



GEORGIA INSTITUTE OF TECHNOLOGY
PUBLIC INFRACTIONS REPORT
July 14, 2011

A. INTRODUCTION.

On Friday, April 15, 2011, officials from the Georgia Institute of Technology (Georgia Tech) and the former head men's basketball coach, accompanied by his legal counsel, appeared before the NCAA Division I Committee on Infractions to address allegations of NCAA violations in the football and men's basketball programs. This case was very troubling to the committee in a number of respects. Because the committee finds violations of both the cooperative principal (Bylaws 19.01.3 and 32.1.4) and the conditions and obligations of membership (Bylaws 3.2.4.3 and 14.11.1), this case provides a cautionary tale of conduct that member institutions should avoid while under investigation for violations of NCAA rules. Rather than fulfill its requirements under NCAA bylaws, Georgia Tech failed to cooperate in an apparent effort to avoid potential allegations of rules violations, thereby eliminating the need to withhold two highly talented football student-athletes from end of the season competition, including the ACC conference championship game and the institution's bowl appearance. In doing so, the institution compounded the seriousness of this case, by adding onto what was originally an isolated instance of impermissible benefits and preferential treatment, extremely serious allegations that it failed to protect the integrity of the enforcement staff's investigation, violated the cooperative principle and failed to meet the conditions and obligations of the membership. There were additional allegations involving the men's basketball program, most notably allegations relating to tryout legislation stemming from a nonscholastic basketball tournament conducted on the institution's campus.

A member of the Atlantic Coast Conference (ACC), the institution has an enrollment of approximately 19,144 students. The institution sponsors eight men's and seven women's intercollegiate sports. This was the institution's third major infractions case. The institution also had previous infractions cases in 2005 (Football, Men's and Women's Cross Country, Men's and Women's Track Indoor and Outdoor, Men's and Women's Swimming) and in 1989 (Football).

B. FINDINGS OF VIOLATIONS OF NCAA LEGISLATION.

1. PREFERENTIAL TREATMENT. [NCAA Bylaw 12.1.2.1.6]

In October 2009, a friend of an employee of a sports agency based in Atlanta, Georgia, provided a then football student-athlete ("student-athlete 1") several items of clothing valued at approximately \$312.

Committee Rationale

The institution and the enforcement staff were not in agreement on the facts of this finding. While the institution agreed that student-athlete 1 received clothing on one occasion from someone, it contended that the source of the clothing and the reason for the gifts were not clear and thus there was insufficient evidence to support a finding of a violation. The committee finds that the violation occurred.

As background, in November 2009, the NCAA agent, gambling and amateurism activities (AGA) staff developed information that a former Georgia Tech football student-athlete ("agency employee") was working for an Atlanta-based professional sports agency and that he had provided impermissible benefits to a current Georgia Tech football student-athlete ("student-athlete 2"). During a November 11, 2009, telephone conversation the AGA staff member assigned to the case ("AGA staff member") informed the institution's assistant athletics director for compliance ("compliance director"), that student-athlete 2 may have received impermissible benefits from an individual associated with a sports agency. The compliance director was clearly instructed that the information could be shared with only the institution's president and the director of athletics. Arrangements were made to interview student-athlete 2.

On November 18, during an interview with both the NCAA and institution, student-athlete 2 denied that he was given any impermissible benefits. Subsequently, it developed that the institution, acting contrary to the explicit instructions of the AGA staff, had questioned student-athlete 2 on two occasions prior to his interview and had disclosed to him specific information, which was the subject of the interview. This information had been told to the institution's compliance officer by the AGA staff during the November 11 telephone call. The meetings involving student-athlete 2 and institution officials occurred on November 16, 2009, after the NCAA's warning and before the NCAA's interview with him. This series of events forms the foundation of Finding B-2.

On November 19, the AGA staff received additional information indicating that impermissible benefits had also been provided to student-athlete 1. As a result, student-athlete 1 was interviewed on November 19, the day after the interview of student-athlete 2. During his interview, student-athlete 1 recounted being invited to his cousin's ("the cousin") Atlanta home, where he received athletics clothing. Student-athlete 1 reported that he, along with student-athlete 2, went to the cousin's home where they were joined by the agency employee and the cousin's roommate ("the roommate"). (The roommate was previously acquainted with the agency employee, and according to the roommate

they went to church together.) Student-athlete 1 reported that both he and student-athlete 2 received clothing from his cousin's roommate. This was discussed during student-athlete 1's November 19 interview as follows:

AGA STAFF: Did (the agency employee) take you and, and (student-athlete 2) out at any time to get some clothes? Do you remember? Do you know what I'm talking about?

STUDENT-ATHLETE 1: Clothes? Yeah.

AGA STAFF: Talk to me about that.

STUDENT-ATHLETE 1: It was, is that, what day it is, it was one day during the, a week ago maybe, no it's been longer than that. Maybe, like, a month, maybe, um, I got a random text message (from his cousin) . . . And when we went so I was, me and (student-athlete 2) went over (to the cousin's home) and (the agency employee) and them was over there. And, um, like you was saying they had some clothes, some Adidas wear or whatever.

AGA STAFF: Athletics wear.

STUDENT-ATHLETE 1: Yeah.

AGA STAFF: And, did ya'll go out and purchase these clothes or did they have them all there for you?

STUDENT-ATHLETE 1: They was in the house already, so.

AGA STAFF: New clothes?

STUDENT-ATHLETE 1: I don't know. I don't know how new the jackets were but they was, like, they looked new.

AGA STAFF: So did (the agency employee) give those to you?

STUDENT-ATHLETE 1: No, (the agency employee) didn't give them to us.

