let me thank all of our witnesses for their testimony today. It is very important to the subcommittee's investigations to have witnesses of your caliber willing to come forth and to speak freely to assist in issues while providing possible solutions.

The issue of stipends for student athletes has always been controversial. I maintain that many would argue the benefits conferred on athletes is far greater than the average student receives. Yet it also appears that one of the greatest sources of rules violations and problems in institutions occurs when extremely poor students arrive at schools and have absolutely no money. These cases are ripe for boosters, coaches to provide relatively small illegal gratuities for such purposes of helping a student travel home for a funeral of a loved one. But, unfortunately, as we have heard today, these cases are also ripe for slim pickings by unscrupulous sports agents.

As the subcommittee concludes today's hearings, my message does not go out to the NCAA that is tucked away in Overland, Kansas. My message is for all you college and university presidents, who are the NCAA. Student athletes continue to be exploited. They make millions of dollars from their slave labor, if you will, for colleges, universities, and coaches, while you presidents remain complacent in exercising your moral responsibilities to help prevent student athletes from unfair NCAA rules. This has to stop.

I am glad that Florida, that you are trying to help us stop as president of Florida, but it must stop throughout the system of NCAA. It has to stop now. Thank you very much. This hearing is adjourned.

[Whereupon, at 12:25 p.m., the hearing was adjourned.]

[The following material was received for the record. Attachments to the letter from the National Collegiate Athletic Association are retained in the subcommittee files.]

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

6211 Colfax Boulevard • Overland Park, Kansas 66211-2421 • Telephone 913-339-1406

July 27, 1994

The Honorable Cardiss Collins
Chairwoman
Subcommittee on Commerce, Consumer
Protection and Competitiveness
U.S. House of Representatives
Ford House Office Building
Room H2-151
Washington, D.C. 20515-6121

Dear Chairwoman Collins:

Thank you for the opportunity to present information to the Subcommittee for use at its July 28 hearings on the subject of student-athletes and stipends.

I also appreciate your understanding of the NCAA's concerns about appearing at this initial hearing, given that much of the discussion can be expected to center around recent incidents involving Florida State University student-athletes. I am confident that the testimony of Florida State representatives and the ensuing discussion between members of the Subcommittee and those representatives will be conducted in a way that will protect the rights of both the University and its student-athletes. However, NCAA participation in the hearing, no matter how carefully crafted, could create the impression that the Association has reached some conclusions with respect to allegations of NCAA rules' violations. Such an impression would be unfair to Florida State, its student-athletes and the NCAA. We welcome the opportunity to appear at a future date and, again, appreciate your understanding of our desire to present only written information at this hearing.

Enclosed you will find copies of current NCAA rules regarding the relationship between student-athletes and agents and the benefits that can be provided to student-athletes, along with the legislative history of these rules. In addition, I am enclosing minutes of meetings of the NCAA Professional Sports Liaison Committee addressing the issue of agents, along with an NCAA publication designed to assist those student-athletes who are considering a career as a professional athlete.

The enclosed are as follows:

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The Honorable Cardiss Collins
July 27, 1994
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I would like to stress two points regarding the enclosed rules. The first is that they are grounded in fundamental principles adopted by the Association's member schools. Article 1.3 of the NCAA constitution defines one of the basic purposes of the NCAA to be to:

maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body and, by so doing, retain a clear line of demarcation between intercollegiate athletics and professional sports.

In keeping with this basic purpose, the Association adopted as one of its basic principles, the principle of amateurism. Article 2.8 of the NCAA constitution articulates the principle of amateurism:

Student-athletes shall be amateurs in an intercollegiate sport, and their participation should be motivated primarily by education and by the physical, mental and social benefits to be derived. Student participation in intercollegiate athletics is an avocation, and student-athletes should be protected from exploitation by professional and commercial enterprises.

It is against the above-stated standards that proposals involving benefits to student-athletes and student-athletes' relationships with agents are measured.

The second point I want to stress is that these rules can change and they have changed over time; they are not static. Recent examples are the new rule allowing a student-athlete to declare himself eligible for the NBA draft without jeopardizing his collegiate eligibility and the creation of an assistance fund to meet the emergency financial needs of student-athletes. The Association will continue to respond to the changing roles and needs of student-athletes and the educational institutions they attend.

Thank you again for this opportunity to share information with the Subcommittee. I look forward to working with you and your colleagues.

