

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

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December 2, 1991

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Beckett & Crewell
313 N. Mattis
Champaign, Illinois 61826-6479

Mr. Mark C. Goldenberg
Bono, Goldenberg, Hopkins
& Bilbrey, P.C.
Granite City, Illinois 62040

Dear Messrs. Beckett and Goldenberg:

I have attempted to evaluate the allegations you have submitted in regard to the University of Iowa athletics program. I will respond in the order your allegations were presented.

Allegation No. 1

Response:

NCAA ethical conduct legislation applies to alleged conduct that is related to acts that otherwise violate NCAA rules. For example, the NCAA Committee on Infractions often has found that involvement in fundamental violations of NCAA rules (e.g., the gift of money or like items to student-athletes, which are prohibited by NCAA Bylaw 16) demonstrates that the individual also acted in an unethical manner.

However, the NCAA membership has retained autonomy over conduct of institutional employees that is unrelated to a violation of an NCAA rule. For example, Woody Hayes' celebrated "cuffing" of a Clemson football student-athlete on the sidelines, or complaints that a coach removed his team from the floor in a basketball game would not be subject to scrutiny by the NCAA. Similarly, violations of state or Federal law that many assume would affect a student-athlete's eligibility (e.g., rape, robbery, traffic tickets, etc.) would be outside the jurisdiction of the NCAA to review. Accordingly, tape recording telephone calls would not be subject to review by the NCAA.

Please note that once we became aware of tape recordings, the NCAA did attempt to evaluate whether the recordings were legal, and whether the use of such recordings by a nonstate actor third party would be improper. In part, because the coach was a consenting party to the recordings, it appeared that his actions to record conversations were legal, and that

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use of the information contained on the tape recordings by the NCAA appeared appropriate.

You are correct that the NCAA focused on whether the information contained in the tape recordings was correct, rather than on the subject of authenticity. The NCAA did not conclude that there was reasonable cause to suspect that the recordings were not authentic. In addition, although I am not sure this is the correct place to include the following comment, I am reminded that you submitted a written statement to the Kansas legislature stating that the tape recordings in question were played during the Illinois infractions hearing over the objections of your clients. Please note that Deon Thomas' response on Page No. 27 requested that the recordings be played for the Committee on Infractions, and that the tape recordings of the Committee on Infractions hearing itself will reflect that lawyers for all parties present (the university, Jimmy Collins and Deon Thomas) agreed that the recordings should be played for the committee's benefit.

Allegation No. 2

Response:

This matter was reviewed by the NCAA staff during the fall of 1990. The University of Iowa concluded that the alleged violation did not occur. It was the university's position that Pearl did not take any video cassette with him on the trip to the Netherlands, and could not have provided such a cassette to prospective student-athlete Deon Thomas at that time. The university did conclude that Pearl played an audio cassette for Thomas and other individuals in Amsterdam, but that the cassette was not provided to the prospect.

It also was reported that a video highlight tape of Iowa basketball was provided to coach Bob Hambric at Simeon High School on September 19, 1988. It was reported that the original tape was retrieved from Hambric on September 28, 1988, after providing Hambric sufficient time to show the tape to prospective student-athletes. The University of Iowa submitted that the tape in the possession of the NCAA may well be a copy of the tape that was left for a period of time with Hambric.

The information available from the individuals directly involved, therefore, is in conflict. Thomas and Hambric's

credibility is subject to challenge, which would appear to undermine any effort to further pursue this allegation.

Allegation No. 3

Response:

Deon Thomas first reported that he received a \$100 bill during a July 1989 interview with an NCAA enforcement representative. However, he had failed to report that information during a June interview when questioned specifically about his recruitment by the University of Iowa and University of Minnesota. In June, Thomas reported that he was not offered or provided anything during his recruitment by coaches from Iowa or Minnesota.

In July, Thomas provided details regarding the receipt of \$100 in a gymnasium at the time of one of his two final games played in Amsterdam, and that a woman named Bianca was present. In December 1989, Thomas repeated the story but recalled that the transaction took place prior to a game with a European semipro team, and that he purchased a blue Golden Cup warmup suit with the money. He also reported that Avery Stallings was present when he purchased the jogging suit. It also should be noted that in July 1989, Thomas reported that soon after he received the \$100 gift, he told Stallings. Thomas also explained that he neglected to provide information concerning the \$100 in his June interview because he did not want to get Pearl in trouble.