AGA STAFF: Who gave them to you?

STUDENT-ATHLETE 1: My cousin 'cause he got a roommate named (roommate's nick name) and he, I think, I don't know if he worked at the Adidas place or not but I know he the one that gave them to us. He the one that, um, said, he was, like, my friend got ya'll an early Christmas present, and he was talking about (the roommate).

AGA STAFF: Okay. Was it kinda, like, you said they, this was, like, an early Christmas present, I mean, was it wrapped up or anything or did they have it all laying out?

STUDENT-ATHLETE 1: No. It was just in a room.

AGA STAFF: Why, um, why did (the roommate) want to give this to ya'll? Why did, I mean, why is he giving ya'll an early Christmas present?

STUDENT-ATHLETE 1: I don't. I, I really don't know.

AGA STAFF: What's, help me understand.

STUDENT-ATHLETE 1: Maybe, I don't. I really don't know.

AGA STAFF: Who did?

STUDENT-ATHLETE 1: I don't even know if (the roommate), like, actually knows the (owner of the sports agency). I don't even know if he know him, but, um. I know since (the agency employee) and (the roommate) was homeboys since when they were, when they were, I mean, whenever. I would guess he get us some stuff to maybe going away or looking towards (the agency employee) and them if we wanting to sign to an agent I guess.

AGA STAFF: Help, help me understand that a little bit more.

STUDENT-ATHLETE 1: Okay.

AGA STAFF: Why, why would (the roommate) want you to go (the agency employee's) way for an agent? You think (the roommate) is working for (the agency employee) or (the roommate) is working for, for the agent?

STUDENT-ATHLETE 1: I mean, I really don't know, I don't know what's going on. I just know we went to his house and, and we got it from (the roommate's) house.

Thus, student-athlete 1 indicated that there might have been agent involvement in the provision of the clothing he and student-athlete 2 received. Enforcement staff alleged agent involvement in this transaction (Bylaw 12.3.1.2 **Benefits from a Prospective Agents**) as well as provision of clothing to student-athlete 2. This was a close question for the committee, as the enforcement staff had received confirmation from the National Football League Players Association (NFLPA) that the former Georgia Tech football student-athlete, who was also present when the clothing was provided (earlier identified

in this report as "the agency employee") was, in fact, employed by an Atlanta-based sports agency. In the end, the committee did not make a finding of benefits from an agent, as student-athlete 1 equivocated when pressed on the question of agency involvement. Further, student-athlete 1 stated that the clothing came from the cousin's roommate, rather than directly from the agency employee.

The committee also did not make a finding that student-athlete 2 received clothing, as he consistently denied this, although his denials may have been the result of the institution failing to protect the integrity of the NCAA's investigation, as set forth earlier in this report and in Finding B-2. The committee believes that the institution's interviews with student-athlete 2 alerted him that the enforcement staff would be questioning him about benefits from agents, which resulted in a tainted interview. This, in turn, hindered the committee in its review of this case. (See Finding B-2.) In the final analysis, the committee concluded that there was sufficient evidence to find that student-athlete 1 had been provided clothing and that this provision of clothing violated legislation pertaining to Bylaw 12.1.2.1.6 **Preferential Treatment**.

At the request of the institution, student-athlete 1 returned the clothing to the athletics department. Some of the items still had the price tags attached. As a result, the institution acknowledged that student-athlete 1 had "received clothing on one occasion from someone, but the source (and) reasons for the provisions . . . is not clear." Part of the basis for the institution's position was that the institution's former general counsel interviewed student-athlete 1 a second time, on November 24, five days after he was interviewed by the enforcement staff. According to the institution, the reason for this second interview was that student-athlete 1's first interview "lacked clarity" as to the source of the clothing. In that second interview, student-athlete 1 changed what he had reported to the enforcement staff and claimed that the clothing items in question had been given to him by his cousin, rather than his cousin's roommate. The enforcement staff expressed several concerns about this second interview and suggested that the committee listen to a recording of the interview, which it did. After listening to the recording, the committee was struck by the perfunctory and limited nature of the interview. Rather than being probative, the interview appeared to be conducted to elicit the "right answer" from student-athlete 1 and to justify not withholding him from competition. Specifically, the committee noted that:

- Unlike his interview with the enforcement staff, student-athlete 1 was not informed prior to his interview of his obligation to provide truthful information as required under NCAA Bylaw 10.1.
- When, during his November 24 interview, student-athlete 1 changed the statement he made in his November 19 interview regarding the source of the clothing, there was no challenge or follow up by the general counsel as to why his

story had changed. Further, in light of this change in his testimony, the general counsel did not inform student-athlete 1 about the consequences of possibly providing false information to the NCAA during his previous interview on November 19.

- At the conclusion of the interview, the committee noted that the general counsel seemed to minimize the seriousness of the roommate's involvement in this violation by posing a leading question to student-athlete 1 with no follow-up;

GENERAL COUNSEL: Would you consider (the roommate) to be a friend?

STUDENT-ATHLETE 1: Yeah.

GENERAL COUNSEL: OK.

STUDENT-ATHLETE 1: Yeah.

GENERAL COUNSEL: Good enough. That was easy.

When interviewed by the enforcement staff, student-athlete 1 did not even know the roommate's last name, which would appear to contradict his answer to the general counsel's question that student-athlete 1 and his cousin's roommate were "friends."

