

**DECISION OF THE
INDEPENDENT ACCOUNTABILITY RESOLUTION PROCESS
INDEPENDENT RESOLUTION PANEL
DIVISION I**

December 20, 2021

PUBLIC INFRACTIONS DECISION

Case No. 00935

North Carolina State University

Raleigh, North Carolina

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I. INTRODUCTION

a. The Independent Accountability Resolution Process.

The Independent Accountability Resolution Process was created in response to recommendations made by the Commission on College Basketball, chaired by former U.S. Secretary of State Condoleezza Rice. Before the creation of the Independent Accountability Resolution Process, all infractions cases were handled within the peer-review structure. Cases are referred to the Independent Accountability Resolution Process when a determination is made that the Association's interests are best served by resolving the case under the independent structure. Such a determination includes the consideration of whether a case involves unique policy issues or factors that, when weighed in totality, could impede the accurate and effective resolution of the case under the peer-review structure.

The Independent Accountability Resolution Process consists of four components:

- The Independent Accountability Oversight Committee;
- The Infractions Referral Committee;
- The Complex Case Unit, its investigative and advocacy body; and
- The Independent Resolution Panel.

The Independent Resolution Panel consists of 15 members with legal, higher education, and/or sports backgrounds. Each hearing panel consists of five Independent Resolution Panel members, who decide complex infractions cases involving member institutions and their staffs (both current and former) that were referred by the Infractions Referral Committee to the Independent Accountability Resolution Process for resolution. On August 9 and 10, 2021, five members of the Independent Resolution Panel heard this case in person, the first to be heard since the Independent Accountability Resolution Process' formation.

b. Basis of the North Carolina State University Infractions Case.

This case primarily arose out of NCAA recruiting violations committed by the former assistant men's basketball coach (hereinafter, the "former assistant coach"), the failure of the former head men's basketball coach (hereinafter, the "former head coach") to monitor him, and NC State's failure to monitor the provision of complimentary admissions on the men's basketball office pass list.

The information that led to this infractions case came principally from the 2018 criminal indictment, trial and subsequent convictions of three apparel company-

related individuals (apparel company employee No. 1, apparel company employee No. 2 and the business manager) in the United States District Court for the Southern District of New York. A jury found that the three apparel company-related individuals made payments to the families of promising prospective student-athletes in the sport of men's basketball to ensure that they attended apparel company-sponsored universities, in anticipation that these prospective student-athletes would sign with the apparel company when they became professional men's basketball players. The apparel company outside consultant pled guilty and entered into a cooperation agreement with the U.S. government. Pursuant to that agreement, the apparel company outside consultant admitted that he took part in this scheme.

The apparel company, an apparel and equipment manufacturer, was a significant sponsor of NC State's athletics programs. Based on its endorsement/sponsorship agreement with NC State, the apparel company had the exclusive right to publicly represent, market and otherwise promote the fact that it was the exclusive supplier to NC State of designated products.

c. Overview of Violations Found in the Case.¹

This case consists of nine allegations of violations that occurred at NC State from 2014 through 2017. The principal allegation concerns a \$40,000 payment provided in November 2015 by the apparel company outside consultant to the former assistant coach, based upon the former assistant coach's representations that he would deliver the money to the family of prospective student-athlete No. 1 to ensure his continued commitment to NC State. Prospective student-athlete No. 1, a top recruit in the country, was one of NC State's most significant basketball prospects in at least a decade. The hearing panel finds that this allegation, allegation No. 1-(c), is supported by credible and persuasive information and is a Level I violation.

The hearing panel also finds that credible and persuasive information supports the other allegations. Specifically:

- (1) An impermissible recruiting benefit, in the form of special parking at a football intercollegiate athletics event in September 2014, to prospective student-athlete No. 1 and three other prospective student-athletes during their unofficial campus visit, which the hearing panel finds is a Level III violation [allegation No. 1-(a)];

¹ The full text of the NCAA Bylaws cited in this decision, for the applicable academic year in which the conduct occurred, is found in Appendix Two.

- (2) The attendance of a former colleague of the former head coach at a recruiting event where prospective student-athlete No. 1 played, which the hearing panel finds is a Level III violation [allegation No. 1-(b)];
- (3) Impermissible entertainment benefits, in the form of complimentary admissions on the men’s basketball office pass list during the 2016-17 season, provided by the former assistant coach to prospective student-athlete No. 1’s former trainer. The hearing panel finds for allegation No. 1-(d):
 - (a) The entertainment restrictions violations (NCAA Bylaw 13.8.1) are Level II for NC State and the former assistant coach.
 - (b) The unethical conduct violations regarding the knowing involvement in the provision of recruiting inducements [Bylaws 10.1-(b) and 10.1-(c)] are Level I for NC State.
 - (c) The unethical conduct violations regarding the former assistant coach’s falsely designating the former trainer as a “business contact” or “friend” (Bylaws 10.01.1 and 10.1) and his knowing involvement in the provision of recruiting inducements [Bylaws 10.1-(b) and 10.1-(c)] are Level I for the former assistant coach.
- (4) Impermissible entertainment benefits, in the form of complimentary admissions on the men’s basketball office pass list during the 2016-17 season, provided by the former assistant coach to prospective student-athlete No. 1’s family and friends. The hearing panel finds for allegation No. 1-(e):
 - (a) The entertainment restrictions violations (Bylaws 16.2.1.1 and 16.11.2.1) are Level II for NC State and the former assistant coach.
 - (b) The unethical conduct violations regarding the knowing involvement in the provision of extra benefits [Bylaw 10.1-(b)] are Level I for NC State.
 - (c) The unethical conduct violations regarding the former assistant coach’s falsified designations of prospective student-athlete No. 1’s family and friends as “donors” (Bylaws 10.01.1 and 10.1) and his knowing provision of extra benefits [Bylaw 10.1-(b)] are Level I for the former assistant coach.

- (5) Impermissible entertainment benefits, in the form of complimentary admissions on the men’s basketball office pass list during the 2016-17 season to individual Nos. 1 and 2, who were responsible for directing the activities of other prospective student-athletes, which the hearing panel finds are a Level II violation (allegation No. 2);
- (6) The former head coach’s failure to monitor the former assistant coach with respect to the role of the apparel company outside consultant in the recruitment of prospective student-athlete No. 1, most notably, the former assistant coach’s arrangement for a \$40,000 payment to prospective student-athlete No. 1, which the hearing panel finds is a Level I violation (allegation No. 3);
- (7) NC State’s failure to monitor the provision of complimentary admissions on the men’s basketball office pass list, which the hearing panel finds is a Level II violation (allegation No. 4); and
- (8) The former assistant coach’s failure to cooperate with the investigation, which the hearing panel finds is a Level I violation (post-separation allegation No. 1).

d. Overview of the Parties’ Contentions and the Hearing Panel’s Findings.

NC State agreed that its staff committed NCAA rules violations with respect to an impermissible recruiting inducement in the form of special parking and impermissible complimentary admissions on the men’s basketball office pass list. On that basis, it agreed that it failed to monitor the provision of complimentary admissions on the men’s basketball office pass list, although it also asserted that the former head coach shared responsibility for monitoring the men’s basketball office pass list.

NC State disagreed that the former colleague’s attendance at a recruiting event violated NCAA bylaws, arguing that he was neither a countable coach nor a representative of athletics interests. NC State also disagreed that allegation No. 1-(c), the allegation about the \$40,000 payment, violated NCAA bylaws, arguing that no “arrangement” was made because no credible information existed that the cash actually reached prospective student-athlete No. 1, and that therefore Bylaw 13.2.1 was not violated. NC State also argued that the various allegations that the Complex Case Unit bundled into allegation No. 1, all pertaining to prospective student-athlete No. 1’s recruitment, should be disaggregated into separate allegations for purposes of assessing the levels of violations.

As described more fully below in Section IV, the hearing panel finds that the former assistant coach made an “arrangement” with the apparel company outside consultant to pay \$40,000 to prospective student-athlete No. 1 to ensure his continued commitment to NC State. The violation occurred because the applicable bylaw, Bylaw 13.2.1, does not require proof that prospective student-athlete No. 1 ever actually received the cash. That bylaw only requires that the former assistant coach made an “arrangement” to provide improper benefits. However, the hearing panel finds that the various allegations bundled by the Complex Case Unit into allegation No. 1 should be disaggregated and considered separately for purposes of determining the applicable violation level.

The hearing panel further finds that the former colleague was a countable coach. Pursuant to Bylaw 11.7.6, his attendance at the recruiting event caused the institution to exceed the countable coach limit for men’s basketball. The former colleague additionally was a representative of athletics interests. On these bases, his attendance at an off-campus recruiting event, at the former head coach’s invitation, violated Bylaws 11.7.6 and 13.1.2.4-(b).

The Complex Case Unit did not allege that the former head coach participated in the arrangement to make the \$40,000 payment to prospective student-athlete No. 1’s family. Instead, it alleged that he failed to monitor the former assistant coach. The former head coach disputed that he failed to monitor the former assistant coach, primarily arguing that it would have been impossible for him to detect the \$40,000 payment, and moreover, that no red flags alerted him to any potential or actual improprieties in prospective student-athlete No. 1’s recruitment. The former head coach also argued that he reasonably relied on NC State’s compliance staff to monitor the men’s basketball office pass list for complimentary admissions, which formed part of the basis of allegation No. 3. In that allegation, the Complex Case Unit asserted that the former head coach failed to fulfill his head coach responsibilities to appropriately monitor his staff with respect to the provision of complimentary admissions on the men’s basketball office pass list.

As described more fully below in Section IV, the hearing panel finds that the former head coach failed to fulfill his responsibility to appropriately monitor his direct report, the former assistant coach, with respect to the arrangement for the \$40,000 payment. Sufficient red flags existed so that he should have more closely monitored prospective student-athlete No. 1’s recruitment, specifically, the apparel company outside consultant’s involvement in that recruitment. At a minimum, the former head coach should have asked probing questions of the former assistant coach, and importantly, should have raised with the NC State compliance staff his admitted concern about the apparel company outside consultant. However, the hearing panel finds that the former head coach reasonably relied on NC State’s compliance staff to monitor the men’s basketball office pass list.

The former head coach's failure to fulfill his responsibilities to monitor the activities of his staff, specifically, the former assistant coach, is a Level I violation.

The former assistant coach failed to cooperate with the investigation by refusing to participate in interviews, failing to respond to record requests, and failing to provide information relevant to the investigation. The hearing panel views his failure to cooperate as an admission that the violations he allegedly committed occurred. Moreover, substantial corroborating information supports this conclusion. His failure to cooperate is a Level I violation.

II. STATEMENT OF FACTS

Most of the underlying facts that led to this infractions matter were uncontroverted. Where facts were in dispute, the hearing panel determined which information it found credible and persuasive. This section describes the most significant events that gave rise to this infractions case.

a. Prospective Student-Athlete No. 1's Recruitment.

Prospective student-athlete No. 1 was rated as one of 2016 recruiting class's best point guards in the country. Because he lived in North Carolina, and moreover, because his grandmother was a long-time NC State fan, the NC State men's basketball staff focused heavily on his recruitment in the belief that he was a promising prospect. Indeed, prospective student-athlete No. 1 was a priority recruit for the NC State men's basketball staff, among the highest-level prospects it had recruited in many years. And NC State was not alone in its attempt to recruit prospective student-athlete No. 1. Multiple Division I men's basketball programs also courted him.

The NC State men's basketball staff began recruiting prospective student-athlete No. 1 in 2014, during his sophomore year of high school. Prospective student-athlete No. 1 made several unofficial visits to NC State that year, including a September 27, 2014 visit, during which he attended a football intercollegiate athletics event with a friend. The men's basketball staff provided prospective student-athlete No. 1 and three other prospective student-athletes with special parking at no cost for that game.

During the recruitment of prospective student-athlete No. 1, the former head coach's former colleague, a well-known former head men's basketball coach, attended an off-campus recruiting event September 29, 2014 with, and at the invitation of, the former head coach.

Throughout prospective student-athlete No. 1's recruitment, he participated on an apparel company-sponsored AAU basketball team coached by his father. Prospective student-athlete No. 1 was trained throughout the recruitment period by the former trainer, who was described as "the go-between for anybody who was trying to speak with [prospective student-athlete No. 1] – universities, AAU coaches, shoe brands – and the [prospective student-athlete No. 1's] family."

(1) The Apparel Company Outside Consultant.

The apparel company outside consultant founded and operated a 501-(c)(3) charitable organization that ran non-scholastic AAU boys' basketball teams in the New England area. In 2012, the NCAA barred him from participating in July recruiting events due to his ties to sports agent No. 1, who had demanded that the apparel company outside consultant and others direct top recruits to his agency, in return for his financial support of their AAU teams.

In July 2012, NC State's then-director of athletics sent the former head coach a *Yahoo Sports* article that reported on the relationship between the apparel company outside consultant and sports agent No. 1, and in a handwritten note, informed the former head coach that NC State planned to disassociate sports agent No. 1. NC State subsequently disassociated sports agent No. 1 in September 2012 for reasons unrelated to the NCAA bar.

In December 2014, the apparel company outside consultant attended an event in Raleigh, North Carolina at which prospective student-athlete No. 1 played, spending time there with the NC State men's basketball staff. In January and February 2015, the apparel company outside consultant attended several AAU games at which prospective student-athlete No. 1 played, taking prospective student-athlete No. 1's father and his former trainer to dinner afterwards.

In February 2015, the apparel company outside consultant introduced the former trainer to the NC State men's basketball staff. The former head coach had several conversations with the apparel company outside consultant about prospective student-athlete No. 1, and knew that the apparel company eventually wanted to sign prospective student-athlete No. 1. The former head coach also knew about the apparel company outside consultant's affiliation with the apparel company and his close ties with apparel company employee No. 1.

The former head coach stated at the hearing that he had a "concern" about the apparel company outside consultant, specifically, that he was not "the most credible guy." However, the former head coach saw the apparel

company outside consultant as part “of the process” because of what he viewed as the ubiquitous presence of shoe companies in college basketball. In any event, the former head coach did not raise his concern about the apparel company outside consultant with the NC State compliance staff. Nor did he ask the former assistant coach, who had primary responsibility for recruiting prospective student-athlete No. 1, any probing questions about the apparel company outside consultant’s involvement in prospective student-athlete No. 1’s recruitment.