Sincerely,



Cedric W. Dempsey

Enclosures

cc: Members of the Subcommittee on Commerce,
Consumer Protection and Competitiveness

NOTE: THE NCAA RULES, MINUTES OF MEETINGS AND NCAA PUBLICATION
ARE RETAINED IN THE FILES OF THE SUBCOMMITTEE ON
COMMERCE, CONSUMER PROTECTION AND COMPETITIVENESS

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SUBCOMMITTEE ON COMMERCE, CONSUMER
PROTECTION AND COMPETITIVENESS
OPENING STATEMENT

Bobby Bowden
Head Football Coach, Florida State University
July 28, 1994

Chairwoman Collins, members of the subcommittee, good morning.

In 1976, after the football program had suffered through four consecutive losing seasons, I was named head coach at Florida State University. In fact, there was talk of abandoning the program all together. I packed up my wife, Ann, and our five children and headed to Tallahassee. Over the past eighteen years, I've worked to build our program into one of the nation's premiere academic and athletic powers. Throughout the process, I've been committed to not only winning, but winning in a way that brings pride and distinction to Florida State University.

In May, 1994, I learned through a Sports Illustrated article, that my worst fears had been realized. I've built my reputation the right way, through twenty-nine years of hard work, integrity and honesty,

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and now, our program and my reputation are victimized by the dishonesty and lack of integrity of a few individuals.

Congresswoman Collins and subcommittee members, the frustrating thing is that we are so limited in our ability to fight back. I've been asked a number of times, "What game concerns you the most and what is most frustrating for you as a coach?"

The answer is the same for the battle we fight on the field and the one we are battling off of the field.

The game that always worries me the most is not necessarily the great opponents like Nebraska, Notre Dame, Miami, and those within the Atlantic Coast Conference. No, the game I always worry about the most is the FIRST game of the year. The uncertainty and inability to predict what the other guy might surprise you with worries me. The toughest thing to do is prepare for a team that might do something you never expected.

I have that same feeling when battling the problem of sports agents. I'll guarantee you that we at Florida State do as good a job as anyone in the country in that we educated our players as to what they can and cannot do with sports agents, boosters and people in general. But, you reach a point -- and these are young men we're

talking about, not children -- where you've got to rely on them to do the right thing.

As we discovered through recent stories in the press, representatives of sports agents, nicknamed "bird dogs," were slipping around our dormitory at night offering our guys the moon and pointing out that, "they weren't getting anything extra from FSU."

How do you fight that? You cannot put your players in a prison, throw them bread and water and let them out just to attend classes and practice. I would not do that to a student-athlete, and all the recent NCAA legislation has been pushing us even farther away from them. The NCAA has abolished athletic dormitories effective next season, they have done away with training tables, and limited our official contact with the players to just twenty hours per week; we keep time reports to show we are following the limited contact rule. I'm not saying that the changes are bad, but they will all work against us in the battle against sports agents.

In addition, you may not know that an athlete receiving scholarship money is not allowed to earn an outside income under NCAA rules. Back when I was in school at little Samford College, and probably when most of you were in school also, we were given

"laundry money." Something like twenty dollars per month to pay for the necessities like: laundry, dates, gasoline, etc. Today, an athlete is not allowed to work, and can only hope for assistance if his family is financially needy. I think that some -- perhaps many -- are painted into a corner near the end of each semester.

In answer to the second question most frequently posed to me, the most frustrating thing I face as a football coach is spotting a weakness in my opposition and not having the ability to take advantage of it. While I have not have that problem lately, thanks in large part to Charlie Ward, there is nothing more frustrating than facing a team vulnerable to the pass, and not being able to throw. Or, facing a team that can only run up the middle and you can't stop a run up the middle.

That is similar to the frustration I and most of my colleagues face when trying to attack the problem of sports agents and early entry into professional sports organizations.

These activities are not conducted while sitting in front of a desk in the broad daylight. They are literally clandestine meetings held in the dark of night.

I cannot defeat an opponent I don't know about, and I sure can't tackle him without help. We are asking you to help us put the elements in place to deter this activity.

TESTIMONY BY: ODELL HAGGINS
 Former Florida State All-American Noseguard
 Former San Francisco 49er
 Current FSU Assistant Football Coach

Madam Chairman and members of the committee:

Good morning and thank you for this opportunity. I have been asked to join this group for a couple of reasons and I welcome the chance to offer my opinions on the subject of college football. I can speak to the problems and rewards of collegiate athletics as a student-athlete, a professional athlete, and now a coach.