The committee further noted that, also on November 24, the institution's compliance officer sent an email to the ACC office in which he informed the conference that student-athlete 1 had received clothing items from the cousin's roommate, not from the cousin. Also of note was that, on that same day, at 8:18 a.m., the NCAA's director for AGA activities sent an email to the compliance director informing him, among other things that the eligibility of student-athletes 1 and 2 could be in jeopardy. It was subsequent to the receipt of this email, but on the same day, that student-athlete 1 was re-interviewed by the institution's former general counsel. Based on the different information reported by student-athlete 1 in this second interview, the institution did not withhold him from competition. (See: Finding B-3.)

The committee was concerned with the former general counsel's approach to the NCAA's investigation. Rather than working with the enforcement staff in a cooperative manner, it appeared the general counsel adopted an obstructionist approach to the investigation. At one point, the former general counsel, in correspondence to the director of athletics, claimed that the AGA staff member conducting the investigation had been "demonstratively untruthful" to the institution on two occasions, an apparently unfounded accusation. In the committee's view, the former general counsel's behavior in this case was a disservice to the institution. The committee acknowledges that institutional

lawyers must navigate a difficult line between traditional client representation and the NCAA's imperatives of cooperation. Nevertheless, legal representation of an NCAA institution requires a full appreciation and understanding of the institution's obligations of membership and diligent assistance to the institution to comply with those requirements. In an October 11, 2010, letter to the director of enforcement supervising the case, the institution's president cited several mistakes that the institution had made in the conduct of the investigation, some of which was attributed to "bad advice" received from the former general counsel.

The former general counsel was not the only person at the institution who conveyed a combative attitude toward the investigation. The AGA investigator assigned to investigate the matter needed supervisory support at some interviews because the attitude of the institution's representatives was so confrontational.

In the end, the committee concluded that the information provided by student-athlete 1 in his first interview regarding the source of the clothing he received was the truthful version. The interview was conducted without preparation or prompting from the institution. The statement was made against his own interest and, therefore, it appeared highly unlikely that he would have made an incriminating statement unless it was the truth.

2. FAILURE TO COOPERATE. [NCAA Bylaws 19.01.3 and 32.1.4]

On November 16, 2009, the institution failed to protect the integrity of the investigation and violated the cooperative principle when, contrary to specific instructions from the NCAA enforcement staff, institution staff members spoke to student-athlete 2 and told him the issues and related matters that would be the subject of his upcoming November 18, 2009, interview with the NCAA.

Committee Rationale

The institution and the enforcement staff were in substantial agreement on the facts of this finding, but the institution did not agree that the facts constituted a violation of the cooperative principle. The committee finds that the violation occurred.

The requirement to cooperate is set forth in the NCAA bylaws at 19.01.3 - **Responsibility to Cooperate**, and 32.1.4 - **Cooperative Principle**. Institutions must aid the NCAA in the full development of facts and protect the integrity of the investigation by, among other things, complying with enforcement staff's limitations on information sharing. While full cooperation will inevitably vary from institution to institution, in assessing whether an institution has fulfilled its cooperation obligation, the committee

will consider whether the institution self reported the violations or whether they were discovered by others, whether it aided in the investigation or obstructed it, and whether it fulfilled all requests from the enforcement staff in a timely and civil manner or ignored or hindered staff in fulfilling those requests. Considering all those factors, the institution fell well short of its NCAA obligations.

On November 11, 2009, the AGA staff member assigned to this case telephoned the institution's compliance officer to report information the NCAA had received pertaining to student-athlete 2 and possible impermissible agent activity. The AGA staff member informed the compliance officer that student-athlete 2 would need to be interviewed and was expressly told not to discuss the information reported about student-athlete 2 with anyone except the institution's president and director of athletics. Despite these instructions, institution staff members later informed student-athlete 2 of the issues and related matters that would be discussed during his upcoming interview with the NCAA.¹

The institution acknowledged that, on November 16, student-athlete 2 was questioned about matters that would be discussed during his upcoming interview with the NCAA. Subsequent to receiving information from the NCAA's AGA staff, the compliance director informed the director of athletics. This was permissible. However, the director of athletics then made the unilateral decision that the head football coach should be apprised of this situation. He stated that sharing information with the head football coach was "a managerial decision" and that he did so in the interest of maintaining "communication and trust" between himself and the head football coach. The head football coach, in turn, discussed this matter, with student-athlete 2. Later, in a group setting, which included student-athlete 2, the director of athletics, the head football coach, a senior associate director of athletics and the compliance director, student-athlete 2 was questioned by the compliance director about the information he (the compliance director) had received from the enforcement staff about student-athlete 2's possible involvement in agent activity. This meeting occurred despite explicit instructions from the enforcement staff not to discuss the information with anyone except the president and the director of athletics. As a result, the institution failed to protect the integrity of the investigation and to fully cooperate.

At the hearing, the institution's outside consultant acknowledged that institution officials did not show good judgment in this situation:

¹ In his response to the notice of allegations, the compliance officer stated that he followed the instructions of the enforcement staff and only informed the director of athletics of the information he received from the NCAA regarding student-athlete 2's possible involvement in violations. He stated that he emphasized to the director of athletics that only he and the institution's president should be made aware of this information and that in particular, the head football coach should not be informed. Unfortunately, the director of athletics shared this information with the head football coach, who eventually questioned student-athlete 2 about it.

So, we are saying there was a poor decision by the (compliance director) and the (director of athletics), but the (head football coach), for whatever it is worth, was never told it is an institutional directive from the enforcement staff. So, we are saying there was a poor decision by (the compliance director) and (the director of athletics) . . .

The responsibility for institutions to cooperate is codified in Bylaws 19.01.3 and 32.1.4. Bylaw 19.01.3 **Responsibility to Cooperate** states:

All representatives of member institutions shall cooperate fully with the NCAA enforcement staff, Committee on Infractions, Infractions Appeals Committee and Board of Directors to further the objectives of the Association and its enforcement program. The enforcement policies and procedures are an essential part of the intercollegiate athletics program of each member institution and require full and complete disclosure by all institutional representatives of any relevant information requested by the NCAA enforcement staff, Committee on Infractions or Infractions Appeals Committee during the course of an inquiry.