As evidenced by their phone records, both the former assistant coach and the former head coach viewed the apparel company outside consultant as important to the recruitment of prospective student-athlete No. 1. As the recruitment of prospective student-athlete No. 1 progressed, their contacts with the apparel company outside consultant grew more and more frequent, as did their contacts with the former trainer.

Prior to January 2015, the former assistant coach spoke only once by phone with the apparel company outside consultant. From January to November 2015, the two called each other 171 times. After the apparel company outside consultant introduced the former trainer to the men’s basketball staff in February 2015, the former trainer and the former assistant coach spoke by phone 409 times. By contrast, the former assistant coach spoke by phone to prospective student-athlete No. 1’s father 48 times during this period, and not once to his grandmother. The former head coach spoke by phone to the apparel company outside consultant 17 times between August and November 2015, and to the former trainer four times. By contrast, he spoke by phone during the same period to prospective student-athlete No. 1’s father 11 times, and to his grandmother twice.

As described below, many of these phone and text message communications were clustered around the time in early November 2015 that the apparel company outside consultant delivered \$40,000 to the former assistant coach.

(2) Prospective Student-Athlete No. 1 Tears His ACL in August 2015.

In early August 2015, just prior to his senior year in high school, prospective student-athlete No. 1 tore his ACL and underwent surgery. He decided to enroll early at NC State in order to have access to the university’s rehabilitation services. On September 10, 2015, prospective student-athlete No. 1 verbally committed to NC State.

(3) The \$40,000 Payment.

On March 30, 2018, the U.S. government charged the apparel company outside consultant, who reported to apparel company employee No. 1, with conspiracy to commit wire fraud by participating in a scheme to defraud certain unspecified universities by agreeing to make, making and concealing payments to the families of certain high school students in connection with their commitment to play basketball. The apparel company outside consultant waived indictment. Pursuant to a cooperation agreement, he pled guilty, acknowledging his participation in that scheme. The apparel company outside consultant subsequently testified in the criminal trial of the three apparel company employees, volunteering information about the \$40,000 payment intended to maintain prospective student-athlete No. 1's commitment to NC State. Until the apparel company outside consultant's cooperation agreement, the U.S. government had not known about the \$40,000 payment.

According to this testimony, the former assistant coach told the apparel company outside consultant that he would deliver the money to the former trainer, who in turn, would deliver the money to prospective student-athlete No. 1's family. The apparel company outside consultant testified that he made the \$40,000 payment because he "was nervous that he [prospective student-athlete No. 1] was going to leave NC State" and that he told apparel company employee No. 1 that "there was a situation at NC State with [prospective student-athlete No. 1] that I had to take care of, that I gave [the former assistant coach] 40 grand."

Contemporaneous documents corroborate the apparel company outside consultant's testimony. Bank records reflect that October 30, 2015, the apparel company outside consultant withdrew \$40,000 from his AAU program's bank account. His fiancée's credit card statements show that she purchased a ticket for him to fly to Raleigh, North Carolina November 2, 2015, and that he rented a car there for one day. The apparel company outside consultant invoiced the apparel company for \$30,000 November 1, 2015, and then for \$10,221.67 November 17, 2015. The apparel company paid both invoices after apparel company employee No. 1 approved them "for payment right away."²

² NC State disputed that the apparel company paid the \$40,000, arguing that the two apparel company payments did not add up to the full amount of the \$40,000 plus travel expenses. It asserted that the funds came instead from a sports agent unaffiliated with the apparel company. However, whether the apparel company payments matched exactly the amount the apparel company outside consultant gave to the former assistant coach, plus his travel expenses, is immaterial, as is the source of the funds. What *is* material is that the apparel company outside consultant worked on

Phone and text records reflect a flurry of communications between the apparel company outside consultant, the former assistant coach, the former head coach and the former trainer from October 30, 2015, the day that the apparel company outside consultant withdrew \$40,000, through November 11, 2015, the day that prospective student-athlete No. 1 signed his National Letter of Intent.

On October 30, 2015, the apparel company outside consultant spoke by phone twice with the former assistant coach. That evening, the former assistant coach exchanged two calls with the former trainer, followed within minutes by a call to the former head coach. Within three minutes of that call, the former assistant coach received a third call from the former trainer.

On November 2, 2015, the day the apparel company outside consultant flew to Raleigh and delivered \$40,000 in cash to the former assistant coach, the former head coach spoke by phone to the apparel company outside consultant for six minutes and texted with him twice. The former assistant coach spoke by telephone to the former trainer three times that day. The former assistant coach texted with the apparel company outside consultant nine times that same day.

On November 3, 2015, the day after the apparel company outside consultant delivered \$40,000 to the former assistant coach, the following communications took place:

- 1:13 p.m. - The former assistant coach spoke for four minutes by telephone to prospective student-athlete No. 1's father.
- 1:18 p.m. - The former assistant coach called and sent a text message to the apparel company outside consultant.
- 1:19 p.m. - The apparel company outside consultant returned the call and spoke to the former assistant coach for three minutes.
- 1:32 p.m. - The former assistant coach called the former trainer and spoke to him for eight minutes.
- 1:47 p.m. - The former assistant coach received a call from apparel company employee No. 1 and spoke to him for two minutes.

behalf of the apparel company, and that he made an arrangement with the former assistant coach to provide a payment to prospective student-athlete No. 1 to secure his commitment to NC State.

- 2:05 p.m. - The former assistant coach received a call from the apparel company outside consultant and sent him a text message.
- 5:45 p.m./5:46 p.m. - The former head coach received two calls from the apparel company outside consultant.

From November 4 to November 10, 2015, the former assistant coach exchanged five calls and four text messages with the apparel company outside consultant, 43 calls with the former trainer, four calls with prospective student-athlete No. 1's father, and one call with apparel company employee No. 1. During that same week, the former head coach exchanged one call and four text messages with the apparel company outside consultant.

Prospective student-athlete No. 1 signed his National Letter of Intent with NC State November 11, 2015. On November 12, 2015, he announced his intention to attend NC State commencing in January 2016, enrolling in the middle of his senior year in high school.

b. Events During Prospective Student-Athlete's Enrollment at NC State.

- (1) Complimentary Admissions to Intercollegiate Athletics Events for the Former Trainer and Prospective Student-Athlete No. 1's Family and Friends.

Prospective student-athlete No. 1 began playing for NC State men's basketball team in January 2016, competing throughout the 2016-17 season.

From January 13, 2016, until March 7, 2017, the former assistant coach provided the former trainer with 44 impermissible complimentary admissions to men's basketball intercollegiate athletics events. Bylaw 13.8.1 limits individuals like the former trainer, who are responsible for directing an activity in which a prospective student-athlete is involved, to two complimentary admissions to home intercollegiate athletics events only. The former assistant coach provided the complimentary admissions by placing the former trainer on the men's basketball office pass list, in many instances falsely describing him on that list as a "friend" or as a "business contact." The former trainer attended 26 intercollegiate athletics events over that time period, including seven away intercollegiate athletics events and three postseason intercollegiate athletics events. These impermissible complimentary admissions were valued at \$2,119.

From November 2016 to February 2017, the former assistant coach provided prospective student-athlete No. 1's family and friends with 106 impermissible complimentary admissions to 13 of his team's 18 home contests by placing them on the men's basketball office pass list, falsely categorizing these individuals as potential donors. Bylaw 16.2.1.1 limits the number of complimentary admissions provided to a student-athlete to four per home or away intercollegiate athletics event. These impermissible complimentary admissions were valued at \$4,562.

At the time, the NC State compliance staff did not review the men's basketball office pass list prior to any intercollegiate athletics events, spot-checking the lists only after each intercollegiate athletics event. NC State's senior associate athletics director - compliance explained at the hearing that it did so in order to allow the men's basketball staff the flexibility to add individuals to the list up until the start of the intercollegiate athletics event, so as to accommodate donors and other individuals who were permitted to attend the intercollegiate athletics events on a complimentary basis. However, the compliance staff did not detect these impermissible complimentary admissions even through its after-the-fact spot-checking process.

(2) Other Complimentary Admissions to Men's Basketball Intercollegiate Athletics Events.

In January and February 2016, the men's basketball staff provided eight impermissible complimentary admissions through the men's basketball office pass list, for a value of \$436, to individual No. 1, who was responsible for directing an activity in which another prospective student-athlete was involved. In March 2016, the men's basketball staff provided six impermissible complimentary admissions on the men's basketball office pass list, for a value of \$426, to individual No. 2, who was responsible for directing an activity in which yet another prospective student-athlete was involved. Bylaw 13.8.1 limits to two the number of complimentary admissions to home intercollegiate athletics events for individuals responsible for teaching or directing an activity in which a prospective student-athlete is involved.

c. Prospective Student-Athlete No. 1 Becomes a Professional Athlete; the SDNY Announces Criminal Complaints; NC State First Learns of Potential Violations.

Prospective student-athlete No. 1 declared for the NBA draft when the 2016-17 season ended. After being drafted, prospective student-athlete No. 1 began to play professional basketball.

On September 26, 2017, the U.S. Attorney’s office for the SDNY announced a series of criminal complaints against individuals associated with the apparel company. The complaints named several NCAA member institutions by reference to their locations and to their private or public status, and to several prospective student-athletes. The complaints did not include any reference to NC State’s location or status as a public institution, nor to prospective student-athlete No. 1.

Consistent with direction from the NCAA Board of Governors and the NCAA Division I Board of Directors, the NC State athletics compliance office contacted the then-current as well as the former men’s basketball coaching staff members to inquire whether they had any knowledge of, or involvement with, any activity related to the SDNY matter. All coaches contacted, including the former head coach and the former assistant coach, denied any such knowledge or involvement. NC State also searched email records but failed to locate any relevant information.

In October 2017, an athlete agent registered in North Carolina contacted NC State’s office of general counsel and reported that he believed that prospective student-athlete No. 1’s enrollment had been influenced by the apparel company through prospective student-athlete No. 1’s father. When the athletics compliance staff conducted a face-to-face interview with the athlete agent, he declined to share details or any additional names of allegedly involved parties, stating that he had no information about whether prospective student-athlete No. 1 was involved. NC State’s general counsel relayed this information to the Raleigh FBI office, which in turn relayed the information to FBI agents working on the SDNY criminal investigation.

On January 17, 2018, NC State received a Grand Jury Subpoena from the SDNY. It immediately began collecting responsive documents.

On February 23, 2018, *Yahoo Sports* published an article about the agency operated by sports agent No. 1. The article included a screenshot of sports agent No. 1’s agency’s “balance sheet” which reflected a payment to prospective student-athlete No. 1, as well as to other prospective student-athletes. This was of particular concern to NC State because, as described above, in September 2012, the then-

director of athletics had disassociated sports agent No. 1 and his agency from NC State for 10 years.

In light of the *Yahoo Sports* article, NC State searched the emails of men's basketball staff members for any communications with sports agent No. 1, sports agent No. 1's agency or the business manager, but failed to locate any relevant emails. NC State also contacted the NCAA enforcement staff to advise it of its inquiries and of the results of its search, and to seek direction and recommendations on any additional inquiries.

On April 10, 2018, an SDNY prosecutor notified NC State's office of general counsel that his office intended to issue a superseding indictment that would identify NC State as a victim of a conspiracy to commit fraud related to the men's basketball program, but that no current or former NC State employees would be a subject of the indictment. This prompted NC State's April 13, 2018 call to the enforcement staff. No written record exists of the substance of that telephone call. Regular communication between NC State and the enforcement staff began.

The April 10, 2018 Superseding Indictment charged apparel company employee No. 1, apparel company employee No. 2, and the business manager with fraud and conspiracy to defraud NC State and two other universities, based on allegations that the individuals "made or attempted to make illicit cash payments to the families of high school basketball players in connection with commitments by those student-athletes to matriculate at specific universities sponsored by [the apparel company], and with the further aim that these student-athletes would later sign lucrative contracts with the scheme participants upon entering the [NBA]."

The Superseding Indictment alleged that on or about October 2015, the apparel company outside consultant delivered \$40,000 to the former assistant coach, who represented that the money would be delivered to prospective student-athlete No. 1's family. This indictment, which forms the basis of allegation No. 1-(c), gave rise to the collaborative investigation between NC State and the NCAA. That investigation later uncovered the additional allegations set forth in the notice of allegations.

The enforcement staff provided a verbal notice of inquiry to NC State October 5, 2018. Between June 2018 and February 2019, in response to requests from the enforcement staff, NC State produced over 100,000 pages of documents totaling nearly 40 gigabytes of data, made several NC State employees available for interviews and assisted the enforcement staff in locating former employees.

On July 19, 2019, the enforcement staff issued a notice of allegations containing four allegations³ against NC State, the former head coach, and the former assistant coach. The notice of allegations alleged a violation based on the same conduct at issue in the SDNY criminal case. Namely, it alleged that in November 2015, the former assistant coach arranged for the apparel company outside consultant “to provide [the former assistant coach] with \$40,000 in cash to ensure [prospective student-athlete No. 1’s] commitment to [NC State],” and “informed [the apparel company outside consultant] that he intended to provide the money to [the former trainer] . . . who would then provide the money to the [prospective student-athlete No. 1’s] family.”

The notice of allegations also alleged a number of violations spanning a two-and-a-half-year period, from September 2014 through March 2017, in which prospective student-athlete No. 1, the former trainer, and prospective student-athlete No. 1’s family and friends received VIP parking and complimentary men’s basketball admissions, as well as one violation in which the former head coach invited his former colleague to accompany him to a recruiting event at which prospective student-athlete No. 1 played.