Stallings was interviewed in August 1989. During the interview, he denied receiving automobile transportation from any college basketball coach; he denied receiving automobile transportation from Pearl; he denied that he was taken to a McDonald's restaurant in Amsterdam by a college basketball coach; he denied that he was taken to McDonald's by Pearl; he denied that he was accompanied by Thomas and another Simeon basketball student-athlete, Eric Askew, to a McDonald's restaurant in Amsterdam; he denied being taken by Pearl, along with Thomas and Askew, to a McDonald's restaurant; he denied that he ever heard or was told by Thomas that Pearl had provided Thomas \$100 cash; he denied being told by Thomas that Pearl had given him \$100 cash; he denied witnessing Pearl providing Thomas cash; he agreed that he knew a woman by the name of Bianca; he denied that Bianca ever told him

that Pearl gave Thomas \$100, and he denied that he learned from anyone that Pearl had given Thomas \$100.

In an October 1989 interview with Stallings, he reported that Thomas, a "coach", he and another person (Johnson or Smith) traveled in a rental car to the "red-light district" in a gray rental car. Stallings reported that after visiting the red-light district, the group arrived at a McDonald's, where everyone ordered food and paid individually. Stallings described the coach as being tall with dark hair, wearing a blue jogging suit with a red "Nike." He could not remember if the coach was old or young, or black or white, but he believed that the coach was employed by the University of Iowa. Stallings was questioned about the conflicts in his prior statements. He reported that he did not recall being asked the specific questions that appeared to conflict with his October account. He stated that he did not know the coach's name and said again that he was unaware of Thomas being provided money.

In February 1990, Stallings was interviewed again. On this occasion, he recalled that the person who provided transportation to the red-light district was Bruce Pearl, an Iowa men's assistant basketball coach. He was referred to his previous description of the individual who provided transportation and Stallings agreed that the statement was an accurate reflection of how he had described Pearl. Stallings reported that he remembered that Pearl paid for the meals that everyone ate at the McDonald's restaurant while on the trip to the red-light district. When asked about conflicts in his account, Stallings reported that he thought he had reported in October that someone purchased food for him in Amsterdam. He also reported that while in Amsterdam, he recalled that Pearl had provided Thomas some money, and that he thought it was \$100. He did not recall the details of the transaction, but Thomas had reported this information to him.

In July 1990, Bianca Pijl was interviewed. She reported that she spent an extensive period of time with Thomas in the Netherlands, but she did not observe Bruce Pearl giving money to Thomas or any other Simeon High School men's basketball student-athlete. She did recall, however, that shortly after Thomas' arrival in the Netherlands, she directed him and several teammates to a local bank to change American dollars to guilders. She reported that Thomas changed a \$100 bill to 200 guilders, and that he had represented the money as his

own. She recalled that the money was used to purchase a sweat suit at Runners, located in Groningen, for approximately 150-160 guilders (approximately \$80 American dollars). She also reported, however, that the sweat suit was purchased prior to the time that Pearl arrived in the country. She reported that during the team's stay in Amsterdam, she arranged a tour of the red-light district at the request of several team members. She stated that this tour occurred prior to Pearl's arrival in the country, and that no high school coaches were involved in the tour. She did not recall Pearl providing transportation to Thomas or any of his teammates. Bianca was interviewed again later in July, along with her parents. She reconfirmed her previous statements.

In addition, John McClendon, a representative of Converse Shoe Company, also was present in the Netherlands and was interviewed in April and June 1990. McClendon stated that he was involved in transportation arrangements for the high school athletes, and was unaware of transportation involving Pearl.

Assistant basketball coach Bill Alderson (Simeon High School) was interviewed in April 1990. He reported that Pearl took Thomas shopping on one occasion, and that he had been told of this trip by Jackie Crawford and Eric Askew. He reported that Pearl purchased a sweat suit for Thomas, according to Crawford and Askew. He also believed that Pearl had taken Thomas and some teammates to a restaurant/lounge, but could not remember who told him of that incident.