Bylaw 32.1.4 **Cooperative Principle** states:

The cooperative principle imposes an affirmative obligation on each institution to assist the enforcement staff in developing full information to determine whether a possible violation of NCAA legislation has occurred and the details thereof. An important element of the cooperative principle requires that all individuals who are subject to NCAA rules protect the integrity of an investigation. A failure to do so may be a violation of the principles of ethical conduct. The enforcement staff will usually share information with the institution during an investigation; however, it is understood that the staff, to protect the integrity of the investigation, may not in all instances be able to share information with the institution.

The NCAA lacks subpoena power and other investigative tools and processes available to governmental investigating entities. Because of this, the successful adjudication of infractions cases is heavily dependent on the good faith efforts and, most importantly, the full and complete cooperation of member institutions and other involved parties under investigation by the enforcement staff. It is only through such cooperation that complete information can be gathered and analyzed by the enforcement staff, which allows the Committee on Infractions to reach just and fair conclusions regarding the facts of cases and to impose appropriate sanctions, if necessary. The bylaws are proposed and enacted by the NCAA members as mutual expectations for membership. They are a statement of the obligations that members have voluntarily undertaken to promote the core values of

the NCAA including ethical conduct, honesty and rules compliance upon which the NCAA was founded.

Regrettably, in this case, the institution failed to meet its obligation as outlined in the above bylaws. As discussed above, prior to his November 18 interview with the NCAA, student-athlete 2 was informed about specific information, which had been conveyed to the institution by the enforcement staff regarding student-athlete 2's possible involvement in impermissible agent activity. In his first interview with the NCAA, student-athlete 2 denied involvement with agents. On November 19, additional information was received by the enforcement staff indicating that both student-athletes 1 and 2 had received clothing from individuals associated with agents. Student-athlete 1 was immediately interviewed regarding this information and reported receiving clothes from his cousin's roommate. Notably, the institution did not have the opportunity to speak to student-athlete 1 about the provision of clothes before he was interviewed by the NCAA. However, as earlier described in this report, the institution did speak to him after his interview with the NCAA and, at that time, he changed his testimony from what he had told the enforcement staff regarding the source of the clothing he received.

At the hearing, the AGA staff member who conducted the investigation recounted the information he received from student-athletes 1 and 2 regarding communication they had with institution officials prior to their interviews with the NCAA:

If you will, during my interviews with (student-athletes 1 and 2), I did ask them what they knew and what were they told before the interviews. Both of them said they were pulled aside and were asked about (the former football student-athlete – "agency employee"). They were told that I would be asking about (the co-owners of the Atlanta-based sports agency), and that continued throughout the process. You know, after that initial interview with student-athlete 2 on November 18th, it was November 19th we received the additional information about clothes and what went into the interview with (student-athlete 1). (Student-athlete 1) was the first one confronted about clothes in that interview. As you know, he acknowledged receiving that. After that interview, we interviewed student-athlete 2 and asked (him) what knowledge he had coming into this second interview with him, and he stated that (the head football coach) pulled him aside about 20 minutes prior to the interview and said that (the NCAA) would be asking him about some clothes.

Although the institution's president did not believe that the institution's actions impeded the NCAA's investigation or rose to the level of a failure to cooperate, he was, nonetheless, concerned with the decision made to disobey the instructions from the

enforcement staff to share information only with the director of athletics and the president. On that issue, the president said the following at the hearing:

Quite frankly, when I heard about the decision (to inform the head coach), I was very concerned and asked (the director of athletics) to explain his rationale in telling (the head football coach), when the enforcement staff asked us to keep this limited. (The) director told me (about a) previous experience in a similar situation, and understanding the relationship that exists between the player and their coach. While I think (in) the end (he) could have and should have chosen a different course of action, the simple fact this is a managerial decision. I felt at that time that we should have taken a different approach. If (the director of athletics) felt it was important to tell (the head football coach), he should have contacted the NCAA staff and requested approval to do so . . .

The committee concluded that by "preemptively" speaking to student-athlete 2 about the information received by the NCAA, which was the subject of a later interview with student-athlete 2, the institution caused student-athlete 2's interview with the NCAA to be tainted. This, in turn, impeded the enforcement staff's investigation and hindered the committee in getting to the truth in this case.

3. FAILURE TO MEET THE CONDITIONS AND OBLIGATIONS OF MEMBERSHIP. [NCAA Constitution 3.2.4.3 and Bylaw 14.11.1]

In late 2009, the institution failed to meet the conditions and obligations of membership in that the institution did not withhold student-athlete 1 from competition when the institution was made aware of information which raised serious questions about whether he was involved in violations of NCAA legislation and thus should have been declared ineligible.

Committee Rationale

The institution and the enforcement staff were not in agreement on the facts of this finding. The committee finds that the violation occurred.

On November 24 and December 2, 2009, the institution was advised by the enforcement staff that student-athlete 1 may have jeopardized his eligibility. The institution subsequently allowed him to compete in the final three contests of its football team's 2009-10 season, which included the ACC Conference championship game and a post season Bowl game. As set forth earlier in this report, the committee could not find violations associated with student-athlete 2, as the institution's actions in alerting him of

information about which he would be questioned by the enforcement staff hindered the investigation and, in the end, prevented the committee from making conclusions regarding his culpability in violations and subsequent eligibility status. However the information reported by student-athlete 1 in his interview with the enforcement staff was clearly sufficient for the institution to withhold student-athlete 1 from competition. Moreover, as earlier stated, there was ample warning from the NCAA that student-athletes 1's eligibility was in jeopardy.

