



**TEXAS CHRISTIAN UNIVERSITY
PUBLIC INFRACTIONS DECISION
June 29, 2021**

I. INTRODUCTION

The NCAA Division I Committee on Infractions (COI) is an independent administrative body of the NCAA comprised of individuals from the Division I membership and public. The COI decides infractions cases involving member institutions and their staffs.¹ The conduct at issue in this case was related to a broader scheme that involved money and influence at the intersection of collegiate and professional basketball. The scheme resulted in the arrest and prosecution of multiple individuals—including college basketball coaches—on conspiracy and bribery charges and led to significant reforms to strengthen the NCAA Collegiate Model.² This case centered on the conduct of a former assistant men's basketball coach at Texas Christian University (TCU), who was involved in the scheme to accept money in exchange for steering student-athletes to a business management company.³ The case also involved allegations related to the assistant coach's cooperation and truthfulness during the institution's and NCAA's investigations in this matter.

The violations in this case stemmed from the assistant coach's efforts to help his friend, an aspiring sports agent (agent associate) who had recently started a business management company to represent professional athletes. The management company was seeking new talent to represent, and the agent associate turned to his friend, the assistant coach, who had an extensive recruiting network in Texas. Thus began a series of unfortunate choices on the assistant coach's part that culminated in the loss of his job and allegations of multiple Level I NCAA violations. At each point in the series of events that followed, the assistant coach had the opportunity to say no to the agent associate and walk away. At each point, he failed to do this.

¹ Infractions cases are decided by hearing panels comprised of COI members. Decisions issued by hearing panels are made on behalf of the COI.

² In August 2018, the NCAA Board of Governors and the Division I Board of Directors adopted a series of significant policy and legislative changes based on the recommendations of the Commission on College Basketball. NCAA leaders announced that these changes would accomplish the following: (1) provide college basketball players more freedom and flexibility to decide their future; (2) minimize the leverage of outside influences on high school recruits and college athletes; (3) add independent voices in the areas of policymaking, investigations and case resolution; and (4) strengthen accountability and deter rule-breaking with harsher penalties for those who violate the rules.

³ Although related to a broader scheme, the COI decided this case based solely on the facts and circumstances surrounding the conduct of the assistant coach during his employment at TCU. A member of the Big 12 Conference, TCU has a total enrollment of approximately 10,900 students. It sponsors nine men's sports and 12 women's sports. This is the institution's sixth Level I, Level II or major case. TCU had previous cases in 2019 (men's and women's basketball, football, and swimming and diving); 2008 (men's tennis); 2005 (men's and women's track); 1986 (football); and 1981 (men's basketball).

All of the violations in this case derive from a July 2017 meeting in Las Vegas between the assistant coach, the agent associate and representatives from the management company. Going into the meeting, the assistant coach knew he was there, in part, due to his status as a Division I men's basketball coach, which would help his friend look good in front of the management company representatives. He also knew he would receive money at the end of the meeting. Despite this awareness, he chose to attend. During the meeting, the assistant coach fulfilled his role by touting his relationships with certain student-athletes and prospects who had the potential to play in the NBA. He gave the impression that he could steer these players to the management company when they turned professional. When the agent associate suggested that the assistant coach would need "resources" to get this done, the assistant coach agreed. And when the agent associate discussed paying him on a monthly basis, the assistant coach did not balk at the idea of accepting payments. Likewise, when a management company representative gave him \$6,000 cash at the end of the meeting, the assistant coach accepted the money, shook the representative's hand and left.

Following the meeting, the assistant coach could have ceased his involvement with the agent associate's scheme. Yet he continued to communicate with the agent associate and discuss specific players he had referenced during the Las Vegas meeting. When the agent associate had difficulty getting in touch with one student-athlete—the assistant coach's cousin—the assistant coach helped him get through to the student-athlete's father. And when the agent associate asked to meet with a TCU student-athlete during an upcoming trip to Texas, the assistant coach facilitated the meeting and told the agent associate, "This is a layup for you." The agent associate was arrested before this meeting could occur. However, in taking steps to facilitate the meeting, the assistant coach followed through on the agreement he entered into when he accepted the \$6,000.

The assistant coach's acceptance of money in exchange for his agreement to steer players to the management company established a Level I unethical conduct violation. TCU accepted responsibility for the Level I violation. The assistant coach did not.

Additional unethical conduct violations occurred during the initial investigation by TCU and then during the enforcement staff's investigation. During TCU's investigation, the assistant coach provided false or misleading information when he denied any knowledge of or involvement in the agent associate's scheme—first verbally in response to a direct question from the athletics director, then on a written questionnaire where he left certain questions unanswered. The assistant coach later refused to participate in an interview with the institution. This conduct established Level I unethical conduct violations for both TCU and the assistant coach. TCU accepted responsibility for the violations, which occurred during the assistant coach's employment at the institution.