The notice of allegations also alleged that the men’s basketball staff provided two former AAU coaches with 14 impermissible complimentary admissions to men’s basketball intercollegiate athletics events. Based on these incidents, the notice of allegations alleged that NC State failed to adequately monitor its men’s basketball program with respect to the provision of complimentary admissions on the men’s basketball office pass list. As to NC State, the notice of allegations also identified four potential aggravating factors and one potential mitigating factor for the NCAA Division I Committee on Infractions’ consideration. The potential aggravating factors included:

- (1) “[m]ultiple Level I and Level II violations” alleged in the notice of allegations;
- (2) “[a] history of Level I, Level II, or major violations” based on five prior violations occurring between 1955 and 1989;
- (3) that a “person of authority” was “personally involved in the violations”; and
- (4) a “pattern of non-compliance” based on allegation Nos. 1, 2 and 3.

³ The notice of allegations issued by the enforcement staff and the amended notice of allegations issued by the Complex Case Unit listed four allegations. However, in both documents, the first allegation, allegation No. 1, aggregated five allegations arising from separate incidents.

The mitigating factor identified was NC State’s “established history of self-reporting Level III or secondary violations” during the previous five years. The notice of allegations also alleged that the former head coach failed to monitor his direct report, the former assistant coach, with respect to prospective student-athlete No. 1’s recruitment, and additionally that he failed to monitor his staff’s provision of complimentary admissions on the men’s basketball office pass list. On this basis, the Complex Case Unit alleged that the former head coach did not meet head coach responsibility requirements.

In July 2019, NC State released a copy of the notice of allegations, accompanied by a statement which provided, in pertinent part, “NC State has strong and clear compliance policies, and puts extensive effort into annual training and education to ensure coaches and athletes are fully aware of those policies and NCAA rules. All four allegations are tied to former coaches who were well educated about the rules and knew the rules, and if the allegations are true, those coaches chose to break the rules. No current coaches are named or implicated in the allegations.”

On December 9, 2019, NC State submitted its response to the notice of allegations, setting forth detailed responses to each of the alleged violations and to the potential aggravating and mitigating factors. Prior to releasing its response, NC State informed the enforcement staff that there was an open public records request on file, and accordingly, that the response would be made public upon filing. On the same day that it submitted its response to the notice of allegations, NC State also released a written statement summarizing the response, which included the following statement from the NC State chancellor: “When this process started, we promised accountability where appropriate and vigorous defense where necessary, and our response does exactly that. We look forward to a thorough and accurate review by the panel of the committee on infractions and a fair resolution of this case for the university and the NCAA.”

On December 11, 2019, an ESPN reporter sent an email to the former head coach’s attorney requesting a statement for a story he was writing about this case. Counsel for the former head coach responded with an email captioned “Re: Statement for Article” in which he stated:

“The NCAA broke their own rule when they considered evidence from a court case on Appeal and then relied on that evidence to charge [the former head coach] with a Level I violation. They should withdraw the allegation and let the court Case run its course.”

On February 7, 2020, the enforcement staff submitted its reply to NC State’s response, and February 14, 2020, the chair designee of the Committee on

Infractions submitted a petition requesting referral of this case to the Independent Accountability Resolution Process.

On April 8, 2020, NC State submitted its response to the referral petition, explaining that, in light of statements made in the referral petition, it had concerns about the fairness and impartiality of the Committee on Infractions process, and accordingly, would accede to the referral to the Independent Accountability Resolution Process. The referral petition response also reiterated NC State's commitment to working collaboratively with the NCAA to resolve this case. On the same day that NC State submitted its referral petition response, it also issued a written statement from the chancellor. That statement read, in its entirety:

“We've stated throughout this process that NC State will accept accountability for any shortcomings and defend ourselves aggressively where we feel it is appropriate and necessary to do so. As our response to the Referral Petition demonstrates, we do not think NC State can receive an objective or fair hearing before the Committee on Infractions in this matter. We believe the only remaining option is that our case be moved to the Independent Accountability Resolution Process. NC State has a long history of working cooperatively with the NCAA, and we remain committed to working collaboratively through the Independent Accountability Resolution Process to address concerns and to resolve this matter as fairly and efficiently as possible.”

In response to the deficiencies in compliance processes that its investigation uncovered, NC State implemented an automated software program for its men's basketball office pass list to ensure that all attendees who got complimentary admissions were eligible to receive them. Additionally, a compliance staff member now attends each men's basketball intercollegiate athletics event to monitor compliance. A list of NC State's self-imposed penalties and corrective actions is included in APPENDIX ONE.

III. PROCEDURAL HISTORY

This Section covers only the most significant procedural developments in this matter. The complete, extensive procedural history summary is available at <https://iarbcc.org/referred-cases/north-carolina-state-university/>.

Before the Committee on Infractions referred this matter to the Independent Accountability Resolution Process, NC State and the former head coach submitted responses to the notice of allegations issued by the enforcement staff, raising two significant procedural issues that are discussed more fully below. The former assistant coach did not respond to the notice of allegations.

On May 18, 2020, this matter was referred to the Independent Accountability Resolution Process. On June 11, 2020, the Independent Accountability Oversight Committee notified the parties of the appointment of the hearing panel, the external investigators and the external advocates for the Complex Case Unit. Nearly a year of procedural activity ensued. On February 1, 2021, the Complex Case Unit issued an amended notice of allegations, which included immaterial changes to the notice of allegations previously issued by the enforcement staff.

The chief panel member held a case management plan status conference March 17, 2021, attended by representatives of the Complex Case Unit, NC State and the former head coach. NC State and the former head coach requested that the chief panel member resolve, prior to the hearing, the two procedural issues they had raised in response to the notice of allegations issued by the enforcement staff.

After full briefing, May 27, 2021, the chief panel member held a pre-hearing procedural issues conference on these two issues, namely: (1) whether allegation No. 1-(a), relating to impermissible parking, and allegation No. 1-(b), relating to the former colleague attending the recruiting event⁴ were time-barred by the statute of limitations as prescribed by Bylaw 19.11.4.8. That bylaw requires, in pertinent part, that allegations contained in a notice of allegations be limited to those that occurred “not earlier than four years before the date the notice of inquiry is provided to the institution *or* the date the institution notifies the enforcement staff of its inquiries *into the matter*” (emphasis added); and (2) whether evidence submitted and positions taken in the criminal trial in the SDNY could be considered by the hearing panel, pursuant to Bylaw 19.11.5.8.3.1 (the “importation of facts” bylaw).

With respect to the first issue, NC State argued that it did not receive the verbal notice of inquiry until October 5, 2018, which meant that the two incidents, as alleged in allegation Nos. 1-(a) and 1-(b), both of which took place in September 2014, were outside of the four-year statute of limitations prescribed by Bylaw 19.11.4.8. With respect to its April 13, 2018, verbal notification to the enforcement staff, NC State argued that its inquiries into “the matter” related only to the \$40,000 payment, and accordingly, it could not have reasonably been on notice of the other violations.

The Complex Case Unit argued that allegation Nos. 1-(a) and 1-(b) fell within the four-year statute of limitations because each of the following events, all of which occurred prior to September 2018, should have triggered NC State’s inquiry into the matter, defined as prospective student-athlete No. 1’s recruitment to play basketball at NC State: the arrests of apparel company employee No. 1 and others, the Board of Governors and the Board of

⁴ The conduct in both allegations occurred in September 2014, slightly more than four years prior to the NCAA’s October 5, 2018, verbal notice of inquiry to NC State.

Directors' order for all Division I institutions to examine their men's basketball programs for possible recruiting violations, the Grand Jury Subpoena, and the Superseding Indictment. The Complex Case Unit additionally argued that NC State's report to the enforcement staff April 13, 2018 about the Superseding Indictment, constituted NC State's notice into the matter, thus tolling the four-year statute of limitations. Even if not tolled at that point, the Complex Case Unit contended that the statute of limitations was tolled at the very latest by July 11, 2018, when NC State produced emails that the Complex Case Unit contended supported the recruiting violations described in allegation Nos. 1-(a) and 1-(b). Finally, the Complex Case Unit argued that NC State was responsible for any delay in establishing the timing of the provision of the verbal notice of inquiry to NC State.

With respect to the second issue, NC State argued that the importation of facts bylaw could not apply to this infractions matter because NC State had not been a party to the SDNY criminal trial. When read as a whole, NC State asserted, the importation of facts bylaw did not allow the importation of facts, evidence or positions into an infractions proceeding where the institution had not been a party to the prior proceeding.

The former head coach argued that the importation of facts bylaw could not apply because the criminal convictions were on appeal; nor could the basis of decision bylaw apply either, because he had not been a party to the criminal proceeding. In other words, according to the former head coach, no evidence submitted or positions taken in the SDNY criminal trial could be considered in the resolution of this infractions case.

The Complex Case Unit argued that the importation of facts bylaw applied because it permitted the importation of evidence submitted and positions taken in a criminal trial, even where the institution had not been a party in that criminal trial, as distinguished from "facts," and that further, the bylaw required finality only as to "facts," not to "evidence submitted and positions taken." It further contended that by responding to the Grand Jury Subpoena, NC State was a "participant" in the SDNY criminal case.

After a full discussion, the chief panel member resolved, in a June 16, 2021, Resolution of Procedural Issues, that allegation Nos. 1-(a) and 1-(b) were not time-barred. NC State notified the enforcement staff of its inquiries "into the matter" April 13, 2018, which the chief panel member found was the relevant date for purposes of determining whether the two allegations fell within the four-year statute of limitations. The pertinent question remaining was what "the matter" was for these purposes.

The chief panel member rejected NC State's argument that "the matter" was limited to the payment of the \$40,000, finding instead that "the matter" related to NC State's recruitment of prospective student-athlete No. 1. The Grand Jury Subpoena received January 17, 2018, by NC State called for documents relating to prospective student-athlete No. 1's recruitment, not limiting itself in any way to (or even mentioning) the alleged \$40,000 payment. Further, the Superseding Indictment included information about an alleged

scheme to help secure prospective student-athlete No. 1's commitment to NC State. Therefore, the allegations contained in allegation Nos. 1-(a) and 1-(b), based on conduct that allegedly occurred in September 2014, less than four years before April 13, 2018, were not time-barred by Bylaw 19.11.4.8.

The chief panel member further determined that there was no need to interpret the importation of facts bylaw; the hearing panel instead would rely on Bylaw 19.11.5.8.3, "basis of decision," which provides, in pertinent part, that the "hearing panel shall base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs."

The hearing in this matter took place before the Independent Resolution Panel hearing panel August 9 and 10, 2021. The Complex Case Unit appeared as external advocates. NC State and its representatives appeared, including the NC State chancellor. The former head coach and his representatives appeared. Also attending were the commissioner of the conference and representatives from the institution currently employing the former head coach. The former assistant coach did not appear.

IV. ANALYSIS

This Section provides a detailed analysis of the hearing panel's decisions with respect to each of the allegations.

a. Allegation No. 1.

- Introduction.

The Complex Case Unit alleged that from September 2014 through March 2017, members of the NC State men's basketball staff committed multiple recruiting violations by providing recruiting inducements and extra benefits during prospective student-athlete No. 1's recruitment and subsequent enrollment. Specifically, the Complex Case Unit alleged that the former assistant coach and other men's basketball staff members arranged for and/or provided prospective student-athlete No. 1 and individuals associated with him approximately \$46,761 in impermissible inducements and benefits.

The \$46,761 is comprised of:

- (a) parking benefits valued at \$80 [allegation No. 1-(a)];

- (b) the arrangement for the payment of \$40,000 to secure prospective student-athlete No. 1's commitment to NC State [allegation No. 1-(c)];
- (c) complimentary admissions for the former trainer to men's basketball intercollegiate athletics events, valued at \$2,119 [allegation No. 1-(d)]; and
- (d) complimentary admissions for prospective student-athlete No. 1's family and friends to men's basketball intercollegiate athletics events, valued at \$4,562 [allegation No. 1-(e)].

In addition, the Complex Case Unit alleged that recruiting and countable coach violations occurred when the former head coach brought his former colleague, a prominent former head coach, to a recruiting event at which prospective student-athlete No. 1 played [allegation No. 1-(b)].

The Complex Case Unit aggregated these various allegations into allegation No. 1, based on what it contended was a pattern or scheme of improper conduct relating to NC State's recruitment of prospective student-athlete No. 1. The Complex Case Unit argued that because the allegations all related to prospective student-athlete No. 1's recruitment, each component of allegation No. 1 was a Level I violation. NC State objected to the Complex Case Unit's aggregation of these allegations, and on that basis, objected to the Complex Case Unit's effort to elevate each of the five separate allegations to Level I violations.

The hearing panel finds that the five allegations should be disaggregated. The various recruiting, entertainment and countable coach limitation violations alleged in allegation No. 1 were either isolated, limited or not part of an overall scheme or pattern of improper conduct in NC State men's basketball program. Accordingly, the hearing panel has disaggregated the various allegations, finding that allegation No. 1-(c), and the knowing provision of recruiting inducements and extra benefits portions of the unethical conduct aspects of allegation Nos. 1-(d) and 1-(e) rise to a Level I violation as to NC State. As such, the hearing panel analyzed each allegation contained in allegation No. 1 separately to determine the level of the specific violation.

(a) Allegation No. 1-(a). [Bylaws 13.2.1 and 13.7.2.1.6 (2014-15 NCAA Division I Manual)] [Asserted Against the Former Assistant Coach and NC State].

On September 23, 2014, the then-director of basketball operations arranged for prospective student-athlete No. 1 and three other prospective student-athletes, who were on campus for an unofficial visit, to specially park at the PNC Arena loading dock so they could attend NC State's September 27, 2014, football game. The benefit of this special parking was valued at \$80. The hearing panel concludes that this is a Level III violation.

i. NCAA Legislation Relating to Recruiting Offers and Inducements.

The applicable portions of the bylaws may be found in APPENDIX TWO.

ii. The Special Parking Was an Impermissible Inducement.

In its submissions and at the hearing, NC State did not dispute the underlying facts, agreeing that the arrangement was a direct violation of Bylaw 13.7.2.1.6, which prohibits any arrangement for special parking at campus athletics events for prospective student-athletes during unofficial visits. This impermissible arrangement provided only a minimal recruiting advantage. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel classifies this violation as Level III.

(b) Allegation No. 1-(b). [Bylaws 11.7.6 and 13.1.2.4 (2014-15 NCAA Division I Manual)] [Asserted Against NC State].