It appeared to the committee that the institution attempted to manipulate the information surrounding potential violations involving student-athlete 1 so there would be enough doubt about its validity to justify the decision not to declare him ineligible. Student-athlete 1 was a very talented member of the football team. He was an NFL prospect and a key contributor to his team's success at his position. It is understandable that the institution would not want to lose such a valuable football player for its very important end of the season games. To that end, in a November 24 email from the compliance director to the office of the ACC seeking guidance on whether there was a violation associated with the provision of clothing to student-athlete 1 (Finding B-1), the compliance director provided an incomplete account of the circumstances surrounding the provision of clothing to student athlete 1, and omitted key information and embellished other information, namely:

- The compliance director wrote that student-athlete 1 had an "established" relationship with his cousin's roommate, yet during student-athlete 1's November 19 interview with the NCAA, he could not provide the roommate's name and knew him only by his nickname.
- That student-athlete 1's cousin, by text message, had invited both student-athlete 1 and student-athlete 2 to his home because his (the cousin's) roommate had something for both young men.
- That the agency employee, a former teammate of student-athletes 1 and 2, who was also a friend of the roommate, was present.
- That student-athlete 1 had heard that the former football student-athlete / "agency employee" was working for an agent. Further, that student-athlete 1 speculated the clothing was given to influence student-athlete 1 to use the agency employee in obtaining an agent.
- That student-athlete 1 had the agency owner's name and phone number in his phone. (Note: This was revealed in student-athlete 1's November 19 interview.)

- That the institution had banned the former student athlete ("agency employee") from using weight training facilities and complimentary ticket admissions on the date of student athlete 1's interview with the NCAA.
- That NCAA investigators had been to campus to investigate potential agent involvement.
- Most importantly, that the institution had received an email from the NCAA's director of agents, gambling and amateurism that same day in which the AGA director warned the institution that both student-athletes 1 and 2 may have jeopardized their eligibility.

Based on the information submitted by the compliance director, the ACC office ruled that there was "(insufficient) information to warrant a violation or rendering the student-athlete ineligible at this time. However, we would encourage that you continue the investigation, including speaking with the roommate and determining if he has any involvement with agents, boosters or others." As the investigation revealed, the roommate had ties to the agency employee, who was employed by an Atlanta-based sports agency.

Despite the institution's conference office having identified the need to determine if there was any involvement with agents, and the institution having been made aware of possible agent activity during the investigation, the compliance director failed to provide this information to the ACC office.

The committee noted that, not only did student-athlete 1 report information regarding the former football student-athlete ("agency employee") being associated with an agent, but so did another football student-athlete and, most significantly, an assistant football coach. In fact, the assistant coach reported he heard that the former student-athlete was working for a specific individual who owned an Atlanta-based sports agency.² Despite being aware of information connecting the agent employee with the Atlanta-based sports agency, the institution did not attempt to follow up on this information. Nevertheless, the institution apparently thought this information was sufficiently reliable to take action against the former football student-athlete (the "agency employee"). Specifically, on November 19, 2009, the date of the first interview with student athlete 1, the university banned the former student-athlete (agency employee) from the university's training facilities and his access to complimentary tickets to the institution's athletics contests.

² This "rumor" was later confirmed as fact in an email from the NFLPA to the AGA staff member assigned to this case.

At the hearing, the compliance director was questioned about the circumstances surrounding the questioning of student-athlete 1 and communication with the conference office:

COMMITTEE MEMBER: So, in that interview, (student-athlete 1) said that he had received the clothes and, in fact, he brought them back to your office?

COMPLIANCE DIRECTOR: Yes, ma'am.

COMMITTEE MEMBER: So, did you not think at least there was a preferential treatment violation?

COMPLIANCE DIRECTOR: Yes, ma'am, I did believe that.

COMMITTEE MEMBER: Then why wasn't he declared ineligible and reinstated?

COMPLIANCE DIRECTOR: Because (the general counsel) and I felt that after (student-athlete 2's) interview and (student-athlete 1's) interview, there was confusion exactly where the clothes came from so, therefore, we felt that if the clothes came from (the cousin's) roommate, then, yes, it would have been a preferential treatment. If the clothes came from (the cousin), we believed that because of the cousin, the blood relationship, that was not preferential treatment. They had an established relation of doing that. That is why I followed up at the time with the email to the ACC, and then (the general counsel) followed up with the interview with (student-athlete 1).

As previously set forth, the "confusion" regarding the source of the clothing was likely attributable to the institution speaking to student-athlete 2 prior to his interview with the enforcement staff and later re-interviewing student-athlete 1 at which time he altered the information that he had earlier reported to the enforcement staff.

At the hearing the institution's president acknowledged the irony of the institution's reactions to the investigation and further candidly acknowledged that the institution likely made mistakes in this case:

I believe that we could have done things better. If I had to do it over, we might have done things differently. We probably would have declared (student-athlete 2) and various colleagues ineligible, and it appears they would quickly be reinstated. We might have been more aggressive in our own investigation and not rely on advice of our chief legal counsel, who was not experienced in these issues.