In October 1989, Askew was interviewed and he reported that he traveled to the red-light district in Amsterdam with his high school coaches, and that no coach from an American university or college accompanied him. He recalled that the entire team traveled to the red-light district. He stated that he did not meet Pearl during Pearl's trip to the Netherlands, but that he saw him. Askew reported that he did not travel with Pearl to the red-light district in Amsterdam or in Groningen, and did not accompany Pearl to a McDonald's restaurant. Askew reported that he went to a McDonald's restaurant on two occasions during the trip with other team members. He reported that he did not see Pearl provide cash to Thomas, and was unaware of any automobile rides involving Pearl. He reported that he has not heard from any source that Pearl provided money to Thomas.

Bruce Pearl was interviewed concerning these matters in August 1989. Pearl denied the various alleged incidents, although Pearl acknowledged that an audio tape recording was played for, but not provided to, Thomas. He stated that he took approximately four Iowa T-shirts to the Netherlands for anticipated gift exchanges with appropriate individuals. He reportedly gave one to the area director of the Basketball Federation (who Pearl stated, by coincidence, turned out to be Thomas' host family), the director's wife, a basketball shoe representative and a pub owner. Pearl also reported that he provided some pens to various individuals. In return, he received pins, pennants and buttons, as would be the custom for foreign visitors in athletics. Through correspondence exchanged with this office on these subjects in 1990, the University of Iowa maintained that such provisions would not violate NCAA recruiting legislation.

In summary, the Thomas allegation in regard to the \$100 cash is in direct conflict with information reported by the individual he claims was present, Bianca Pijl. Further, she reported that the sweat suit was purchased prior to Pearl's arrival in the Netherlands. Thomas also failed to provide information concerning the \$100 cash when initially interviewed by the NCAA. Although reluctance in providing information initially is not unexpected in our experience, it must be remembered that Thomas also has acknowledged that he provided false information to the NCAA on other subjects. Thomas was not considered to be a credible source of information by the enforcement staff in the University of Illinois infractions case. In regard to the \$100 and less serious allegations concerning transportation and meals, information reported by Askew does not support your case. Stallings does not appear to be credible due to his inconsistent statements described elsewhere in this letter. In fact, Stallings' changes in statements are vulnerable to the argument that his accounts have changed in very specific ways over time that may well be intended to support a false story being advanced by Thomas.

There is no information that I can locate in regard to Nike stockings. In light of the above, it does not appear to be reasonable to attempt to advance this allegation, and the available information appears to have a negative impact on the likelihood of success on the general claim that violations occurred.

Allegation No. 4

Response:

The issues, as I understand it, appear to be: (1) Renaldo Kyles was acting as a representative of the University of Iowa's athletics interests, thereby violating NCAA legislation through his contact with Thomas; (2) Pearl made arrangements to leave tickets at the Iowa vs. Northwestern basketball game in February 1989 that were paid for and picked up by Kyles, and (3) Pearl and Kyles arranged for Kyles to accompany Thomas on his official paid visit to the university, and expenses for Kyles during this visit were paid by the university.

In the late summer of 1990, the University of Iowa was requested to address the issue of tickets to the Northwestern basketball game. As I understand it, Kyles used a family automobile to transport Thomas to the game. It was not a "sold out" game and tickets were available for purchase. Assistance had been requested from Northwestern to ensure that tickets would be made available for Thomas to purchase and to sit near the University of Iowa section. However, Northwestern University reported that the group did not pick up the tickets in question, and that they may have arrived after ticket collection had ceased, thereby being permitted to enter the basketball facility without charge.

The University of Iowa also denied that Kyles be considered a representative of the university's athletics interests, although Pearl apparently did use Kyles to obtain information concerning Thomas. The university denied providing Kyles any benefit. It was reported that Kyles traveled by bus to the University of Iowa at the expense of Kyles' father. The university determined that neither lodging arrangements nor meals were provided by the university, although there is conflicting information concerning lodging (e.g., with Thomas' cousin, friends of Kyles' brother, members of basketball team, etc.).