On September 29, 2014, the former head coach brought his former colleague, a well-known former head coach, to an evaluation of prospective student-athlete No. 1 at an off-campus recruiting event. The hearing panel concludes that this is a Level III violation.

i. NCAA Legislation Relating to Restrictions on Athletics Representatives and Countable Coaches.

The applicable portions of the bylaws may be found in APPENDIX TWO.

ii. The Former Colleague’s Attendance at a Recruiting Event Caused Him to be a Countable Coach, Resulting in NC State Exceeding the Countable Coach Limitations. He is Additionally Considered a Representative of Athletics Interests.

Bylaw 11.7.6 limits to four the number of countable coaches in men’s basketball who may contact or evaluate prospective student-athletes off campus. Bylaw 11.7.1.1 provides, in pertinent part, that any individual who engages in any off campus recruiting activities counts against those limits. This includes individuals outside the institution.

The former head coach invited his former colleague to attend the recruiting event September 29, 2014, in order to evaluate prospective student-athlete No. 1. Accordingly, the former colleague’s attendance at that recruiting event counted against, and exceeded, the countable coach limitations imposed by Bylaw 11.7.6.

Additionally, the former colleague was a representative of athletics interests, as defined by Bylaw 6.4.2, because he was “requested by the athletics department staff to assist in the recruitment of prospective student-athletes.”⁵ The hearing panel deems the former colleague’s attendance at the event constitutes “assisting in the recruitment.” That there was no face-to-face contact between the former colleague and prospective student-athlete No. 1 is irrelevant. The former colleague was a well-known former head coach whose mere attendance would have enhanced the institution’s recruitment efforts.

⁵ The Complex Case Unit argued that the staff interpretation (12/9/92, Item No. e) applied to this case, and that it demonstrated that the former colleague was a representative of athletics interests. However, the hearing panel does not find the interpretation applicable to this case. Unlike that staff interpretation, the former colleague did not provide the former head coach’s transportation to the recruiting event.

The attendance of the former colleague provided no more than a minimal recruiting advantage. Accordingly, pursuant to Bylaw 19.1.3-(b), the hearing panel concludes that this violation is Level III.

(c) Allegation No. 1-(c). [Bylaws 10.01.1, 10.1, 10.1-(c) and 13.2.1 (2014-15 NCAA Division I Manual)] [Asserted Against the Former Assistant Coach and NC State].

In November 2015, the former assistant coach made an arrangement with the apparel company outside consultant for a \$40,000 payment intended to be delivered to prospective student-athlete No. 1's family in order to secure his commitment to NC State. The hearing panel concludes that this is a Level I violation.

i. NCAA Legislation Relating to Offers and Inducements and Unethical Conduct.

The applicable portions of the bylaws may be found in APPENDIX TWO.

ii. The Former Assistant Coach Made an Arrangement for Financial Benefits for Prospective Student-Athlete No. 1.

The bulk of the information in support of this allegation comes directly from sworn testimony and documentary evidence presented to the jury in the SDNY trial of apparel company employee No. 1, apparel company employee No. 2 and the business manager, as well as the apparel company outside consultant's plea agreement. The apparel company outside consultant was a cooperating government witness in the SDNY trial.

The apparel company outside consultant testified under oath that he was involved in making payments to the families of five student-athletes who were either attending, or in the process of committing to, the apparel company-sponsored universities, including the family of prospective student-athlete No. 1.

The apparel company outside consultant testified to the following with respect to NC State. In October 2015, the former assistant coach reached out to him, indicating that

there were issues concerning prospective student-athlete No. 1 and “the people around him.” The apparel company outside consultant was nervous that prospective student-athlete No. 1 would back out of his commitment to attend NC State, and offered to bring the former assistant coach \$40,000 to “calm the situation.”

The apparel company outside consultant reported to apparel company employee No. 1, who at the time was the apparel company’s director of global sports marketing. The two agreed on the payment of \$40,000. The former assistant coach told the apparel company outside consultant that he would pass the funds on to the former trainer, and that the former trainer would then deliver the money to prospective student-athlete No. 1’s family in order to ensure that NC State would not lose prospective student-athlete No. 1 to a different university.

Compelling documentary information corroborates the apparel company outside consultant’s testimony. His bank statements reflect a withdrawal of \$40,000 October 31, 2015. Airline ticket receipts show that November 2, 2015, he travelled to and from Raleigh, North Carolina. Credit card receipts show that he rented and returned a car that same day in Raleigh. Invoices approved by apparel company employee No. 1 reflect two payments made in November 2015 from the apparel company to the apparel company outside consultant.

As described in the statement of facts (at page nos. 10 and 11), phone records reveal multiple conversations and text messages between the former assistant coach and the apparel company outside consultant, as well as between the former assistant coach and the former trainer in the days before and after November 2, 2015. The former assistant coach also had two calls with apparel company employee No. 1 during this period.

NC State did not dispute that the apparel company outside consultant delivered the \$40,000 to the former assistant coach, acknowledging that any receipt of money by the former assistant coach from the apparel company outside consultant would constitute a violation of Bylaws 10.01.1

and 10.1, which address and prohibit member institution's employees' unethical conduct. However, NC State argued that because there was no direct information that the former assistant coach ever delivered the \$40,000 to the former trainer, to prospective student-athlete No. 1, or to his relatives, Bylaw 13.2.1 had not been violated.

Central to NC State's position was an attack on the credibility of the apparel company outside consultant. NC State asserted that because of the apparel company outside consultant's long history of dishonesty and criminal conduct, and because self-interest motivated his testimony in the SDNY trial, that testimony should not be accepted as either credible or persuasive. NC State also argued that the apparel company outside consultant's testimony was unreliable hearsay information that should be given little, if any, weight.

Bylaw 19.7.8.3 provides that "the hearing panel shall base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs. The information upon which the panel bases its decision may be information that directly or circumstantially supports the alleged violation." Further, Independent Resolution Panel Operating Procedure 5-7-1 expressly permits the hearing panel to consider hearsay information.

The hearing panel finds that the apparel company outside consultant's testimony in the SDNY proceeding is credible and persuasive, thus satisfying the requirements of Bylaw 19.7.8.3. There were several items of information in the case record which supported the hearing panel's determination. From the sentencing submissions made on his behalf, the record reflects that the apparel company outside consultant:

- Was not charged initially in the SDNY investigation;
- Provided an acknowledgement of wrongdoing which was complete;

- Was required by the terms of his plea agreement to testify truthfully and faced the loss of the benefit of the plea agreement if he failed to do so;
- Was the first defendant to plead guilty;
- Pleaded guilty not only to conduct that the U.S. government previously knew about, but to the conduct underlying this infractions matter that the government only learned about as the result of his cooperation; and
- Had not yet entered into a plea bargain when he indicated his willingness to cooperate and thus, did not know the extent of his jeopardy.

The U.S. government deemed the sworn testimony of the apparel company outside consultant in the SDNY trial to be “compelling and credible . . . he explained his actions and those of other scheme participants, and he took responsibility for his own misconduct.”

The government also observed that the apparel company outside consultant “testified clearly and without reservation, truthfully answering questions from both the government and on cross-examination [the apparel company outside consultant] was careful to be precise and accurate in describing his knowledge and avoided overstating or straying beyond the facts that he could remember.”

The hearing panel notes that the apparel company outside consultant testified in the SDNY trial under penalty of perjury, and pleaded guilty based upon the same criminal activity of which a jury convicted apparel company employee No. 1, apparel company employee No. 2 and the business manager. The hearing panel finds that the government’s reliance on the apparel company outside consultant’s testimony in a federal criminal prosecution, his voluntary disclosure of previously unknown information, his willingness to enter a guilty plea with no guarantee

of avoiding prison time, and the government's requirement that he testify truthfully or lose the benefit of his plea agreement, all serve as compelling indicia of the credibility of the apparel company outside consultant's testimony.

The hearing panel also notes that the former assistant coach failed to cooperate with the investigation by the enforcement staff or the Complex Case Unit, or to respond to the notice of allegations or amended notice of allegations. Accordingly, pursuant to Bylaws 19.2.3.2.2, 19.7.2, 19.11.5.8.3.3 and 19.11.5.8.3.4, the hearing panel views the former assistant coach's failure to cooperate, or even to respond, as an admission that the alleged violations occurred.

The hearing panel does not find that NC State must have information that the former trainer, prospective student-athlete No. 1, or his family or friends actually received the \$40,000 payment in order to find a violation of Bylaw 13.2.1. Bylaw 13.2.1 prohibits not only the *payment* of benefits, but also, in pertinent part, "making *arrangements* for . . . any financial aid or benefits to a prospective student-athlete or his or her family members or friends." (emphasis added). The Merriam-Webster dictionary defines "arrangement" as "the act of arranging." This definition does not require a "delivery." This common sense understanding of the meaning of "arrangement" corresponds to the plain language of Bylaw 13.2.1, which prohibits, in the disjunctive, "making arrangements for *or* giving *or* offering to give any financial aid or other benefits to a prospective student-athlete or his or her relatives or friends" (emphasis added). Bylaw 13.2.1 separately prohibits each of these activities.

The hearing panel finds that the former assistant coach violated Bylaw 10.01.1 because he did not act with honesty and sportsmanship when he made this arrangement. Further, the former assistant coach violated Bylaw 10.1-(c) by acting unethically when

he knowingly was involved in offering or providing a prospective student-athlete an improper inducement, or extra benefit or improper financial aid.

The Complex Case Unit asserted that any violation of Bylaws 10.01.1, 10.1-(c) or 13.2.1 found against the former assistant coach attaches to the conduct, not to the individual. As a consequence, a Level I penalty imposed against the former assistant coach would result in the imposition of a Level I penalty against NC State. At the hearing, NC State argued in response that the former assistant coach acted secretly and outside the scope of his employment, and that therefore, these violations should not be imputed to NC State.

However, the former assistant coach was recruiting for NC State when he made the arrangement for the \$40,000 payment. On this basis, the hearing panel finds that he was acting within the scope of his employment. Accordingly, the hearing panel finds that the violation attaches to the conduct, not just to the actor. A contrary finding would thwart the purpose of this legislation. While the legislation specifically addresses staff members and representatives of athletics interests, member institutions must assert control over these individuals' actions. Constitution 2.1.1 provides, in pertinent part, that “[i]t is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association.” Constitution 6.01.1 similarly provides, in pertinent part, that the institution has the “control and responsibility for the conduct of intercollegiate athletics.”⁶

For these reasons, the hearing panel concludes that the former assistant coach violated Bylaws 13.2.1 and 10.1-(c). These violations are imputed to NC State because the former assistant coach was acting

⁶ The Complex Case Unit did not allege, nor is the hearing panel making any finding, of a lack of institutional control.

within the scope of his employment. He was recruiting prospective student-athlete No. 1 for NC State, not for his own benefit.⁷

Because these violations seriously undermine or threaten the integrity of the NCAA Collegiate Model by providing or intending to provide a substantial recruiting advantage, pursuant to Bylaws 19.1.1-(d), -(g) and -(h), the hearing panel classifies the violations of Bylaws 10.01.1, 10.1, 10.1-(c) and 13.2.1 as Level I.

- (d) Allegation No. 1-(d). [Bylaw 10.1-(c) (2015-16 NCAA Division I Manual); Bylaws 10.01.1, 10.1 and 13.8.1 (2015-16 through 2016-17 NCAA Division I Manuals), and Bylaw 10.1-(b) (2016-17 NCAA Division I Manual)] [Asserted Against the Former Assistant Coach and NC State].**

On 26 occasions between January 2016 through March 2017, the former assistant coach provided approximately \$2,119 in impermissible entertainment benefits in the form of 44 complimentary admissions on the men’s basketball office pass list to the former trainer. Moreover, the former assistant coach at times falsely designated the former trainer as a “friend” or as a “business contact” rather than who he actually was, *i.e.*, an individual responsible for directing an activity in which a prospective student-athlete was involved. Had he been designated properly, NC State would have had the opportunity to apply the appropriate NCAA bylaw and limit the number of complimentary admissions the former trainer could have received.

The hearing panel concludes that the provision of impermissible entertainment benefits aspect of this allegation is a Level II violation, for which both the former assistant coach and NC State are accountable. The former assistant coach acted unethically, in violation of Bylaw 10.1, by falsely designating the former trainer on the men’s basketball office pass list, and by his knowing involvement in the provision of a recruiting inducement. The hearing panel finds that the unethical conduct violations related to

⁷ By contrast, the former assistant coach was not acting within the scope of his employment when he falsified the designations of attendees on the men’s office basketball list. Nor was he acting within the scope of his employment when he failed to cooperate with the investigation, the basis of post-separation allegation No. 1, because he was no longer employed by NC State, and in any event, he was not acting for its benefit.

Bylaws 10.1-(b) and 10.1-(c) of this allegation are Level I for both NC State and the former assistant coach. Further, the hearing panel finds that the unethical conduct violations related to Bylaws 10.01.1 and 10.1 of this allegation, for which only the former assistant coach is accountable, are Level I.

i. NCAA Legislation Relating to Unethical Conduct and Recruiting Offers and Inducements.

The applicable portions of the Bylaws may be found in APPENDIX TWO.

ii. The Former Assistant Coach Acted Unethically and Provided Impermissible Entertainment Benefits to the Former Trainer.

The former trainer was an individual responsible for directing activities in which prospective student-athlete No. 1 was involved, *i.e.*, training him. As such, he was limited to two complimentary admissions to home intercollegiate athletics events only. Instead, the former assistant coach provided the former trainer with 44 impermissible complimentary admissions, including 26 admissions to 16 home intercollegiate athletics events, 13 admissions to seven away intercollegiate athletics events, and five admissions to three postseason intercollegiate athletics events. In many instances, the former assistant coach falsely designated the former trainer as a business contact or friend. The hearing panel determines that the former assistant coach was attempting to evade NC State’s monitoring efforts when he falsely designated the former trainer.