I am a person that was approached with all kinds of gifts by unscrupulous agents as a player at FSU. A person who has dealt with some very fine professionals in the agent field since that time. I am now a coach concerned with keeping the agents away from our student-athletes.

I was an All-American noseguard at Florida State University as a senior in 1989. I came from a small town in central Florida and like most kids I dreamt of becoming a great player at Florida State and going on to become wealthy as a professional player. Unlike most kids, I did see my dream of becoming successful in college realized, and, unlike most student-athletes, I had a chance to play in the pros. My professional career did not turn out quite the way I would have liked.

I can tell you first-hand of the problem with these "bad" agents. Let me say up front that I really believe there are more good agents than bad ones. I don't want to lump the entire profession into the same pot, but the problem with agents is much worse than most imagine.

I was approached a number of times as a junior and senior in college by shady characters offering me handfuls of cash. While they don't always tell you what they want, they wave the money in front of your nose daring you to take it.

The question of "why didn't you take it?" is one I've asked myself. To be honest, I was afraid to take the money because I knew I would jeopardize my eligibility. Not that I did not think I could get away with it without anyone knowing, but I was still afraid. What it really came down to is that I knew it was wrong and I chose not to do it.

I could have used the money. My mother could afford to send me very little money while I was at college, which is a very expensive place. There were times I hoarded my weekend meal money just to buy essentials.

I am in favor of providing a stipend to college athletes for a number of reasons. I think that just \$100 a month would go a long way toward helping these players say no to people who wave money in their face. As a student-athlete, I was not allowed to work a job because I was on scholarship. So,

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aside from the money I earned over the summer, I had no income. A stipend would provide that.

I'm very much in favor of attaching a restriction, based on satisfactory academic progress, to the stipend. I would suggest a student-athlete maintain a 2.2 GPA, unless special circumstances apply, to receive the stipend. If a student-athlete dips below a 2.2, the stipend is not allowed.

I would like to raise one other point which deeply concerns me as a former player and now a coach. The NCAA has abolished athletic dormitories along with a number of other means of contact with athletes. I guarantee that this move alone will make the agent problem much worse.

These "bad" agents would find you anywhere, even with the protection of a dorm. I would go to buy a hamburger and they would be waiting; fill my car with gas, they would be there; go out after a game, they would be there.

They would call my Mom, my friends, their friends. Anything to get to you.

We have no way to keep these unscrupulous people away from the athletes. We need to help remove the temptation as well as the temptor.

THE LAW OFFICE OF
J. MARK RODGERS
A PROFESSIONAL ASSOCIATION
1900 PHILLIPS POINT WEST
777 SOUTH FLAGLER DRIVE
WEST PALM BEACH, FLORIDA 33401-6198

TELEPHONE (407) 650-7230

FAX (407) 655-1509

INTERCOLLEGIATE SPORTS

Subcommittee on
Commerce, Consumer Protection, and Competitiveness

of the

Committee on Energy and Commerce
House of Representatives

Statement

J. Mark Rodgers

July 28, 1994

I. INTRODUCTION

The sordid escapades initiated at Florida State University by sports agents and chronicled in a national sports magazine under the banner headline "Anatomy of a Scandal" are symptoms of a pervasive disease plaguing the business of athlete representation.

Chasing their presumed share of the big dollars available in professional sports, unscrupulous agents will employ any tactic to lure a new client. These agents do not concern themselves with rules and laws that are toothless. There is too much money to be made and too few roadblocks to deter the agents who view college athletes merely as conduits for their own personal riches.

The actions of some sports agents have made it painfully obvious that the current system of sports agent regulation is ineffective in preventing the indiscretions that can ruin and embarrass universities and their student athletes. Therefore, it is time to reform that system.

Sports agents, operating in a commerce that is interstate by nature, must have a national and uniform system of rules and regulations. Drafted and implemented similar to the Uniform Commercial Code, a uniform athlete agent code should replace the myriad of state regulations that exist currently. The code can be given real teeth by the players associations of the major sports, who have the ultimate power, discretion and responsibility to curtail the activities of bad agents.