In an interview with Kyles' father, Mr. Kyles reported that he purchased a bus ticket for his son and provided spending money at Iowa. He stated that he transported Kyles to the bus station and picked him up upon return. He did not believe that his son had been provided any money or other benefits by Pearl on any occasion.

In a June 1989 interview with Renaldo Kyles, the young man described himself as a good friend of Deon Thomas and Avery Stallings. Both Kyles and Pearl reported that Kyles wanted Thomas to attend Iowa, and apparently, Kyles' older brother attended Iowa. Pearl reported that he asked Kyles to monitor improper offers made to Thomas by Illinois, but that he did not intend to use the young man as a representative of Iowa's athletics interests. The record of contacts between the two intensified after Thomas committed to Illinois. Deon Thomas' written response to the NCAA in the University of Illinois infractions case states that it is obvious that Kyles' acted as a street agent for Bruce Pearl. In the University of Illinois' response, the university emphasized only that the nature of the available information is the same kind of rumor and "street talk" that the University of Illinois had been subject to.

Although I agree that an argument can be made that taking advantage of Kyles' interest in the University of Iowa could have placed him in the category of a representative of the university's athletics interests, that position is denied by the principals and the University of Iowa. I do not see a likelihood that the issue can be resolved, and I cannot conclude that there is a reasonable expectation of a finding if we were to present the case to the Committee on Infractions. If a finding were possible on the representative issue, the parties deny receipt of benefits. Recruiting contact violations would ensue, however.

Allegation No. 5

Response:

In support of this allegation, it is my understanding that you submit that Pearl's January 19, 1989, letter to Kyles; which you claim identified Kyles as a potential recruit and documented improper in-person contact at the young man's high school. Further, you note that Kyles' trip to the University of Iowa described in Allegation No. 4, therefore, would be considered an official paid visit. I believe that the issue of an official paid visit is moot if Kyles' and the University of Iowa's accounts that no meal or benefit was provided as described in my response to Allegation No. 4. I have read the January 19 letter and do not understand your point in regard to making Kyles a prospect. In fact, as I understand it, Kyles was not a member of the basketball team

at Simeon High School and would not be considered a basketball prospect. In my opinion, the letter offers a better argument to support that Kyles was an athletics representative and that Pearl was interested in taking advantage of Kyles' relationship with Thomas. I do not believe Allegation No. 5 has merit.

Allegation No. 6

Response:

Employment of the mother of a prospective student-athlete by a representative of the university's athletics interests would be improper if such employment occurred as an inducement to encourage the enrollment of a prospect. The available information from the principals involved and various documents do not support that David "Deacon" Jones employed Joanna Johnson in an effort to recruit her son, Deon Thomas. It appears that Pearl, at some point after the employment of Johnson, became aware that her employer (Jones) was an alumnus of the University of Iowa. Johnson actually became employed part time during the period she attended Harold Washington College, and it was through Johnson that Jones became aware of Thomas and his basketball abilities. You also imply that Johnson lost her job because the young man decided to attend the University of Illinois. Jones reported that Johnson simply stopped coming to work and that she also dropped out of school. Apparently, she came to the office on one occasion with a limp after reporting that she had been involved in an automobile accident. Jones has not seen her since that time and does not know how to get in touch with her.

Ms. Burch reported to the NCAA in June 1989 that after a basketball game, she, Thomas' mother, Pearl and a white man who was a supporter of the University of Iowa went to a bar for some drinks. Burch claimed that she paid for her drinks, but did not know whether Pearl purchased drinks for Thomas' mother. Johnson has refused all of our efforts to interview her. I am not aware of other information on this allegation, but believe it belongs in the category of "fishing."

Allegation No. 7

Response:

It appears undisputed that Pearl had contact with Thomas during the trip to Amsterdam; however, it is in dispute that such a contact occurred at the sight of competition as alleged. Thomas describes the contact as occurring in conjunction with the provision of \$100. Others describe only an in-person contact at the host family's home during the visit to the Netherlands (which would be permissible under NCAA rules). Thomas is the only source concerning an improper recruiting contact and his account of the \$100 incident appears to be discredited.

Your statement that travel out of the continental United States for recruiting purposes is not expressly permitted by NCAA legislation is interesting, but is no more relevant than the statement that travel to Chicago, Illinois, for recruiting purposes is not expressly permitted.