Considering the significant value of the impermissible tickets, and the repetitive nature of the violations, pursuant to Bylaw 19.1.2-(a), the hearing panel classifies the provision of impermissible entertainment benefits aspect of this allegation (Bylaw 13.8.1) as Level II, for which both the former assistant coach and NC State are accountable. The former assistant coach acted unethically and with dishonesty when he falsely designated the former trainer as a “business contact” or “friend”. Pursuant to Bylaw 19.1.1-(d), the hearing panel finds that the unethical conduct violations related to Bylaws 10.1-(b) and 10.1-(c) of this allegation are

Level I for both NC State and the former assistant coach. Further, the hearing panel finds the falsification aspects (Bylaws 10.01.1 and 10.1) of this allegation are Level I, for which only the former assistant coach is accountable.

(e) Allegation No. 1-(e). [Bylaws 10.01.1, 10.1, 10.1-(b), 16.2.1.1 and 16.11.2.1 (2016-17 NCAA Division I Manual)] [Asserted Against the Former Assistant Coach and NC State].

On 13 occasions between November 2016 and February 2017, the former assistant coach provided approximately \$4,562 in benefits in the form of 106 impermissible complimentary admissions on the men’s basketball office pass list to prospective student-athlete No. 1’s family and friends. The former assistant coach frequently falsely designated these family members and friends as “donors.” The hearing panel concludes that the provision of impermissible entertainment benefits aspect (Bylaws 16.2.1.1. and 16.11.2.1) of the allegation is a Level II violation, for which both the former assistant coach and NC State are accountable.

The hearing panel finds that the unethical conduct violations related to Bylaw 10.1-(b) of this allegation are Level I for both NC State and the former assistant coach.

Further, the hearing panel finds that the aspects of the allegation concerning the former assistant coach’s false designation of prospective student-athlete No. 1’s family and friends (Bylaws 10.01.1 and 10.1) are Level I violations, for which only the former assistant coach is accountable.

i. NCAA Legislation Relating to Unethical Conduct and Complimentary Admissions and Ticket Benefits.

The applicable portions of the bylaws may be found in APPENDIX TWO.

ii. The Former Assistant Coach Acted Unethically and Provided Impermissible Admissions and Benefits to Prospective Student-Athlete No. 1’s Family and Friends.

The former assistant coach violated NCAA bylaws by providing impermissible complimentary admissions to the family and friends of prospective student-athlete No. 1 while

he was a student-athlete. Bylaw 16.2.1.1 provides that “[a]n institution may provide four complimentary admissions per home or away intercollegiate athletics events to a student-athlete in the sport in which the individual participates (either practices or competes), regardless of whether the student-athlete competes in the contest.”

Bylaw 16.2.1.1.1 provides exceptions for ticket allocations for postseason events. An institution may provide each student-athlete who participates in or is a member of a team participating in a postseason event (*e.g.*, conference championship, NCAA championship, National Invitation Tournament, bowl game) with six complimentary admissions.

Bylaw 16.11.2.1 stands for the general rule that a student-athlete may not receive any extra benefit. An impermissible “extra benefit” refers to any special arrangement by an institutional employee or a representative of the institution’s athletics interests that provides the student-athlete or the student-athlete’s family members or friends with a benefit not expressly authorized by NCAA legislation.⁸

Considering the significant value of the impermissible tickets and the repetitive nature of the violations, pursuant to Bylaw 19.1.2-(a), the hearing panel classifies the provision of impermissible entertainment benefits aspect of this allegation as a Level II violation, for which both the former assistant coach and NC State are held accountable.

The former assistant coach acted unethically and with dishonesty when he falsely designated prospective student-athlete No. 1’s family and friends. The hearing panel concludes that the former assistant coach falsely designated these individuals on the men’s basketball office pass list in order to evade NC State’s monitoring efforts.

Pursuant to Bylaw 19.1.1-(d), the hearing panel finds that the unethical conduct violations related to Bylaw 10.1-(b) of this

⁸ The bylaw also states that receipt of a benefit by student-athletes or their family members or friends is not a violation of NCAA legislation if it is demonstrated that the same benefit is generally available to the institution’s students, or their family members or friends, or to a particular segment of the student body (*e.g.*, international students, minority students) determined on a basis unrelated to athletics ability. However, that is not applicable in this case.

allegation are Level I for both NC State and the former assistant coach.

Further, the hearing panel finds that the aspects of the allegation concerning the former assistant coach's false designation of prospective student-athlete No. 1's family and friends (Bylaws 10.01.1 and 10.1) are Level I violations, for which only the former assistant coach is accountable.

b. Allegation No. 2. [Bylaw 13.8.1 (2015-16 NCAA Division I Manual)] [Asserted Against NC State].

• Introduction.

Based on emails disclosed by NC State, during its investigation the enforcement staff uncovered violations of entertainment restrictions relating to two individuals responsible for teaching or directing an activity in which prospective student-athletes (other than prospective student-athlete No. 1) were involved. Specifically, the men's basketball staff provided individual No. 1 and individual No. 2 with impermissible complimentary admissions on the men's basketball office pass list. The Complex Case Unit and NC State agreed on the facts and that these violations were Level II. The hearing panel concurs.

(a) NCAA Legislation Relating to Entertainment Restrictions.

The applicable portions of the bylaws may be found in APPENDIX TWO.

(b) The Men's Basketball Staff Violated Entertainment Restrictions.

On seven occasions in January and February 2016, the men's basketball staff provided approximately \$436 in impermissible benefits in the form of eight impermissible complimentary admissions on the men's basketball office pass list to individual No. 1, an individual responsible for teaching or directing a prospective student-athlete. Bylaw 13.8.1 limits complimentary admissions for individuals responsible for teaching or directing a prospective student-athlete to two for home intercollegiate athletics events only.

On March 8 and 9, 2016, the men's basketball staff provided approximately \$426 in impermissible benefits in the form of six

complimentary admissions on the men's basketball office pass list to individual No. 2, an individual responsible for teaching or directing a prospective student-athlete. Specifically, the men's basketball staff provided individual No. 2 with three complimentary admissions to each of the men's basketball conference postseason tournament contests. Bylaw 13.8.1 limits complimentary admissions for individuals responsible for teaching or directing a prospective student-athlete to two for home intercollegiate athletics events only.

Pursuant to Bylaws 19.1.2-(a) and -(d), the hearing panel classifies these violations as Level II because they do not rise to the level of Level I violations, but are more serious than Level III violations. While they constitute multiple recruiting violations, these violations do not constitute a severe breach of conduct.

c. Allegation No. 3. [Bylaw 11.1.1.1 (2015-16 through 2016-17 NCAA Division 1 Manuals)] [Asserted Against the Former Head Coach].

• Introduction.

During the 2015-16 academic year, the former head coach violated Bylaw 11.1.1.1 by failing to monitor the activities of his staff.⁹ The former head coach failed to demonstrate that he monitored his direct report, the former assistant coach, for compliance with NCAA legislation as it pertained to the former assistant coach working and/or coordinating with the apparel company outside consultant in the recruitment of prospective student-athlete No. 1. The hearing panel concludes that this is a Level I violation.

(a) NCAA Legislation Relating to Head Coach Responsibilities.

The applicable portions of the bylaws may be found in APPENDIX TWO.

(b) The Former Head Coach Ignored Red Flags About the Apparel Company Outside Consultant.

As discussed above, the hearing panel finds that the former assistant coach made an arrangement with the apparel company outside consultant to provide \$40,000 to ensure prospective student-athlete

⁹ The Complex Case Unit did not allege that the former head coach actively participated in the conduct underlying allegation No. 1-(c).

No. 1's commitment to NC State. In its submissions, NC State agreed that, as alleged, the former head coach did not fulfill his head coach responsibilities. In his submissions and at the hearing, the former head coach maintained that he rebutted the presumption of responsibility by demonstrating that he adequately monitored the former assistant coach.

A head coach is presumed to be responsible for the actions of all of his or her direct or indirect reports. Part of that responsibility is the duty to monitor his or her staff's activities. The information presented in this case convinces the hearing panel that the former head coach failed to adequately monitor the former assistant coach, specifically by ignoring red flags about the apparel company outside consultant's role in the recruitment of prospective student-athlete No. 1.

During the 2015-16 academic year, the apparel company was the athletics sponsor for NC State. Pursuant to an agreement between NC State and the apparel company, NC State student-athletes wore the apparel company's shoes and apparel. The apparel company benefited from the promotion of its brand through NC State, which it considered to be a flagship institution. The apparel company hoped to sign college basketball players once they signed to play professional basketball. The apparel company hired the apparel company outside consultant to assist with the promotion of its brand through grassroots basketball, including by building relationships with amateur athletes perceived to be potential NBA players.

Prospective student-athlete No. 1 played for an AAU basketball team, also sponsored by the apparel company. The former head coach was aware that the apparel company's representatives, including the apparel company outside consultant and apparel company employee No. 1, viewed prospective student-athlete No. 1 as a potential NBA star with whom the apparel company wanted to contract after he signed with an NBA team.

In 2012, NC State sent a letter to sports agent No. 1 disassociating him and any business he owned from the institution for a period of 10 years. The terms of the disassociation precluded, in pertinent part, NC State athletics staff from communicating with sports agent No. 1's agency regarding any NC State athletics matter. The former head coach knew about the disassociation; he was copied on the letter to sports agent No. 1. Additionally, NC State's then-director

of athletics personally provided the former head coach with a copy of the disassociation letter, affixing to it the July 5, 2012, *Yahoo Sports* article which discussed the NCAA's preclusion of an AAU team operated by the apparel company outside consultant from participation in the July evaluation period due to the apparel company outside consultant's relationship with sports agent No. 1's agency. Specifically, the article detailed correspondence from sports agent No. 1 to the apparel company outside consultant and three others. In this correspondence, sports agent No. 1 criticized their failure to recruit NBA players to his agency in exchange for his financial support for their AAU teams. Less than three years later, in 2015, the former head coach became aware of the apparel company outside consultant's involvement in prospective student-athlete No. 1's recruitment.

On February 24, 2015, the apparel company outside consultant, apparel company employee No. 1, and apparel company employee No. 3 attended both a pre-game shoot around and a NC State intercollegiate athletics event. All three apparel company representatives sat in seats provided by the NC State ticket office to the apparel company outside consultant. Additionally, apparel company employee No. 3 sat with the former trainer behind the NC State bench. Earlier that month, the apparel company outside consultant had introduced the former trainer to the NC State men's basketball staff.

In an interview conducted by the enforcement staff, the former head coach recalled discussing prospective student-athlete No. 1 with the apparel company outside consultant, but failed to remember any details. In interviews with the enforcement staff, several members of the NC State men's basketball department recollected the apparel company outside consultant's presence on campus, at practices, and at intercollegiate athletics events on multiple occasions in 2015. Furthermore, the former head coach and the former assistant coach communicated frequently with the apparel company outside consultant during 2015, as detailed extensively in the statement of facts. As discussed in the statement of facts, many of these communications were clustered around events significant to the recruitment of prospective student-athlete No. 1, including the arrangement for the payment of \$40,000.

Bylaw 11.1.1.1 imposes upon a head coach the obligation to actively look for red flags of potential violations. Head coaches are obliged

to promote a culture of compliance among the entire team, including assistant coaches, staff and student-athletes, and to monitor individuals in the program he or she supervises. Before the NCAA adopted Bylaw 11.1.1.1, head coaches involved in infractions cases often claimed innocence when their direct or indirect reports were involved in serious violations. They argued that they had entrusted these responsibilities to their direct or indirect reports.

The adoption of Bylaw 11.1.1.1 established that a head coach would be presumed to have knowledge of, and responsibility for, the actions of those staff members whom he or she directly or indirectly supervised. Subsequently, the NCAA modified the bylaw to shift from the presumption of *knowledge* to a presumption of *responsibility*. A head coach now is presumed to be responsible for the actions of his or her staff that result in a violation. To rebut the presumption of responsibility, a head coach must prove to the hearing panel that he or she has done all that is necessary to monitor his or her direct or indirect reports, and to create an atmosphere of compliance in his or her program. To fulfill his or her responsibilities, a head coach must ask probing questions and monitor staff activities. Should a head coach fail to do so, he or she will be unable to rebut the presumption of head coach responsibility pursuant to Bylaw 11.1.1.1.

Head coaches cannot sit idly by when they have suspicions about third-party involvement in a prospective student-athlete's recruitment. The former head coach stated at the hearing that he had a "concern" about the apparel company outside consultant, whom he did not view as credible, but that he never observed behavior amounting to a "red flag." But his admitted "concern" was *itself* a red flag that the former head coach should have, but did not, pay attention to, and stands in stark contradiction to his statement that he never observed any troubling behavior.

Other red flags were in plain sight. The former head coach knew or should have known of: (1) the apparel company outside consultant's prior relationship with disassociated sports agent No. 1 and his agency; (2) the relationship between the apparel company outside consultant, the former trainer and prospective student-athlete No. 1; and (3) the frequency of communications between the former assistant coach and the apparel company outside consultant. Nevertheless, the former head coach never asked the former assistant coach about the apparel company outside consultant or his

role in prospective student-athlete No. 1's recruitment. Significantly, the former head coach never notified NC State's compliance staff about the apparel company outside consultant's involvement with prospective student-athlete No. 1's recruitment, despite his professed "concern." Moreover, despite generally asserting that he closely monitored the former assistant coach's recruitment of prospective student-athlete No. 1, the former head coach also stated that they never discussed any specifics about his recruitment.

The former head coach maintained at the hearing that the involvement of third parties, such as the apparel company outside consultant, is ubiquitous in the recruitment of high-level prospective student-athletes, and moreover, is sanctioned by the NCAA. This argument ignores the particulars cited above. While representatives of shoe companies may be involved with prospective student-athletes, such involvement cannot automatically be assumed to be above board or in compliance with NCAA bylaws. The apparel company outside consultant had a known affiliation with a sports agent whom NC State had disassociated. The apparel company outside consultant's level of involvement with prospective student-athlete No. 1's recruitment warranted greater scrutiny.

Given the circumstances, the former head coach had a responsibility to ask probing questions of the former assistant coach regarding the apparel company outside consultant's role in prospective student-athlete No. 1's recruitment. He also had an obligation to notify the NC State compliance department of his professed "concern" about the apparel company outside consultant. The former head coach's failure to ask probing questions of the former assistant coach, or to contact the compliance department when he had a "concern" about the apparel company outside consultant leads the hearing panel to conclude that he has failed to rebut Bylaw 11.1.1.1's presumption of responsibility.