II. THE PROBLEM

Sports agents are relentless and imaginative in their pursuit of new clients. They offer aspiring professional athletes cash, jewelry, vacations, prostitutes, automobiles, drugs, jobs for family members, concert tickets, shopping sprees, limousine rides, and even a share of their own businesses. These perks are offered and bestowed in the hope that a student-athlete will feel compelled and, indeed, obligated to sign a contract for representation with the "generous" agent. For some athletes, these are offers too good to refuse.

Agents who offer inducements to college athletes are searching for an edge against agents with whom they are competing for clients. Competition for new clients is fierce. A top professional football prospect — a player who is projected to be drafted in the first two rounds of the National Football League ("NFL") draft — will be contacted either by mail, telephone, or in person by more than 100 agents. Players less touted nevertheless will hear from dozens of agents. Even a player who has almost no chance of playing professionally will have the opportunity to meet and hire an agent. Because of the smaller pool of available blue-chip basketball players, the competition for a top basketball prospect is often more intense and concentrated than in football. Recruiting in

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football and basketball sometimes begins before a student-athlete plays his first game his freshman year. Agents will use many forms of introduction -- a teammate, friend, family member, or coach. Many times that introduction is made with the promise from the sports agent to split the potential fee with the "friend". If no formal introduction is available, a cold-call or walk-up introduction is the next option. From there, anything goes. It is not uncommon for an agent to make false representations about credentials, experience, and capabilities. Another favorite tactic is casting doubt about the ability of competitors. And, of course, inducements are dangled.

The competition among agents is intensified by two factors:

1. Professional sports salaries are huge. The average salaries in Major League Baseball and the National Basketball Association ("NBA") eclipse \$1 million. The average NFL salary exceeds \$750,000. The average signing bonus for a player selected in the first round of the 1994 NFL draft will exceed \$2 million. It has been reported that the first selection in the 1994 NBA draft is seeking a \$100-million contract. Those are enticing numbers for sports agents, who typically charge their clients 2 to 6 percent of their contract amounts. In addition, most sports agents are paid a separate fee by their clients for managing their financial affairs. They can also earn up to 20% of the dollars generated by endorsements and personal appearances. Like their famous clients, some sports agents earn in excess of \$1 million annually.

2. There are more sports agents than professional athletes. For example, 845 agents are certified by the National Football League Players Association ("NFLPA"), yet only 222 players were selected in the 1994 NFL draft. The NFLPA estimates that at the start of the 1994 NFL season, almost half of its certified agents will not have a client in the league. The National Basketball Players Association ("NBPA") has 161 certified agents, yet only 94 of those have at least one client in the NBA. The Major League Baseball Players Association ("MLBPA") will not certify an agent until the agent has a player on a team's 40-man roster. That explains why only 80 agent

firms are certified. However, at least twice that number recruit draft eligible and minor league players.

The above numbers begin to explain why some agents resort to desperate and illegal activities in their pursuit of new clients. Another factor is that agents are generally unsupervised and unmonitored in their recruiting activities. When recruiting new clients, reality is that most agents are bridled only by their imaginations and their budgets.

II. EXISTING SPORTS AGENT REGULATIONS

Depending on the activity, sports agents are regulated by three bodies -- states, players associations, and universities. While all have well-intended regulations, none have proven effective in curtailing the most brave and ambitious agent.

A. State regulation

Twenty-two states have some form of laws that address the activities of sports agents. Four more states have laws pending, and five others considered but never adopted laws.

There are few similarities between the 22 existing state laws. Confusion abounds: For example, 14 of the 22 states require registration. Eight of those 14 require agents to post a surety bond. Sixteen states prescribe criminal sanctions for agents; two make athletes criminally liable. Some, but not all, provide for civil remedies against the agent and the athlete. Seven of the states require an agent to notify the school after the agent and athlete have entered into a contractual relationship. Three states require notice before the contract is signed. Three states put the notice requirement on the athlete. Four of the 14 states that require registration exempt state licensed lawyers from registration. Ten states have specific language that must be included in the player-agent contract. Only 8 of the 22 states include high school athletes within the scope of their laws

The following is just one example of the type of confusion created by the differences between the state laws. If you are a Florida sports agent recruiting a California resident who plays football at the University of Texas, you need only be registered as a sports agent in one state, Texas. But, if you are a Florida sports agent recruiting an Arkansas resident playing at the University of Texas, you must be registered in two states, Texas and Arkansas. On the other hand, if you are a California sports agent and you are recruiting the same student athlete (i.e., Arkansas resident playing at the University of Texas) you must be registered in three states, Texas, Arkansas, and California.