4. IMPERMISSIBLE TRYOUTS. [NCAA Bylaws 13.11.1 and 13.11.3.2]

During May 2009 and May 2010, staff members of the institution's athletics department were involved in the conduct, administration and evaluation of physical activity involving prospective student-athletes that occurred in an institutional facility in violation of NCAA tryout legislation. Specifically:

- a. During May 2009 and May 2010, a then men's basketball graduate assistant ("former graduate assistant") acted as an event operator and gym manager for a nonscholastic basketball tournament ("the tournament") conducted at the institution's campus recreation center and which involved numerous prospective student-athletes.
- b. During May 2010, an academic advisor for men's basketball ("academic advisor") observed portions of the 2010 Wallace Prather Jr. Memorial Classic, evaluated prospects and reported his observations to the institution's men's basketball coaching staff via email.

Committee Rationale

The enforcement staff and institution were in substantial agreement as to the facts of the finding and that the violation occurred, but the institution believed that the finding should be classified as secondary while the enforcement staff believed that the finding was a major violation. The committee finds that the violation occurred and that it is major.

As background, the tournament in question was a nonscholastic event operated by a local team and had been held on the institution's campus in the Recreation Center for a 10-year period starting in 2000. During the 2009 and 2010 tournaments, approximately 30 teams attended, with the majority of the teams composed of young men in the age range of 14 to 17. On October 29, 2009, the NCAA Division I Board of Directors adopted a staggered implementation plan to address recruiting issues in Division I men's basketball. Included in these actions was an interpretation of NCAA Bylaws 13.15.1 and 13.11.1 relating to the conduct of nonscholastic events involving men's basketball prospective student-athletes conducted on Division I campuses, such as in this case. The interpretation, effective October 29, 2009, specified that a violation would occur if a men's basketball staff member or a representative of the institution's athletics interests was involved in any way in the operation or planning of a men's basketball nonscholastic event on its campus. Violations of the interpretations adopted by the Board of Directors in these actions were and are automatic violations of NCAA recruiting rules.

Concerning Finding B-4-a, the institution acknowledged that contrary to Bylaw 13.11.3.2, the former graduate assistant attended and assisted with the administration of

the 2009 and 2010 tournament. The former graduate assistant was a graduate student at Georgia Tech from August 2008 to May 2010. In 2009, he served as the "gym coordinator" on behalf of the institution. The former graduate assistant said that, in 2009 he was unaware that as a graduate assistant, he was not permitted to assist in the operation of the event. Included in the tasks he performed during both 2009 and 2010 was the creation of a welcome packet for the participants. This welcome packet included directions to the institution's campus, a campus map, a listing of local restaurants and the tournament schedule. Also contained in the packet was a letter printed on the institution's men's basketball letterhead addressed to participating teams' coaches welcoming them to the institution's campus and signed by the then head men's basketball coach. On the same page, immediately below the letter was a section titled, "Georgia Tech Staff Contact Information." Listed were the telephone numbers for several men's basketball staff members.

The former graduate assistant stated that his role changed for the 2010 event. He was told to attend the event to assist with any problems, but that an individual employed by the AAU team was serving as the event coordinator. The former graduate assistant recalled being informed in February 2010 by the compliance staff that no member of the men's basketball staff could have any involvement with a non-scholastic event on campus. The former graduate assistant stated that he believed the new interpretation did not apply to him since he had completed his exams the week prior to the event. In his view, he no longer was a graduate assistant. However, he never checked with compliance to confirm his status.

The head men's basketball coach and the director of basketball operations were both aware that the former graduate assistant was present at the event, although the former graduate assistant contended that he did not evaluate prospects at the tournament nor did he report any information to the coaching staff. Contrary to the former graduate assistant's claim, during the 2010 tournament, members of the NCAA's basketball focus group staff observed the former graduate assistant taking notes on paper titled, "Georgia Tech Basketball Camp." These notes included the names of certain prospective student-athletes, the prospects' nonscholastic team and the coach of those nonscholastic teams. Next to the prospective student-athletes' name, the former graduate assistant also made various notes including skill level, year of high school graduation and the high school the prospective student-athlete attended. The former graduate assistant described conversations with two Georgia Tech assistant men's basketball coaches during the tournament. Although the former graduate assistant denied that he discussed specific prospective student-athletes with one of the assistant coaches, he did tell one of the assistant coaches which teams won certain games and which teams qualified for the championship game. The committee noted that, during the tournament, there were 28 cell phone contacts between the former graduate assistant and the two assistant coaches mentioned previously. In light of the notes taken on prospects by the former graduate

assistant, combined with his frequent contact with members of the men's basketball coaching staff, the committee concluded that the former graduate assistant did, in fact, actively participate in this tournament and evaluate prospects in violation of recruiting legislation.

Concerning Finding B-4-b, the institution acknowledged that contrary to Bylaw 13.11.1, the academic advisor observed portions of the tournament and reported his observations to members of the coaching staff via email. Although the academic advisor's attendance at the event was not contrary to NCAA legislation, a violation occurred when he sent an unsolicited email to members of the coaching staff that included his thoughts regarding five prospects who participated in the event. His stated reason for sending the email to the coaching staff was that it was an attempt to prove his value as a future coach at the Division I level.

The committee concluded that these were major violations. They were not isolated because the violations occurred over two academic years and involved members of the men's basketball staff. They were also not inadvertent, as the institution and head men's basketball coach were aware of its staff members' involvement in the tournament, which had occurred on the campus for a period of 10 years. Further, the institution and the head men's basketball coach had adequate notice that involvement in the event was in direct violation of the Board of Director's October 29, 2009, actions. The violations provided the men's basketball program more than a minimal recruiting advantage. Members of the men's basketball staff were not only present during the nonscholastic event but conducted evaluations of the prospective student-athletes participating in the event outside of a designated men's basketball evaluation period. The recruiting advantage obtained by the institution is also reflected in the fact that four prospects from the AAU team sponsoring the tournament ultimately became men's basketball student-athletes at Georgia Tech.