Pursuant to Bylaw 19.1.1-(e), the hearing panel finds this violation to be Level I because the former head coach committed a head coach responsibility violation arising from an underlying Level I violation.

d. Allegation No. 4. [Constitution 2.8.1 (2015-16 through 2016-17 NCAA Division I Manuals)] [Asserted Against NC State].

• Introduction.

During the 2015-16 and 2016-17 academic years, NC State violated the NCAA principle of rules compliance when it failed to adequately monitor its men's basketball program's provision of complimentary admissions on the men's basketball office pass list. A compliance staff member manually spot-checked the men's basketball office pass list, but only after each game, which allowed the violations detailed in allegation Nos. 1-(d), 1-(e) and 2 to go undetected, and in any event, would not have prevented them. Moreover, prospective student-athlete No. 1's last name appeared numerous times on several men's basketball office pass lists when his family attended the intercollegiate athletics events. The number of times his last name appeared on these lists should have alerted even a spot-checker to potential irregularities, but it did not. These established facts demonstrate that NC State failed to maintain an adequate system for ensuring compliance with NCAA legislation. The Complex Case Unit and NC State agreed to these facts, and also agreed that they constitute a Level II violation. The hearing panel concurs.

(a) NCAA Legislation Relating to Principle of Rules Compliance.

The applicable portions of the constitution may be found in APPENDIX TWO.

(b) NC State Did Not Have Sufficient Systems in Place to Adequately Monitor the Provision of Complimentary Admissions on the Men's Basketball Office Pass List.

During the relevant time period, a compliance staff member spot-checked complimentary admissions on the men's basketball office pass list, but only after each game. This approach allowed the underlying violations to occur. At the hearing, NC State's senior associate athletics director - compliance explained that it adopted this approach so that the men's basketball staff could add attendees to the complimentary pass list up until the start of the intercollegiate athletics event, thus giving the staff maximum flexibility to admit donors and other individuals eligible to receive complimentary admissions. This after-the-fact spot-checking did not detect the

underlying Level II violations. Nor could it have prevented them even if they had been subsequently detected.

NC State generally maintains a robust compliance system for complimentary admissions to men’s basketball intercollegiate athletics events, but its compliance staff admittedly focused its attention on student-athletes’ and recruits’ lists, as well as on sports agents and other third parties, which it perceived to be higher risks for bylaw violations. It viewed the men’s basketball office pass list to be a minimal risk, relying on the good faith of the men’s basketball staff to ensure rule adherence. In retrospect, this was an erroneous assumption that allowed the underlying violations to occur. When a violation occurs, after-the-fact spot-checking of complimentary admissions is inadequate to satisfy the duty to monitor requirement imposed by Constitution 2.8.1, “responsibility of institution.”

Pursuant to Bylaws 19.1.2 and 19.1.2-(b), the hearing panel concurs with the parties and concludes that this violation is Level II. Failure to monitor is presumed to be a Level II violation, unless the failure is substantial or egregious, in which case it may be considered a Level I violation. Here, the failure to monitor the provision of complimentary admissions on the men’s basketball office pass list was neither substantial nor egregious.

e. **Post-Separation Allegation No. 1 for Unethical Conduct. [Bylaws 10.1, 10.1-(a) and 19.2.3 (2019-20 and 2020-21 NCAA Division I Manuals)] [Asserted Against the Former Assistant Coach].**

• Introduction.

From January 2019 and continuing into 2021, the former assistant coach failed to cooperate with the enforcement staff and the Complex Case Unit by refusing to participate in interviews with NC State, the enforcement staff, and the Complex Case Unit. The former assistant coach additionally failed to respond to the Complex Case Unit’s records requests. He also failed to provide information relevant to an investigation of possible violations. The hearing panel concludes that a Level I violation occurred.

(a) **NCAA Legislation Relating to Failure to Cooperate.**

The applicable portions of the bylaws may be found in APPENDIX TWO.

(b) The Former Assistant Coach Failed to Respond to Multiple Requests for Records and Interviews.

The record is replete with multiple attempts by the enforcement staff, and subsequently, the Complex Case Unit, to contact the former assistant coach in order to schedule interviews and obtain responsive records. These attempts began in April 2019 and continued through January 2021. The former assistant coach received notice of all the procedural conferences held prior to the hearing but failed to respond or to participate. He also received notice of the amended notice of allegations and of the hearing, but failed to respond to the amended notice of allegations or to appear at the hearing.¹⁰

The former assistant coach may have had his own motivations for refusing to cooperate with the enforcement staff and the Complex Case Unit. However, his failure to cooperate runs afoul of NCAA bylaws. Bylaws 10.1 and 10.1-(a) provide, in pertinent part, that “unethical conduct by . . . a current or former institutional staff member, which includes any individual who performs work for the institution or the athletic department . . . may include . . . [r]efusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual’s institution”

Pursuant to Bylaw 19.1.1-(c), the hearing panel finds this violation to be Level I.

¹⁰ At all times, the former assistant coach had access to the Infractions Process Secure Filing System containing the record for this case. The former assistant coach was notified about and provided access via the Infractions Process Secure Filing System to procedural correspondence and processing documents, including but not limited to the case management plan and all amendments, the notice of allegations, the amended notice of allegations, the Resolution of Pre-Hearing Procedural Issues and hearing logistics information.

V. VIOLATIONS

a. Level I Violations.

- (1) Allegation No. 1-(c). Unethical Conduct; Impermissible Offers and Inducements; Honesty and Sportsmanship [Bylaws 10.01.1, 10.1, 10.1-(c) and 13.2.1 (2015-16 NCAA Division I Manual)].

In November 2015, the former assistant coach was involved, directly or indirectly, in making arrangements to provide a prospective student-athlete with a recruiting inducement of \$40,000. Pursuant to Bylaws 19.1.1-(d), -(g), and -(h), this violation is Level I. The former assistant coach acted unethically and with dishonesty. He was involved in a cash payment from the apparel company outside consultant intended to secure the enrollment of a prospective student-athlete. He knew of third-party involvement in a recruiting violation. This was an intentional violation that demonstrated a reckless indifference to NCAA bylaws.

- (2) Allegation No. 1-(d). Unethical Conduct: Honesty and Sportsmanship [Bylaw 10.1-(c) (2015-16 NCAA Division I Manual); Bylaws 10.01.1 and 10.1 (2015-16 through 2016-17 NCAA Division I Manuals), and Bylaw 10.1-(b) (2016-17 NCAA Division I Manual)].

During the 2015-16 and 2016-17 academic years, the former assistant coach violated the principle of ethical conduct when he falsified the designation of the former trainer so that he would appear eligible for complimentary admissions on the men's basketball office pass list, thus knowingly providing recruiting inducements related to prospective student-athlete No. 1. The former assistant coach acted intentionally, unethically and with dishonesty. He demonstrated a reckless indifference to the NCAA constitution and bylaws. Pursuant to Bylaws 19.1.1-(d) and -(h), the hearing panel finds that the unethical conduct violations related to Bylaws 10.1-(b) and 10.1-(c) of this allegation are Level I for both NC State and the former assistant coach. Further, the hearing panel finds that the unethical conduct violations related to Bylaws 10.01.1 and 10.1 of this allegation, for which only the former assistant coach is accountable, are Level I.

- (3) Allegation No. 1-(e). Unethical Conduct: Honesty and Sportsmanship [Bylaws 10.01.1, 10.1 and 10.1-(b) (2016-17 NCAA Division I Manual)].

During the 2016-17 academic year, the former assistant coach violated the principle of ethical conduct when he falsified the designation of prospective

student-athlete No. 1's friends and family so that they would appear eligible for complimentary admissions on the men's basketball office pass list, thus knowingly providing an extra benefit to prospective student-athlete No. 1 after he enrolled in NC State. The former coach acted intentionally, unethically and with dishonesty. He demonstrated a reckless indifference to the NCAA constitution and its bylaws. Pursuant to Bylaws 19.1.1-(d) and -(h), the hearing panel finds that the unethical conduct violations related to Bylaw 10.1-(b) of this allegation are Level I for both NC State and the former assistant coach. Further, the hearing panel finds that the aspects of the allegation concerning the former assistant coach's false designation of prospective student-athlete No. 1's family and friends (Bylaws 10.01.1 and 10.1) are Level I violations, for which only the former assistant coach is accountable.

(4) Allegation No. 3. Head Coach Responsibilities [Bylaw 11.1.1.1 (2015-16 NCAA Division I Manual)].

During the 2015-16 academic year, the former head coach failed to demonstrate that he monitored his direct report, the former assistant coach. At the hearing, the former head coach failed to rebut the presumption of head coach responsibility. Specifically, the former head coach did not demonstrate that he monitored the former assistant coach with respect to his dealings with the apparel company outside consultant, which led to a direct or indirect arrangement for financial benefits to a prospective student-athlete. Pursuant to Bylaw 19.1.1-(e), this violation is Level I because it resulted from an underlying Level I violation by an individual within the men's basketball program.

(5) Post-Separation Allegation No. 1. Unethical Conduct, Failure to Cooperate [Bylaws 10.1, 10.1-(a) and 19.2.3 (2019-20 and 2020-21 NCAA Division I Manuals)].

From January 2019 through 2021, the former assistant coach violated the principle of ethical conduct when he failed to cooperate with the enforcement staff and the Complex Case Unit by refusing to participate in interviews; failing to respond to records requests that were issued by the Complex Case Unit; and failing to provide information relevant to the investigation. The enforcement staff, and subsequently, the Complex Case Unit, made multiple attempts to contact the former assistant coach through emails, phone calls and letters. Despite receiving adequate notice, the former assistant coach did not appear at the hearing nor at any of the procedural conferences that preceded the hearing. He failed to respond to the amended notice of allegations. The NCAA bylaws require all current

and former institutional staff members to cooperate fully with the enforcement staff, the Complex Case Unit, and the Independent Resolution Panel. Pursuant to Bylaw 19.1.1-(c), this violation is Level I.

b. Level II Violations.

- (1) Allegation No. 1-(d). Impermissible Provision of Benefits; Violation of Entertainment Restrictions [Bylaw 13.8.1 (2015-16 through 2016-17 NCAA Division I Manuals)].

On 26 occasions between January 2016 and March 2017, the former assistant coach violated restrictions on entertainment benefits when he provided to the former trainer approximately \$2,119 in entertainment benefits in the form of 44 impermissible complimentary admissions on the men's basketball office pass list. The former assistant coach did not appear at the hearing to respond to these allegations. Pursuant to Bylaw 19.1.2-(a), this violation is Level II. This is a violation that does not rise to the level of a Level I violation, but is more serious than Level III, primarily because of the number and value of impermissible admissions. NC State also is accountable for this violation.

- (2) Allegation No. 1-(e). Impermissible Provision of Benefits; Violation of Entertainment Restrictions [Bylaws 16.2.1.1 and 16.11.2.1 (2016-17 NCAA Division I Manual)].

On 13 occasions between November 2016 and February 2017, the former assistant coach violated restrictions on entertainment benefits when he provided approximately \$4,562 in benefits in the form of 106 impermissible complimentary admissions on the men's basketball office pass list to prospective student-athlete No. 1's family and friends. Pursuant to Bylaw 19.1.2-(a), this violation is Level II. This is a violation that does not rise to the level of a Level I violation, but is more serious than Level III, primarily because of the number and value of impermissible admissions. NC State also is accountable for this violation.

- (3) Allegation No. 2. Violation of Entertainment Restrictions [Bylaw 13.8.1 (2015-16 NCAA Division Manual)].

On seven occasions during January and February 2016, men's basketball staff members violated restrictions on entertainment benefits when they provided approximately \$436 in benefits in the form of eight impermissible complimentary admissions on the men's basketball office pass list to

individual No. 1, who was responsible for directing an activity of a prospective student-athlete.

On March 8 and 9, 2016, the men's basketball staff violated restrictions on entertainment benefits when they provided approximately \$426 in benefits in the form of six impermissible complimentary admissions on the men's basketball office pass list to individual No. 2, who was responsible for directing an activity of a prospective student-athlete.

Pursuant to Bylaws 19.1.2-(a) and -(d), these violations are Level II. These violations do not rise to the level of Level I violations but are more serious than Level III violations. They constitute multiple entertainment benefits violations but do not amount to a lack of institutional control. NC State is accountable for this violation.

- (4) Allegation No. 4. Failure to Monitor the Provision of Complimentary Admissions on the Men's Basketball Office's Pass List [Constitution 2.8.1 (2015-16 and 2016-17 NCAA Division I Manuals)].

During the 2015-16 and 2016-17 academic years, NC State violated the NCAA principle of rules compliance when it failed to adequately monitor the provision of complimentary admissions on the men's basketball office pass list. NC State failed to establish an adequate system for ensuring compliance with NCAA legislation. NC State agreed that despite its strong culture of compliance, it failed to establish an adequate system to monitor the provision of complimentary admissions on the men's basketball office pass list. It also agreed that this constitutes a Level II violation. Pursuant to Bylaw 19.1.2-(b), this violation is Level II. This violation arose from a failure to monitor but does not represent a substantial or egregious failure. NC State is accountable for this violation.

c. Level III Violations.

- (1) Allegation No. 1-(a). Impermissible Inducements and Impermissible Parking [Bylaws 13.2.1 and 13.7.2.1.6 (2014-15 NCAA Division I Manual)].

The then-director of basketball operations arranged for approximately \$80 in impermissible recruiting inducements in the form of special parking in the loading dock of PNC Arena for prospective student-athlete No. 1 and three other prospective student-athletes to use during their unofficial visit to the campus when they attended NC State's September 27, 2014, football contest. Pursuant to Bylaw 19.1.3-(b), this violation is Level III. It was a

recruiting violation that created no more than a minimal recruiting advantage. NC State is accountable for this violation.

- (2) Allegation No. 1-(b). Violation of Other Restrictions by Athletics Representatives and Exceeding the Countable Coach Limitation [Bylaws 13.2.1.4-(b) and 11.7.6 (2014-15 NCAA Division I Manual)].

