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June 12, 2020

Via Electronic Mail

Scott Bearby
Vice President of Legal Affairs and General Counsel
NCAA
700 W. Washington Street
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Re: Bill Self/Request to Preserve Evidence

Dear Mr. Bearby:

Bill Sullivan and I represent University of Kansas (KU) head men's basketball coach Bill Self.

I. Notice of Claims

As detailed in Mr. Self's Initial Response (Response) to the NCAA enforcement staff's Amended Notice of Allegations (ANOA), the allegations directed at Mr. Self by the NCAA enforcement staff are erroneously premised upon an arbitrary, misguided and unprecedented interpretation and application of NCAA booster and recruiting legislation. Mr. Self's Response explains in detail why the enforcement staff's allegations are not supported by the facts or precedent.

The record is clear and undisputed – payments allegedly made to the families/guardians of the three student-athletes cited to in the ANOA were intentionally concealed from KU, Mr. Self and his coaching staff. Indeed, the ANOA does not allege that Mr. Self is culpable in any way, shape or form for the alleged payments. The enforcement staff's allegations against Mr. Self hinge, therefore, on a novel theory that adidas is a "booster" of KU simply by being one of its corporate sponsors, and because adidas employees and representatives communicated and shared information about prospective student-athletes (PSAs) with KU's coaches, and also communicated and shared information with PSAs. Using the erroneous premise that adidas and its employees and

representatives are KU boosters, the enforcement staff has alleged that any communications involving adidas employees and representatives about PSAs are impermissible recruiting communications because NCAA legislation prohibits boosters from being involved in the recruitment of PSAs.

The enforcement staff's allegations are contrary to longstanding NCAA precedent and the common practice that individuals who work in grassroots basketball openly share information with both college coaches and PSAs. It is widely known and accepted that individuals in grassroots basketball including high school coaches, AAU coaches, shoe company representatives who operate grassroots events (including events which are sanctioned by the NCAA) and others openly share information about PSAs with college coaches, and they also openly share information about college programs and coaches with PSAs. This information sharing has been going on for decades with the NCAA's full knowledge and acceptance.

In fact, reputable media outlets have questioned the enforcement staff's allegations against Mr. Self. Mike Brey, the past president of the National Association of Basketball Coaches (NABC) and current head men's basketball coach at Notre Dame, commented publicly on the NCAA's allegations against Mr. Self. Specifically, Coach Brey confirmed that college coaches regularly engage in the same type of conduct which the NCAA enforcement staff has villainized against Mr. Self, i.e., sharing information with and receiving information from shoe company representatives.

"It kind of shocked me," says Notre Dame coach Mike Brey, who recently served as president of the National Association of Basketball Coaches. "I never thought of it like that. If there's money changing hands, then yeah, they're a booster, but I don't think any of us look at the support we get from sneaker companies and think of that as violations. They're giving us information to help close the deal (with recruits)."

It's confusing, to say the least, for the NCAA to claim that coaches are putting themselves in jeopardy by working so closely with sneaker companies. Part of the NCAA's evidence against Kansas coach Bill Self and his assistant Kurtis Townsend are text messages revealed at trial that showed them encouraging Gassnola to help them out. That kind of dialogue may look suspicious to the public, but it's hardly unusual. "Every one of us works the shoe company angle to help us get players," Brey says. "I speak to those guys as much as I would speak to parents. No question if there was an Under Armour event somewhere, I'd get a call from someone at Under Armour saying, 'Hey Mike, did you see this 15-year-old kid in Dallas? He's in our program, you gotta get on him.' I'm not saying they'd cheat to get him, but damn right they're helping, absolutely."

The Athletic (May 7, 2020) (emphasis added).

To put it bluntly, the NCAA enforcement staff is attempting to end Mr. Self's long and very successful coaching career for conduct which all coaches engage in and which the NCAA has known for many years is commonplace and permissible, i.e., sharing information with and receiving information from shoe company representatives.

Moreover, the NCAA, through its senior executive staff and the Division I Committee on Infractions (COI), has improperly prejudged this matter. Before the NCAA enforcement staff had completed its investigation, the NCAA's executive leadership publically declared that allegations would be forthcoming and that consequences would be imposed. Additionally, as the COI IRC referral letter makes clear, the COI itself has prejudged contested issues involving the booster and importation bylaws. *Prejudgment is prejudicial.*

Further, the enforcement staff has violated NCAA enforcement procedure, which has resulted in an unfair, arbitrary and capricious process.

Among other things, the enforcement staff has violated NCAA enforcement procedure by withholding and refusing to produce pertinent and exculpatory information to Mr. Self. Indeed, we have requested the enforcement staff produce a variety of pertinent and exculpatory information, including information which will show the NCAA has known about and condoned information sharing by and with shoe company representatives, but we have been stone-walled. The NCAA enforcement staff is withholding from us the factual information which will help refute the enforcement staff's allegations against our client.

The enforcement staff also has failed and refused to provide to us the details of its allegations against Mr. Self, as required by NCAA enforcement procedure. Specifically, the enforcement staff has failed and refused to tell Mr. Self specifically how and when the staff claims the various alleged KU boosters became boosters, and how and when Mr. Self supposedly became aware of that booster status.