C. SECONDARY VIOLATIONS:

1. During the 2009-10 season, members of the men's basketball staff provided 10 impermissible discretionary tickets to men's basketball contests in a manner contrary to NCAA legislation. Specifically:
 - a. On six occasions between December 20, 2009, and February 16, 2010, members of the men's basketball staff exceeded the maximum provision of two tickets to individuals responsible for the teaching or directing of an activity in which a prospective student-athlete was involved (10 total tickets).

2. On June 13, 2010, a football student-athlete was provided admission to the Georgia Aquarium, a meal and a bag of nonperishable items by two representatives of the institution's athletics interests (\$74).
3. A men's basketball student-athlete was provided two additional impermissible discretionary tickets to a November 14, 2009, home intercollegiate athletics event in excess of the four permissible complimentary admissions.

D. PENALTIES.

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved several major violations of NCAA legislation involving Georgia Tech's two flagship sports; football and men's basketball. In determining the appropriate penalties to impose, the committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] The committee also took into account the fact that the institution is considered a repeat violator in accordance with Bylaw 19.5.3.

Fortunately, instances in which member institutions do not cooperate with the NCAA enforcement program are rare. Regrettably, in this case, Georgia Tech officials disobeyed explicit instructions from the enforcement staff to protect the integrity of the investigation. The institution compromised the investigation when it shared with a student-athlete (student-athlete 2) information relating to potential violations about which he was to be questioned by the enforcement staff in a future interview (Finding B-2). The institution later compounded the problem by allowing a student-athlete to compete despite the fact that his eligibility was in question (Finding B-3). As a result of these extremely serious violations, stringent penalties are warranted, including a lengthy period of probation, a substantial fine and a vacation of records. In imposing a fine, the committee considered the serious nature of the violations, the institutional responsibility for those violations, and the impact of the fine on the institution, rather than a particular team or program. Imposition of fines are within the committee's discretion under Bylaw 19.5.2.2-(f) and this case is appropriate for imposition of that penalty.

The committee imposes the following penalties. The institution's self-imposed penalties are noted.

1. Public reprimand and censure.
2. Four years of probation from July 14, 2011, through July 13, 2015.

3. A financial penalty in the amount of \$100,000. Payment of the fine shall be made at the time the institution's preliminary compliance report is due (August 29, 2011).

Men's Basketball Penalties

4. The number of "recruiting-person" days will be reduced by two during the summer evaluation period in 2011. (institution imposed)
5. No complimentary tickets will be provided to all high school coaches and individuals associated with prospective student-athletes for the first home game of the 2011-12 basketball season. (institution imposed)
6. A limit to 10 in the number of official visits for men's basketball for the 2011-12 and 2012-13 academic years.

Football Penalties

7. As set forth in Finding B-3, on November 24 and December 2, 2009, the institution was advised by the enforcement staff that both student-athletes 1 and 2 may have jeopardized their eligibility. The institution subsequently allowed the two student-athletes to compete in the final three contests of its football team's 2009-10 season. As previously established, the committee could not find violations associated with student-athlete 2, as the institution's actions in alerting him of information about which he would be questioned by the enforcement staff hindered the investigation and, in the end, prevented the committee from making conclusions regarding his culpability in violations and subsequent eligibility status. Nevertheless, the institution should have withheld student-athlete 1 from competition until such time as his eligibility status could be resolved. As a result, and pursuant to NCAA Bylaws 19.5.2.2-(e)-(2) and 31.2.2.3-(b), the institution will vacate all contests won by the institution's football team after November 24, 2009, the day that it was alerted by the NCAA that student-athletes 1's eligibility was in question, and ending with the institution's bowl game, which concluded the 2009 season. [Note: The only contest won by the institution's football team during this time period was the 2009 ACC championship game.] The individual record of student-athlete 1 during this time frame shall be vacated as well. Further, the institution's records regarding football, as well as the record of the head football coach, will reflect the vacated records and will be recorded in all publications in which football records for the 2009 season are reported, including, but not limited to, institution media guides, recruiting material, electronic and digital media plus institution and NCAA archives. Any institution, which may

subsequently hire the head football coach, shall similarly reflect the vacated wins in his career records documented in media guides and other publications cited above. The head football coach may not count the vacated win to attain specific honors or victory "milestones" such as 100th, or 200th career victories. Any public references to the vacated 2009 ACC football championship shall be removed, including from athletics department stationery, banners, trophies and awards displayed in public areas and any other form in which they may appear.

Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publications and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics, to identify the specific student-athlete(s) and contest(s) impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report, detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than forty-five (45) days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process.

Other Penalties

8. The director of athletics, the head football coach, the compliance director and the academic advisor shall attend an NCAA Regional Rules Seminar in 2012. [Note: the compliance coordinator has since left the employ of the institution and will be independently notified of this requirement.]
9. During this period of probation, the institution shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;
 - b. Submit a preliminary report to the office of the Committees on Infractions by September 1, 2011, setting forth a schedule for establishing this compliance and educational program; and
 - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by April 15 of

each year during the probationary period. Particular emphasis should be placed on policies and procedures relating to agents and agent activity in addition to policies and procedures pertaining to the withholding of student-athletes from competition when potential violations are discovered. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

10. The institution shall:
 - a. Inform prospective student-athletes in football and men's basketball that the institution is on probation for four years and the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospective student-athlete signs a National Letter of Intent.
 - b. Publicize the information annually in the football and men's basketball media guides (or web posting), as well as in a general institution alumni publication to be chosen by the institution with the assent of the office of the Committees on Infractions. A copy of the media guides, alumni publication, and information included in recruiting material shall be included in the compliance reports to be submitted annually to the Committees on Infractions.
11. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
12. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

As required by NCAA legislation for any institution involved in a major infractions case, Georgia Institute of Technology shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, July 14, 2011.