Allegation No. 8

Response:

When interviewed concerning this subject, Pearl agreed that discussion took place regarding the condition of Ms. McGary's home, but contended that McGary was confused. Pearl explained that after Thomas advised him of an offer from the University of Illinois to move McGary to a nicer building or apartment, Pearl advised Thomas that he (Thomas) could help his grandmother through money earned through good summer employment. Pearl claims that in a conversation with McGary, he made reference to the offer by the University of Illinois. Although he was attempting to explain that Iowa would not provide her such assistance, she seemed confused and did not understand what he was trying to say. Johnson has refused to be interviewed by the NCAA on any subject. It does appear that McGary has consistently reported that Pearl made an improper offer, and she may well have repeated it to Johnson. Pearl directly denies the allegation and provides his explanation concerning the matter. It does not appear that there is sufficient information to resolve credibility issues or to reasonably expect that the Committee on Infractions would make a finding under such circumstances.

Allegation No. 9

Response:

Pearl has been interviewed in regard to this matter and apparently did suggest that Kyles apply for a scholarship at Iowa for managers and trainers. Pearl denies assuring Kyles that he would receive a scholarship. Pearl's January 19 letter to Kyles is not inconsistent with Pearl's explanation, and the record of telephone calls does not appear to add substance to this particular allegation.

Allegation No. 10

Response:

Without consideration of possible findings of serious violations, it would be inappropriate to submit an allegation in regard to ethical conduct.

Allegation No. 11

Response:

As you know, John Hardt is a member of the compliance services department (not enforcement) at the NCAA, and at some point he was employed at the University of Iowa. I do not know the nature of the telephone calls in question, but the allegation does not appear to relate to the issues raised in the previous 10 allegations and does not warrant further review by this office.

I am unaware of an interpretation of NCAA rules that would prohibit the use of telephones under NCAA legislation pertaining to salary limitations for graduate students. If, indeed, it is an abuse worthy of review by the NCAA Legislative Services staff, the process would begin with a rule interpretation that would not be binding on the membership until published in The NCAA News. Please note that the cost of personal telephone calls could be applied in the manner you describe for any limited-earnings position. I submit that this is not a question worth posing. Hardt has advised the enforcement staff that none of his conversations involved Pearl or pertained to the investigation of the University of Illinois.

Allegation No. 12

Response:

The various described events do not appear to relate to violations of NCAA rules. It does not appear, therefore, appropriate to allege a violation of institutional control and responsibility to ensure compliance with NCAA rules.

Allegation No. 13

Response:

The University of Iowa, as well as all other members of the Association, are required to report violations of NCAA legislation that are discovered by those institutions without a specific request by this office.

Allegation No. 14

Response:

A description of disciplinary and correction actions would be requested in regard to findings of violations of NCAA rules. Without findings, it does not appear appropriate to request such information from the University of Iowa.

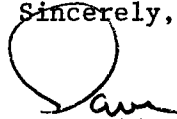
Some of your concerns appear appropriate in light of your experiences and because you are unaware of our previous inquiries concerning these matters. Some allegations, however, are without merit and seem to advance an agenda that is unrelated to concern that a level playing be maintained.

I apologize for the period of time necessary to familiarize myself fully with the facts collected concerning these matters. I am struck by the evolution of accounts by some individuals as I described in my responses, and I want to emphasize that I entered into this review in good faith and without a working knowledge of the available information, but with some skepticism regarding your motivations. After this exercise, I find myself surprised that you have advanced some of these notions, because I would think you are far more erudite than I concerning the available information and sources of such information. If, however, I have failed to consider relevant facts, I stand ready to reevaluate my thinking.

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Mr. Mark C. Goldenberg
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I believe it appropriate to forward carbon copies of our correspondence to Bruce Pearl and to the University of Iowa.

Sincerely,

A handwritten signature in black ink, appearing to read "S. David Berst", is written over a circular stamp or mark.

S. David Berst
Assistant Executive Director
for Enforcement

SDB:jsm

cc: Mr. Bruce Pearl
Mr. Hunter R. Rawlings III
Mr. Richard D. Schultz