On September 29, 2014, the former head coach invited his former colleague, who had triggered being a countable coach and an athletics representative, to view prospective student-athlete No. 1 at a recruiting event. Pursuant to Bylaw 19.1.3-(b), these violations are Level III. They were recruiting violations that created no more than a minimal recruiting advantage. NC State is accountable for this violation.

VI. VIOLATIONS NOT DEMONSTRATED

- As part of allegation No. 3, the Complex Case Unit alleged that the former head coach violated Bylaw 11.1.1.1 (2015-16 through 2016-17 NCAA Division I Manuals), head coach responsibility, by failing to monitor his staff's provision of complimentary admissions on the men's basketball office pass list. The compliance staff acknowledged that it had communicated to the former head coach that it was spot-checking the list. The hearing panel concludes, on this basis, that the former head coach reasonably relied on NC State's compliance staff to monitor his staff's provision of complimentary admissions on the men's basketball office pass list. Accordingly, the hearing panel concludes that the former head coach has rebutted the presumption of responsibility for the actions of the institutional staff members who reported to him with respect to complimentary admissions on the men's basketball office pass list.

VII. PENALTIES

a. Introduction.

For the reasons set forth above in Sections IV of this decision, the hearing panel concludes that this case involves Level I, II and III violations of NCAA legislation. Level I violations are severe breaches of conduct that seriously undermine or threaten the integrity of the NCAA Collegiate Model, including violations that provide or are intended to provide a substantial or extensive advantage or benefit. Level II violations are significant breaches of conduct that provide or are intended to provide more than a minimal, but less than a substantial or extensive advantage or benefit. Level III violations are breaches that are isolated or limited and that provide no more than a minimal advantage or benefit.

In considering penalties, the hearing panel first reviewed aggravating and mitigating factors pursuant to Bylaws 19.9.2, 19.9.3 and 19.9.4 to determine the appropriate violation classifications for NC State, the former head coach and the former assistant coach. The hearing panel used the 2020-21 penalty guidelines (Figure 19-1), and Bylaws 19.9.5, 19.9.7 and 19.9.8 to prescribe penalties.

The hearing panel determined that the below-listed factors applied and assessed the factors by weight and number. Based on its assessment, the hearing panel classifies this case as Level I-Mitigated for NC State, Level I-Mitigated for the former head coach and Level I-Aggravated for the former assistant coach.

(1) **NC State.**

(a) **Aggravating Factors.**

- i. Based on the information presented, the hearing panel finds that the following aggravating factors apply to NC State:

(1) **Aggravating Factor 19.9.3-(a). Multiple Level I violations by the institution or involved individual.**

As discussed more fully above at page nos. 24 through 34, 35 through 40, and 41 through 42, this matter involved multiple Level I violations. The hearing panel finds multiple Level I violations attributable to NC State. Accordingly, aggravating factor 19.9.3-(a) applies to NC State.

(2) **Aggravating Factor 19.9.3-(g). Multiple Level II violations by the institution or involved individual.**

As discussed more fully above at page nos. 30 through 35 and 40 through 42, this matter involved multiple Level II violations. The hearing panel finds multiple Level II violations attributable to NC State. Accordingly, aggravating factor 19.9.3-(g) applies to NC State.

- ii. Based on the information presented, the hearing panel concludes that no additional aggravating factors apply to NC State. Specifically, the hearing panel declines to find the

following aggravating factors, which the Complex Case Unit argued applied:

- (1) Aggravating Factor 19.9.3-(e). Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information.**

The hearing panel concludes that the NC State chancellor's press statement does not warrant the application of this aggravating factor. The chancellor simply repeated information contained in documents that the North Carolina Public Records Law required to be released. His statement did not meet the requirements of aggravating factor 19.9.3-(e). It was not unethical; it did not compromise the integrity of the investigation; and it did not represent a failure to cooperate. Nor did NC State refuse to provide all relevant or requested information.

However, the hearing panel emphasizes the importance of confidentiality for the NCAA infractions processes, putting parties in pending and future cases on notice that breaches of confidentiality related to Independent Resolution Panel cases may, depending on the totality of the circumstances and evidence, warrant the application of the aggravating factor pursuant to Bylaw 19.9.3-(e).

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

The hearing panel concludes that aggravating factor 19.9.3-(h), which requires a finding that a person of authority condoned, participated in, or negligently disregarded the violation or wrongful conduct, is not an aggravating factor. The Complex Case Unit alleged in a conclusory fashion that the former assistant coach was a person of authority, but provided no information on which the hearing panel

could base a finding that the former assistant coach had any authority, including, but not limited to, the authority to hire, fire, or even to approve the recruitment of prospective student-athletes. On this basis, the hearing panel concludes that the former assistant coach was not a person of authority so as to warrant the application of this aggravating factor.

(3) Aggravating Factor 19.9.3-(k). A pattern of noncompliance within the sport program(s) involved.

Finally, the hearing panel concludes that aggravating factor 19.9.3-(k), which requires a finding of a pattern of noncompliance in the athletics program, does not apply to NC State. But for two isolated and seemingly inadvertent incidents that were uncovered as part of the NCAA investigation (allegation No. 2), all of the violations related to the recruitment of prospective student-athlete No. 1. There has been no showing of an overall pattern of noncompliance within the NC State men's basketball program.

(b) Mitigating Factors.

i. Based on the information presented, the hearing panel finds that the following mitigating factors apply to NC State:

(1) Mitigating Factor 19.9.4-(d). An established history of self-reporting Level III or secondary violations.

NC State self-reported 91 Level III violations over the past five academic years (from 2014-18, *i.e.*, the five academic years prior to 2019, when the NCAA enforcement staff issued the notice of allegations).

(2) Mitigating Factor 19.9.4-(c). Affirmative steps to expedite final resolution of the matter.

The hearing panel finds that NC State took affirmative steps to expedite final resolution of the matter. This included making timely and

comprehensive filings, including those that related to pre-hearing procedural matters, cooperating with the setting of hearings, and promptly responding to staff and hearing panel inquiries. As a result of these affirmative steps, this matter was able to move forward expeditiously to resolution in the Independent Accountability Resolution Process.

- ii. Based on the information presented in this matter, the hearing panel declines to find the following mitigating factor, which NC State argued applied:

- **Mitigating Factor 19.9.4-(i). Other facts warranting a lower penalty range.**

In its submissions, NC State urged the hearing panel to apply mitigating factor 19.9.4-(i), *i.e.*, other facts warranting a lower penalty range, based on its 2012 disassociation of sports agent No. 1. The hearing panel declines to do so. This disassociation was too remote in time from the violations that are analyzed in this decision to warrant application as a mitigating factor.

(2) The Former Head Coach.

(a) Aggravating Factors.

- i. Based on the information presented, the hearing panel finds that no aggravating factors apply to the former head coach.
- ii. The hearing panel specifically declines to apply the following aggravating factors:

- (1) Aggravating Factor 19.9.3-(e). Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information.**

The hearing panel concludes that the statement to the press by counsel for the former head coach is not an aggravating factor. The former head coach's counsel

simply repeated information contained in underlying documents that had been disclosed. His statement did not warrant the application of aggravating factor 19.9.3-(e). It was not unethical; it did not compromise the integrity of the investigation; it did not represent a failure to cooperate; nor did the former head coach refuse to provide all relevant or requested information.

(2) Aggravating Factor 19.9.3-(k). A pattern of noncompliance within the sport program(s) involved.

For the reasons discussed above, *i.e.*, that all of the violations related to prospective student-athlete No. 1's recruitment (except for the isolated and seemingly inadvertent violations found in allegation No. 2), the hearing panel declines to find that there was a pattern of noncompliance in the men's basketball program, as required for the application of aggravating factor 19.9.3-(k).

(b) Mitigating Factors.

- Based on the information presented, the hearing panel finds the following mitigating factor applies to the former head coach:
 - **Mitigating Factor 19.9.4-(h). The absence of prior conclusions of Level I, Level II or major violations.**

The former head coach has no prior conclusions of any violations of the NCAA constitution or bylaws.

(3) The Former Assistant Coach.

(a) Aggravating Factors.

- i. Based on the information presented, the hearing panel finds that the following aggravating factors apply to the former assistant coach:

- (1) **Aggravating Factor 19.9.3-(e). Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information.**

The former assistant coach failed to cooperate with the investigation. He failed to respond to multiple contacts and requests for interviews and records, first by the NCAA staff, and subsequently, by the Complex Case Unit.

- (2) **Aggravating Factor 19.9.3-(f). Violations were premeditated, deliberate, or committed after substantial planning.**

The former assistant coach's violations were premeditated and deliberate. For example, he falsely designated ineligible attendees on the men's basketball office pass list in order to make them appear eligible. His arrangement with the apparel company outside consultant for the payment of \$40,000 required substantial planning and demonstrated premeditation.

- (3) **Aggravating Factor 19.9.3-(m). Intentional, willful or blatant disregard for the NCAA constitution and bylaws.**

The former assistant coach's actions were intentional. With respect to the underlying violations and his failure to cooperate in the investigation, he demonstrated a willful and blatant disregard for the NCAA constitution and bylaws.

- ii. Based on the information presented, the hearing panel declines to find the following aggravating factor:

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

The hearing panel concludes that aggravating factor 19.9.3-(h), which requires a finding that a person of authority condoned, participated in or negligently disregarded the violation or wrongful conduct, is not an aggravating factor. The Complex Case Unit alleged in a conclusory fashion that the former assistant coach was a person of authority, but offered no information that he had any authority, including, but not limited to, the authority to hire, fire or even to approve the recruitment of prospective student-athletes. On this basis, the hearing panel concludes that he was not a person of authority.

(b) Mitigating Factors.

- Based on the information presented, the hearing panel finds that the following mitigating factor applies to the former assistant coach:
 - **Mitigating Factor 19.9.4-(h). The absence of prior conclusions of Level I, Level II or major violations.**

The former assistant coach has no prior conclusions of any violations of the NCAA constitution or bylaws.

b. Core Penalties.

(1) NC State - Level I - Mitigated Case (Bylaw 19.9.5).

(a) Financial Penalties. Pursuant to Bylaw 19.9.5.2:

A financial penalty fine in the amount of \$5,000 (self-imposed) plus 0.5% of its 2021-22 men's basketball budget.

(b) Scholarship Reductions. Pursuant to Bylaw 19.9.5.3:

- i. Reduce the total number of athletics awards in the sport of men's basketball for the incoming class of the 2021-22 academic year by one (the first available opportunity) from the permissible total of 13, or if a scholarship becomes

available, at the time of such availability, if prior to the 2021-22 academic year (self-imposed);

- ii. For the 2022-23 academic year or the first available opportunity, NC State shall reduce the total number of grant-in-aid awards by one scholarship in the sport of men's basketball.

(c) Recruiting Restrictions for Men's Basketball. Pursuant to Bylaw 19.9.5.6:

- i. Reduce the number of official visits by one during the 2019-20 and 2020-21 academic years, and prohibit unofficial visits during a two-week period during the 2019-20 academic year (self-imposed);
- ii. A four-week recruiting communication (telephone and written correspondence) ban for the 2021-22 academic year; and
- iii. An eight-day reduction in the number of recruiting person days for the 2021-22 academic year including the summer 2022.

(d) Probation. Pursuant to Bylaw 19.9.5.7:

- i. One-year probation (December 20, 2021 to December 19, 2022).
- ii. During the period of probation, NC State shall:
 - (1) Continue to develop and implement a comprehensive educational program on NCAA legislation designed to instruct coaches, faculty athletics representatives, all athletics department personnel and all institutional members with responsibility for recruiting.
 - (2) Submit a preliminary compliance report to the Office of the Committee on Infractions by January 31, 2022, setting forth a schedule for establishing this compliance and educational program, with particular

emphasis on compliance with and education about recruiting legislation.

- (3) File with the Office of the Committee on Infractions a final compliance report by October 31, 2022, setting forth the progress made.
- (4) During the period of probation, inform in writing prospects in the men's basketball program that NC State is on probation for one year, and provide details of the violations committed.
- (5) During the period of probation, publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sports program, and a direct, conspicuous link to the public infractions located on the athletics department's main website "landing page" and in the media guides for men's basketball.
- (6) Following the delivery of the final compliance report to the Office of the Committee on Infractions, and prior to the conclusion of probation, NC State's chancellor shall provide a letter to the Independent Accountability Oversight Committee affirming that NC State's current athletics policies and practices conform to all requirements of NCAA regulations.

(2) **Former Head Coach - Level I - Mitigated Case (Bylaw 19.9.5).**

- **Pursuant to Bylaw 19.9.5.4: Show-Cause Order.** The former head coach is responsible for the violations committed by a member of his staff. He failed to monitor the recruitment of prospective student-athlete No. 1, as set forth in allegation No. 3, and failed to rebut the presumption of head coach responsibility as set forth in Bylaw 11.1.1.1. Therefore, the former head coach will be informed in writing by the NCAA that the hearing panel prescribes a one-year show-cause order pursuant to Bylaw 19.9.5.4 that shall run from December 20, 2021, to December 19, 2022.

Should the former head coach be employed or affiliated in an athletically related position at another NCAA member institution

during the one-year period, that employing institution shall provide to the Independent Accountability Oversight Committee information as to why restrictions on all athletically related activity should not apply.

(3) Former Assistant Coach - Level I - Aggravated Case (Bylaw 19.9.5).

- **Pursuant to Bylaw 19.9.5.4: Show-Cause Order.** The former assistant coach committed multiple violations. He directly or indirectly arranged for a \$40,000 payment to prospective student-athlete No. 1. He knowingly provided approximately \$6,681 in impermissible recruiting entertainment benefits in the form of complimentary admissions to the men's basketball office pass list to the former trainer and to prospective student-athlete No. 1's friends and family, falsifying these individuals' designations so that they would escape the compliance staff's detection. He did not cooperate with the investigation into this matter, failing to respond to multiple requests for interviews and records. His actions were willful, intentional and unethical, and threatened the integrity of the NCAA Collegiate Model. Therefore, the former assistant coach will be informed in writing by the NCAA that the hearing panel prescribes a six-year show-cause order pursuant to Bylaw 19.9.5.4 that shall run from December 20, 2021, to December 19, 2027.