Should Georgia Institute of Technology or an involved individual appeal either the findings of violations or penalties in this case to the NCAA Infractions Appeals

Committee, the Committee on Infractions will submit a response to the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

NCAA COMMITTEE ON INFRACTIONS

Britton Banowsky

Melissa (Missy) Conboy

Roscoe C. Howard Jr.

Eleanor W. Myers

James O'Fallon

Gregory Sankey

Dennis E. Thomas, chair

Thomas E. Yeager

APPENDIX ONE

CASE CHRONOLOGY

2008

August 26 – Institution hires former men's basketball graduate assistant.

2009

May 8 – 10 – The nonscholastic basketball tournament is held at the institution's on-campus recreation facility.

October 29 – NCAA Division I Board of Directors adopts a staggered implementation plan to address recruiting issues in Division I men's basketball, including the conduct of nonscholastic basketball events on member institutions' campuses.

November 11 – Agent, gambling and amateurism (AGA) staff advised institution that information had been developed regarding possible violations of NCAA legislation involving football student-athletes and instructed that only the director of athletics and president be advised.

November 19 – AGA staff and enforcement staff conduct on-campus interviews.

December 2 – Enforcement staff members meet with ACC office to discuss the Board of Directors' actions.

December 16 – Enforcement staff, AGA and institution conduct on-campus interviews.

December 20, 2009, through February 16, 2010 – The institution provides impermissible complimentary admissions to home contests to individuals associated with prospective student-athletes.

2010

January 25 – Institution self-reports violations of complimentary admissions legislation in men's basketball.

April 8 – The enforcement staff conducts on-campus interviews of the then head men's basketball coach; an assistant men's basketball coach; the men's basketball assistant coordinator; the director of ticket operations; the assistant director of ticket operations; and the assistant director of athletics for compliance.

May 7-9 – The nonscholastic basketball tournament is held on the institution's campus.

May 10 – The enforcement staff presents October 29, 2009, Board of Directors' actions to ACC head men's basketball coaches.

May 25 – NCAA enforcement staff and basketball focus group interview the academic advisor to men's basketball, and other men's basketball staff on campus.

May 25 – The enforcement staff conducts on-campus interviews of the then head men's basketball coach, the assistant director of athletics for compliance, a former men's basketball graduate assistant; the academic advisor for men's basketball; and the assistant director of compliance.

September 13 – Notice of inquiry sent to the institution's president.

December 11 – Notice of allegations sent to the institution's president.

2011

March 17 – Response to the notice of allegations received from the institution.

March 22 – Prehearing conference with the institution.

March 24 – Prehearing conference with the assistant director of athletics for compliance.

April 15 – The institution appeared before the NCAA Division I Committee on Infractions.

July 14 – Infractions Report No. 345 released.

APPENDIX TWO

CORRECTIVE ACTIONS

Football:

- The institution has prohibited two former football student-athletes, one of whom was "the agency employee," from using any athletics department facilities and receiving complimentary tickets. This action was effective for an indefinite period of time beginning on November 19, 2009.
- Will revise the institution's policy on the review of information concerning potential violations to ensure that the roles of the faculty athletics representative and internal and external legal counsel are more clearly defined.
- Will utilize a committee similar to that established as part of this inquiry to be involved in those situations when potential significant major violations are being reviewed by the institution.
- Reinforced to all appropriate athletics department staff members the necessity for the proper forwarding of information concerning potential violations, and
- Conducted a rules education session with representatives of the institution's athletics interests and a football student-athlete regarding extra benefits.

Men's Basketball:

- The institution was prepared to suspend the former head men's basketball coach for the first contest of the 2011-12 men's basketball season, but his contract was not renewed following the conclusion of the 2010-11 season.
- The institution was prepared to require the then head men's basketball coach and two assistant men's basketball coaches to attend the 2011 NCAA Regional Rules Seminar, but as earlier set forth, these coaches were not retained following the conclusion of the 2010-11 season.
- Provided a men's basketball student-athlete rules education regarding the complimentary ticket process for student-athletes, and he was required to make a donation to the charity of his choice for the cost of \$40, the value of two tickets.
- Reviewed Bylaws 16.2.1.1 and 16.2.1.12 with men's basketball administrative coordinator and the director of operations for men's basketball.
- Will prohibit the nonscholastic basketball tournament from being held at any of the institution's campus facilities.
- Discussed applicable legislation and interpretations with the entire academic services staff regarding noncoaching staff members.
- Discussed applicable legislation and interpretations with the entire men's basketball coaching staff on Friday, February 18, 2011.

- Reviewed the complimentary ticket procedures with the men's basketball staff in February and October 2010.
- Increase the number of required educational sessions with the men's basketball coaching staff to ensure that one such session occurs monthly during each academic year.
- Issue letter of reprimand to the former head men's basketball coach, the academic advisor to men's basketball and to an assistant men's basketball coach for their involvement in Finding B-4.
- Suspend the academic advisor to men's basketball for one day without pay for his actions in Finding B-4.
- Issue letters of reprimand to two assistant men's basketball coaches and the head men's basketball coach (now former head coach) for their involvement in violations of NCAA legislation.
- Issued a letter of admonishment to the men's basketball administrative coordinator and conducted rules education with her.
- Declared a football student-athlete ineligible until \$74 dollars was paid to a charity of his choice. The student-athlete has donated the funds and has since been reinstated.
- Issued a cease and desist letter from the director of athletics. to a representative of the institution's athletics interest.