This type of confusion creates apathy toward compliance, an attitude evidenced by the low number of agents registered in the individual states. Only one state has more than 200 registered agents; several have less than 20. Oklahoma, traditionally a fertile state for prized football talent, has never had more than one agent registered at one time.

In most states, registration soars only after an agent is disciplined by that state. For example, in 1990, Alabama fined an agent \$5,000 for violating its registration law. Over the next year, the number of registered agents doubled. Also in 1990, Texas fined a Nebraska sports agency \$10,000 for violating its law. Over the next 12 months, the number of registered agents in Texas jumped from 48 to 231.

Most states that require registration admit there is no means to enforce their laws. No enforcement mechanisms are in place. So, even if an agent is registered in that state, there is almost no way of enforcing the conduct restrictions in the laws. The states rely on tips from universities, other agents, and reporters to identify those agents who may be in violation of state law. Violators have little to worry about, however: Until the recent scandal at Florida State University, no agent

had ever received a jail term for non-registration or recruiting violations under state law.¹ Fines in most cases are less than \$1,000.

Even if states do attempt to enforce their laws, there are fundamental legal issues to be resolved. Legal scholars agree that the state laws present conflict of law issues and may violate the commerce clause of the United States Constitution. As suggested by Kenneth L. Shropshire in his book "Agents of Opportunity", a sports agent could argue that the business of professional sports representation is interstate commerce. Most agents have clients who live and work in many different states. The commerce clause bars states from regulating affairs that involve interstate commerce.

While state laws pose very little practical threat to sports agents, they also fail to delineate any form of competency requirement or quality assurance. In most states, it is easier to attain a license to operate as a sports agent than it is to attain a license to operate a motor vehicle. A person attaining a driver's license has to exhibit the ability to drive. To register as a sports agent one needs only to exhibit the ability to fill out an application and write a check. Unlike most licensed professions, sports agent registration has no testing, fitness standards, or educational minimums.

¹The first and only person to be sentenced to a jail term for violating a state law specifically directed at sports agents is Paul Williams, a Tallahassee, Florida resident. In its May 16, 1994, article that uncovered the illegal actions by sports agents at Florida State University ("FSU"), *Sports Illustrated* identified Mr. Williams as a recruiter for a Las Vegas sports agency. The magazine reported that Mr. Williams worked for two "bird dog" recruiters who were allegedly responsible for taking at least seven FSU football players on a \$6,000 shopping spree at a sports apparel store in a Tallahassee mall. On July 21, 1994, Mr. Williams was sentenced to 30 days in jail for failing to register as a sports agent in Florida. In a related article, *Sports Illustrated* reported in its July 25, 1994, issue that many well-known agents -- including Spike Lee and Don King -- never registered in Florida, despite attempting to recruit FSU football player and Heisman Trophy winner, Charlie Ward. Neither Lee nor King have been reprimanded by Florida.

B. Players associations regulations

The players associations of all four major professional team sports -- baseball, basketball, football, and hockey -- require agents to register with the association before they can be certified to negotiate contracts on behalf of players. The players associations are unions operating under National Labor Relations Act guidelines. The power to certify agents is spawned from the traditional union activity of representing union members in contract negotiations with management. While the players associations do represent all members in collective bargaining negotiations, they relinquish individual player contract negotiations to certified agents.

Each players association has regulations governing player agents. Those regulations generally outline the requirements of registration which, similar to the state laws, include no educational or fitness requirement. To retain certification in football and basketball, an agent is required only to attend an annual, one-day seminar put on by the association for its members.

The players association regulations also set forth a code of conduct. Prohibited acts include engaging in "unlawful conduct or conduct involving dishonesty, fraud, deceit, misrepresentation, or other conduct which reflects adversely on his or her fitness as a player agent." The regulations also prohibit an agent from providing "anything of significant value" to a player or any person associated with the player "for the purpose of inducing or encouraging the player to utilize his or her services."

Despite the explicit reference to unlawful and dishonest behavior, few agents have been reprimanded by a players association for acts that clearly were unlawful and dishonest. The NBPA decertified an agent once for misappropriating a client's funds. (The Association's action was upheld in federal court.) It has been reported that the NFLPA once refused to renew an agent's certification because he had forged a power of attorney. However, no agent has been decertified by a players association for prohibited acts related to the recruitment of a new client.