We also recently discovered that the enforcement staff in its Reply to Mr. Self's Response (EWR) materially mischaracterized and took out of context NCAA Convention proceedings in an effort to support its novel theory that adidas is a KU booster.

Also, it appears the enforcement staff in its EWR inaccurately and materially overstated the number of communications with adidas' employees and representatives in order to support their false allegations against Mr. Self. While we are hesitant to prematurely assert the motive and reasons for the enforcement staff's misrepresentations, such fundamental mischaracterizations of the record through demonstrably flawed exhibits undermine both the staff's allegations as well as the reliability of its methods in desperately attempting to support them.

Accordingly, the purpose of this letter is to formally put the NCAA on notice of Mr. Self's current and prospective claims against the NCAA relating to the NCAA's infractions investigation of the KU men's basketball program and Mr. Self. Without limiting Mr. Self's claims, he is considering bringing legal action against the NCAA and NCAA officers, employees and representatives for negligence, breach of contract, defamation, fraud, tortious interference with contract and tortious interference with prospective contract.

II. Request to Preserve Evidence

Mr. Self hereby demands that the NCAA take appropriate action to preserve all evidence related to his claims. Such evidence includes, but is not limited to, all written and electronic communications concerning the NCAA's investigation of KU and Mr. Self, including all

documents related to the enforcement staff's Amended Notice of Allegations against KU and Mr. Self.

We specifically request that the NCAA preserve all written and electronic communications in any form sent to or received by all NCAA officers, employees and representatives relating to the KU men's basketball investigation and infractions case, the entire KU investigation file, all notes, memoranda and draft reports of any NCAA hearing panel assigned to this case, and all electronic and digital recordings of telephonic conversations regarding the NCAA's investigation of KU.

Mr. Self requests that the NCAA preserve all information relating to the public statements of Stan Wilcox and Kevin Lennon concerning the NCAA's intent to issue Notices of Allegations to NCAA member institutions as reported by media outlets in May and June 2019. This request includes, but is not limited to, all information and documents which were communicated to or from Messrs. Wilcox and Lennon concerning the KU investigation.

We also request that the NCAA preserve all information in its possession in any form relating to the United States federal government's investigation and prosecution of James Gatto and Merl Code (the SDNY investigation). This request covers and includes all documents communicated to or from the NCAA concerning the SDNY investigation, as well as all documents created by the NCAA concerning the SDNY investigation.

We also request that the NCAA preserve all communications either sent to or from the NCAA enforcement staff concerning the KU investigation.

We request that the NCAA also preserve all information in its possession relating to the following matters and issues:

- 1) The NCAA interpretation dated October 19, 1999, titled "Corporate Entities as Representatives of and (sic) Institution's Athletics Interests;"
- 2) The NCAA's oversight of shoe companies and their involvement with grassroots basketball;
- 3) The NCAA's efforts to provide rules education to member institutions and coaches about issues or matters relating to shoe companies, and specifically whether and how shoe companies and their employees and representatives could become athletics representatives;
- 4) The NCAA's decision not to provide rules education to member institutions and coaches about any issues or matters relating to shoe companies, and specifically whether and how shoe companies and their employees and representatives could become athletics representatives;
- 5) All documents from 1990 to the present concerning NCAA Regional Rules Seminars;
- 6) All documents from 1990 to the present concerning communications, meetings or interviews between any NCAA officer or employee and any officer, employee or representative of a shoe company;

7) All documents from 1990 to the present concerning the NCAA's internal or external communications and discussions relating to shoe companies' perceived or actual influence on prospective student-athletes and prospective student-athletes' choice of an NCAA member institution;

8) All documents from 1990 to the present concerning any information communicated to the NCAA about shoe companies' perceived or actual influence on prospective student-athletes and prospective student-athletes' choice of an NCAA member institution;

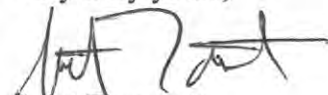
9) All documents from 1990 to the present concerning NCAA men's basketball coaches communicating with shoe company employees or representatives about prospective student-athletes and prospective student-athletes' choice of an NCAA member institution; and

10) All documents concerning the adoption and implementation of the new Independent Accountability Resolution Process (IARP), including, but not limited to, the decision not to include an appeal process in the IARP.

Although we have provided specific examples of information which we request and expect will be preserved, we also request and expect that the NCAA and its officers, employees and representatives will abide by their legal obligations to prevent the spoliation or destruction of any information which may be relevant or lead to the discovery of admissible evidence relating to Mr. Self's claims, irrespective of the format in which the information currently exists. We request and expect the NCAA to ensure that all NCAA officers, employees and representatives immediately act to preserve all evidence which may be related to Mr. Self's claims, including evidence existing on internet servers at their individual institutions and offices, and on their private accounts.

To the extent that electronic "auto-purge" features are implemented for electronic information, we request that these be suspended. Additionally, to the extent any information that is subject to this preservation obligation is slated for destruction due to a properly implemented document retention policy, we request and expect that such destruction be suspended.

Very truly yours,



Scott Tompsett

cc: Mr. Brian White
Mr. William Sullivan