Should the former assistant coach be employed or affiliated in an athletically related position at another NCAA member institution during the six-year period, that employing institution shall provide to the Independent Accountability Oversight Committee information as to why restrictions on all athletically related activity should not apply.

c. Additional Penalties. Pursuant to Bylaw 19.9.7:

- (1) Public reprimand and censure.
- (2) Vacation of team and individual records.

Prospective student-athlete No. 1 competed while ineligible as a result of the impermissible inducements and/or benefits. Therefore, pursuant to Bylaws 19.9.7-(g) and 31.2.2.3, NC State shall vacate all regular season and conference tournament wins, records and participation in which prospective student-athlete No. 1 competed from the time he became ineligible through the time he was reinstated as eligible for competition (if applicable).

Further, if prospective student-athlete No. 1 participated in NCAA postseason competition at any time that he was ineligible, NC State's participation in the postseason contests in which the ineligible competition occurred shall be vacated. The individual records of ineligible prospective student-athlete No.1 shall also be vacated. However, the individual finishes and any awards for all eligible student-athletes shall be retained. Further, NC State's records regarding its men's basketball program, as well as the records of its former head coach, shall reflect the vacated records and be recorded in all publications in which such records are reported, including, but not limited to, institutional media guides, recruiting material, electronic and digital media, plus institutional, conference and NCAA archives. Any institution that may subsequently hire the affected former head coach shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. Head coaches with vacated wins on their records may not count the vacated wins toward specific honors or victory "milestones" such as 100th, 200th or 500th career victories. Any public reference to the vacated records shall be removed from the athletics department stationery, banners displayed in public areas and any other forum in which they may appear. Any trophies awarded by the NCAA in the affected sport program shall be returned to the Association.

Finally, to aid in accurately reflecting all institutional and student-athlete vacations, statistics and records in official NCAA publications and archives, the institution's media relations director (or other designee as assigned by the director of athletics) must contact the NCAA Media Coordination and Statistics office and appropriate conference officials to identify the specific student-athletes and contests impacted by the penalties. In addition, the institution must provide the NCAA Media Coordination and Statistics office with a written report detailing those discussions. This written report will be maintained in the permanent files of the NCAA Media Coordination and Statistics office. This written report must be delivered to the office no later than 14 days following the release of this decision. A copy of the written report shall also be delivered to the hearing operations staff at the same time.

INDEPENDENT RESOLUTION PANEL
HEARING PANEL

Dana Welch, chief panel member
David Benck
Joan Cronan
Javier Flores
Hugh Fraser

APPENDIX ONE

NC State has imposed the following penalties and corrective actions based on the acknowledged violations related to impermissible complimentary admissions:

- **Financial Penalty:** \$5,000 fine.
- **Scholarship Reduction:** Reduce the total number of athletics awards in the sport of men's basketball for the incoming class of the 2021-22 academic year by one (the first available opportunity) from the permissible total of 13, or if a scholarship becomes available, at the time of such availability if prior to the 2021-22 academic year.
- **Recruiting Restriction:** Reduce the number of official visits by one during the 2019-20 and 2020-21 academic year and prohibit unofficial visits during a two-week period during the 2019-20 academic year.

NC State has implemented new complimentary admissions policies and procedures that include but is not limited to a stricter adherence to individuals identified as business contacts and on-site monitoring of all complimentary tickets by athletics compliance.

APPENDIX TWO

This Appendix includes the relevant NCAA bylaws and portions of the NCAA Constitution.

Bylaw 10.01.1 Honesty and Sportsmanship (2015-16 through 2016-17)

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

Bylaw 10.1 Unethical Conduct (2015-16)

Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following: *(Revised: 1/10/90, 1/9/96, 2/22/01, 8/4/05, 4/27/06, 1/8/07, 5/9/07, 10/23/07, 5/6/08, 1/16/10, 10/5/10)*

- (a) Refusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation when requested to do so by the NCAA or the individual's institution;
- (b) Knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete;
- (c) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;
- (d) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation;
- (e) Receipt of benefits by an institutional staff member for facilitating or arranging a meeting between a student-athlete and an agent, financial advisor or a representative of an agent or advisor (e.g., "runner");
- (f) Knowing involvement in providing a banned substance or impermissible supplement to student-athletes, or knowingly providing medications to student-athletes contrary to medical licensure, commonly accepted standards of care in sports medicine practice, or state and federal law. This provision shall not apply to banned substances for which the student-athlete has received a medical exception per Bylaw 31.2.3.2; however, the substance must be provided in accordance with medical licensure, commonly accepted standards of care and state or federal law;

(g) Failure to provide complete and accurate information to the NCAA, the NCAA Eligibility Center or an institution's admissions office regarding an individual's academic record (e.g., schools attended, completion of coursework, grades and test scores);

(h) Fraudulence or misconduct in connection with entrance or placement examinations;

(i) Engaging in any athletics competition under an assumed name or with intent to otherwise deceive; or

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

Bylaw 10.1 Unethical Conduct (2016-17)

Unethical conduct by a prospective student-athlete or student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if the individual does not receive compensation for such work, may include, but is not limited to, the following: (Revised: 1/10/90, 1/9/96, 2/22/01, 8/4/05, 4/27/06, 1/8/07, 5/9/07, 10/23/07, 5/6/08, 1/16/10, 10/5/10, 4/28/16 effective 8/1/16)

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

(b) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;

(c) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation;

(d) Receipt of benefits by an institutional staff member for facilitating or arranging a meeting between a student-athlete and an agent, financial advisor or a representative of an agent or advisor (e.g., "runner");

(e) Knowing involvement in providing a banned substance or impermissible supplement to student-athletes, or knowingly providing medications to student-athletes contrary to medical licensure, commonly accepted standards of care in sports medicine practice, or state and federal law. This provision shall not apply to banned substances for which the student-athlete has received a medical exception per Bylaw 18.4.1.4.8; however, the substance must be provided in accordance with medical licensure, commonly accepted standards of care and state or federal law;

(f) Engaging in any athletics competition under an assumed name or with intent to otherwise deceive; or

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

Bylaw 10.1 Unethical Conduct (2018-19 through 2020-21)

Unethical conduct by a prospective student-athlete or student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if the individual does not receive compensation for such work, may include, but is not limited to, the following: *(Revised: 1/10/90, 1/9/96, 2/22/01, 8/4/05, 4/27/06, 1/8/07, 5/9/07, 10/23/07, 5/6/08, 1/16/10, 10/5/10, 4/28/16 effective 8/1/16)*

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

(b) Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid;

(c) Knowingly furnishing or knowingly influencing others to furnish the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of matters relevant to a possible violation of an NCAA regulation;

(d) Receipt of benefits by an institutional staff member for facilitating or arranging a meeting between a student-athlete and an agent, financial advisor or a representative of an agent or advisor (e.g., "runner");

(e) Knowing involvement in providing a banned substance or impermissible supplement to student-athletes, or knowingly providing medications to student-athletes contrary to medical licensure, commonly accepted standards of care in sports medicine practice, or state and federal law. This provision shall not apply to banned substances for which the student-athlete has received a medical exception per Bylaw 18.4.1.4.8; however, the substance must be provided in accordance with medical licensure, commonly accepted standards of care and state or federal law;

(f) Engaging in any athletics competition under an assumed name or with intent to otherwise deceive; or

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

Bylaw 11.1.1.1 Responsibility of Head Coach (2015-16 through 2016-17)

An institution's head coach is presumed to be responsible for the actions of all institutional staff members who report, directly or indirectly, to the head coach. An institution's head coach shall promote an atmosphere of compliance within the program and shall monitor the activities of all institutional staff members involved with the program who report, directly or indirectly, to the coach. *(Adopted: 4/28/05, Revised: 10/30/12, 7/16/14)*

Bylaw 11.5.1 Annual Certification Requirement (2014-15)

Only those coaches who have been certified may contact or evaluate any prospective student-athletes off campus. Certification must occur on an annual basis. *(Adopted: 1/10/91 effective 8/1/92)*

Bylaw 11.7.6 Limitations on Number of Coaches and Off-Campus Recruiters (2014-15)

There shall be a limit on the number of coaches (other than graduate assistant coaches per Bylaw 11.01.3 and 11.01.4, undergraduate assistant coaches per Bylaw 11.01.5 and volunteer coaches per Bylaw 11.01.6) who may be employed by an institution and who may contact or evaluate prospective student-athletes off campus in each sport as follows: *(Revised: 1/10/91 effective 8/1/92, 1/10/92 effective 8/1/92, 1/9/96 effective 8/1/96, 1/14/97, 4/25/02 effective 8/1/02, 1/12/04 effective 8/1/04, 4/29/04 effective 8/1/04, 4/28/05, 4/28/05 effective 8/1/05, 2/3/06, 12/15/06, 4/26/07 effective 8/1/07, 1/17/09 effective 8/1/09, 1/15/11 effective 8/1/11, 4/28/11 effective 8/1/12, 8/11/11, 1/19/13 effective 8/1/13, 1/18/14 effective 8/1/14)*

Sport Limit . . .

Basketball, Men's 4

Bylaw 12.11.1 Obligation of Member Institution to Withhold Student-Athlete From Competition (2016-17)

If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association, the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition. The institution may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student-athlete's eligibility as provided in Bylaw 12.12 if it concludes that the circumstances warrant restoration. *(Revised: 7/31/14)*

Bylaw 13.1.2.4 Other Restrictions, Athletics Representatives (2014-15)

The following are additional restrictions that apply to athletics representatives: *(Revised: 10/30/14)*

(a) Telephone Conversation. An athletics representative of a member institution may speak to a prospective student-athlete via the telephone only if the prospective student-athlete initiates the telephone conversation and the call is not for recruiting purposes. Under such circumstances, the representative must refer questions about the institution's athletics program to the athletics department staff;

(b) Observing Prospective Student-Athlete's Contest. An athletics representative may view a prospective student-athlete's athletics contest on the athletics representative's own initiative, subject to the understanding that the athletics representative may not contact the prospective student-athlete on such occasions;

(c) Evaluation of Prospective Student-Athlete. An athletics representative may not contact a prospective student-athlete's coach, principal or counselor in an attempt to evaluate the prospective student-athlete; and

(d) Visiting Prospective Student-Athlete's Institution. An athletics representative may not visit a prospective student-athlete's educational institution to pick up film/videotape or transcripts pertaining to the evaluation of the prospective student-athlete's academic eligibility or athletics ability.

Bylaw 13.2.1 General Regulation (2014-15 through 2016-17)

An institution's staff member or any representative of its athletics interests shall not be involved, directly or indirectly, in making arrangements for or giving or offering to give any financial aid or other benefits to a prospective student-athlete or his or her relatives or friends, other than expressly permitted by NCAA regulations. Receipt of a benefit by a prospective student-athlete or his or her relatives or friends is not a violation of NCAA legislation if it is determined that the same benefit is generally available to the institution's prospective students or their relatives or friends or to a particular segment of the student body (e.g., international students, minority students) determined on a basis unrelated to athletics ability. [R] *(Revised: 10/28/97, 11/1/00, 3/24/05)*

Bylaw 13.7.2.1.6 Parking (2014-15)

An institution may not arrange special parking for prospective student-athletes to use while attending a member institution's campus athletics event during an unofficial visit. [R] *(Adopted: 1/10/92)*

Bylaw 13.8.1 Entertainment Restrictions (2015-16 through 2016-17)

Entertainment of a high school, preparatory school or two-year college coach or any other individual responsible for teaching or directing an activity in which a prospective student-athlete is involved shall be limited to providing a maximum of two complimentary admissions (issued only through a pass list) to home intercollegiate athletics events at any facility within a 30-mile radius of the institution's main campus, which must be issued on an individual-game basis. Such entertainment shall not include food and refreshments, room expenses, or the cost of transportation to and from the campus or the athletics event. It is not permissible to provide complimentary admissions to any postseason competition (e.g., NCAA championship, conference tournament, bowl game). An institutional coaching staff member is expressly prohibited from spending funds to entertain the prospective student-athlete's coach on or off the member institution's campus. **[D]** *(Revised: 4/3/02, 8/5/04, 4/28/05 effective 8/1/05, 10/30/14)*

Bylaw 16.11.2.1 General Rule (2016-17)

The student-athlete shall not receive any extra benefit. The term “extra benefit” refers to any special arrangement by an institutional employee or representative of the institution's athletics interests to provide the student-or his or her family members or friends with a benefit not expressly authorized by NCAA legislation. **[R]** *(Revised: 1/19/13 effective 8/1/13)*

Bylaw 16.2.1.1 Institutional Events in the Student-Athlete's Sport (2016-17)

An institution may provide four complimentary admissions per home or away intercollegiate athletics event to a student-athlete in the sport in which the individual participates (either practices or competes), regardless of whether the student-athlete competes in the contest. **[R]** *(Revised: 8/7/14)*

Bylaw 16.8.1 Permissible (2016-17)

An institution, conference or the NCAA may provide actual and necessary expenses to a student-athlete to represent the institution in practice and competition (including expenses for activities/travel that are incidental to practice or competition). In order to receive competition-related expenses, the student-athlete must be eligible for competition. **[D]** *(Revised: 1/19/13 effective 8/1/13, 8/7/14)*

Bylaw 19.2.3 Responsibility to Cooperate (2018-19 through 2020-21)

Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Committee on Infractions and the Infractions Appeals Committee to further the objectives of the Association and its infractions program. The responsibility to

cooperate requires institutions and individuals to protect the integrity of investigations and to make a full and complete disclosure of any relevant information, including any information requested by the enforcement staff or relevant committees. Current and former institutional staff members or prospective or enrolled student-athletes of member institutions have an affirmative obligation to report instances of noncompliance to the Association in a timely manner and assist in developing full information to determine whether a possible violation has occurred and the details thereof. (Adopted: 11/1/07 effective 8/1/08, Revised: 10/30/12 effective 8/1/13, 7/31/14)

Constitution 2.8.1 Responsibility of Institution (Division I NCAA Constitution) (2015-16 through 2016-17)

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