The players associations regulations have at least one common characteristic with the state laws affecting sports agents: They do not appear to be a deterrent to aggressive and illicit recruiting tactics. Like the states, the players associations have no system to police and monitor recruiting. The associations are therefore relegated to relying on other agents to report the indiscretions of their peers. That is a rare occurrence.

C. University Regulations

Prompted by the National Collegiate Athletic Association, some universities have taken limited action in the attempt to curb agent abuses on campus. Some universities have instituted educational programs for their student-athletes to learn about the rules and regulations that can affect their eligibility to compete in intercollegiate sports. This includes contact with sports agents. A similar program was in place at Florida State University long before agents and their "bird dog" recruiters came knocking on players' doors during the 1993 football season. The events at FSU are proof that this kind of education can not eliminate the harm that can be caused by the contemptuous.

Another program instituted at some universities is the career counseling panel. These panels are generally comprised of a law school professor, a member of the school's business department, and an athletic department administrator. Ideally, these panels provide a student-athlete with helpful information about how to select an agent. At some universities, the panel will join the student-athlete in a formal interview of a prospective agent. However, because these programs are voluntary, they generally are ineffective. Most agents ignore a panel's existence unless requested to use them by the student-athlete.

Some universities have on-campus registration of sports agents. These programs are also voluntary and, thus, generally ignored.

III. RECOMMENDATION: REFORM

History has proven that the existing sports agent regulations do not adequately address the danger posed by unscrupulous sports agents. At best, the current scheme is a rubber stamp validation that lacks any meaningful substance. Student-athletes who are potential professional athletes cannot rely on this system as an endorsement of a sports agent's competency or integrity.

It is obvious that the current system does not serve its intended purpose. It is time to throw it out and start over. The following is one suggestion for that reformation:

Bring together a group of college and professional athletes, college coaches and administrators, representatives of the professional leagues and players associations, and reputable sports agents. Working with representatives of the National Conference of Commissioners on Uniform State Law, encourage this group to draft the first and only Uniform Athlete Agent Code ("UAAC"). Use the American Bar Association Model Rules of Professional Conduct as the framework for decorum and behavior and the Uniform Commercial Code as the model for implementation and administration. Encourage every state to adopt the UAAC as its code of regulation.

The code should include a registration requirement that provides for reciprocity in every state. Require a minimum level of education: A college degree would be a good start. Additionally, force the agent to pass a test reflecting competency in areas like contracts, collective bargaining, insurance, and income tax. Make continuing education a requisite to maintaining a license. Incorporate by reference the rules and regulations of each players association. Establish a national clearinghouse for information about every registered agent. That information should include not only the names of all current clients, but also past clients — including those athletes who have dismissed the agent.

The code of conduct should prohibit any activity that would place a student-athlete in jeopardy of losing his collegiate or high school eligibility. Prohibit inducements of any kind to the student-athlete, and his family, friends, and coaches. If applicable, before an agent and student-athlete enter into an agreement for representation, mandate that the agent disclose in writing to the student-athlete that the agent is splitting a fee from the student-athlete with a third party. Make the agent identify that third party.

Make the student-athlete accountable as well. Require the student-athlete to notify a school administrator when and if he is offered an inducement by an agent. Additionally, the student-athlete must notify the school's athletic director when he enters into a representation agreement with an agent.

Most importantly, the code needs teeth. Prescribe penalties that hurt the agent's pocketbook. If an agent commits an egregious violation of the code, suspend or revoke the agent's license. If warranted, put the agent out of business. Mandate that the players associations have the power -- and, indeed, the responsibility -- to revoke the agent's certification. In other professions that are founded on the fiduciary principles of truth, honesty, and competency, professional licenses are suspended and revoked regularly. A lawyer who violates ethical canons can be disbarred. An incompetent doctor can be stripped of his license to practice medicine. Why should a dishonest or incompetent sports agent be treated any differently?

A national code for sports agents will not eliminate cheating altogether. But it will begin to eliminate cheaters. It will also professionalize an industry that has long needed accountability. It is time to send the message to sports agents that their brazen indifference to rules and laws will not be tolerated. A national uniform athlete agent code will deliver that message.

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