At the time the enforcement staff began its investigation, the assistant coach had separated from the institution. Although he cooperated by participating in an interview with the enforcement staff, he provided false or misleading information during the interview. Specifically, the assistant coach denied accepting money in order to direct student-athletes to the management company's services. His provision of untruthful information during the interview established an additional Level I unethical conduct violation for the assistant coach.

The panel classifies this case as Level I-Mitigated for TCU and Level I-Aggravated for the assistant coach. Utilizing the current penalty guidelines and bylaws authorizing additional penalties, the panel adopts and prescribes the following principal penalties: three years of probation; a fine of \$5,000 plus one percent of the men's basketball budget; and a five-year show-cause order for the assistant coach.

II. CASE HISTORY

The events at the center of this case came to light on September 26, 2017, when FBI agents arrested multiple NCAA Division I men's basketball coaches in connection with an indictment and federal criminal complaint filed in the United States District Court for the Southern District of New York (SDNY). The complaint alleged that an individual who was associated with a professional sports agent (agent associate) participated in a scheme whereby he and others paid bribes to men's basketball coaches employed by NCAA Division I institutions.⁴ Although the complaint did not reference any TCU coaches or student-athletes, TCU conducted an internal inquiry to determine whether any men's basketball staff members were involved in or had knowledge of the scheme. No staff members admitted to having any knowledge or involvement.

Over one year later, on February 14, 2019, TCU received a subpoena from the SDNY seeking employment records for an assistant men's basketball coach (assistant coach). TCU then began a second internal investigation to determine how the assistant coach was connected to the SDNY criminal allegations. TCU made multiple attempts to interview the assistant coach, but he refused to participate in an interview with the institution. On March 7, 2019, SDNY issued a superseding indictment that referenced the assistant coach's attendance at a July 2017 meeting in Las Vegas, where he was "paid a \$6,000 bribe" in exchange for his agreement to steer student-athletes to the management company.⁵ TCU terminated the assistant coach's employment on March 11, 2019.

After learning of the superseding indictment, TCU contacted the NCAA enforcement staff and a collaborative investigation ensued. The enforcement staff issued a notice of inquiry to TCU on August 23, 2019. Approximately four months later, on December 17, 2019, the enforcement staff issued a notice of allegations (NOA) to TCU and the assistant coach and a separate NOA to the assistant coach related to conduct following his separation from the institution. Following a two-week extension granted at the parties' request, TCU and the assistant coach submitted timely responses on March 30, 2020. On May 21, 2020, the enforcement staff amended the NOA, striking references to supplemental pay allegations.⁶ One week later, on May 28, 2020, the

⁴ Based on the facts and circumstances at the time, and for ease of reference, the panel identifies this individual as an "agent associate." However, the panel makes no determination as to whether this individual qualified as an advisor, agent, runner or booster under NCAA legislation because that question was not before the panel in this case.

⁵ Neither TCU nor the assistant coach were personally named in the superseding indictment. Rather, they were referenced under the identifiers "University-2" and "Coach-2," respectively.

⁶ The enforcement staff amended the December 17, 2019, NOA following interpretive guidance issued in conjunction with another SDNY-related infractions case, *Oklahoma State University* (2020).

enforcement staff submitted its written reply. The parties continued to work collaboratively and submitted stipulated facts on June 5, 2020. Following discussions with TCU and the assistant coach, the enforcement staff amended its written reply on June 17, 2020, in order to more accurately reflect the parties' positions.

In August 2020, the COI member designated to address all issues associated with SDNY-related infractions cases (chair designee) asked the enforcement staff to confirm that all allegations in pending SDNY-related cases were consistent with current interpretive guidance. Following this request, on August 28, 2020, TCU and the enforcement staff submitted a joint interpretation request to the NCAA Academic and Membership Affairs (AMA) staff regarding the applicability of NCAA Bylaw 10.1-(d) to the facts of this case. The AMA staff issued its interpretive response on September 24, 2020, stating that the facts submitted by TCU and the enforcement staff in the joint interpretation request constituted a violation of Bylaw 10.1-(d).⁷

TCU submitted supplemental responses to the NOA on October 14 and December 17, 2020, and the assistant coach supplemented his response on February 23, 2021. The panel held a hearing via videoconference on March 26, 2021.⁸

III. FINDINGS OF FACT

The facts of this case originate from the assistant coach's friendship with the agent associate and his involvement in the agent associate's emerging management company. The case centers on a single meeting on July 28, 2017, in Las Vegas, Nevada, involving the assistant coach, the agent associate and representatives of the management company. Although events and conversations before and after the meeting provide further context around the overall bribery scheme and the assistant coach's involvement in the scheme, the July meeting is the critical event. This case also involves the assistant coach's conduct during the institution's and enforcement staff's investigations.

⁷ On August 26, 2020, the assistant coach asked the COI to direct the enforcement staff to permit him to participate in the joint interpretation request. The chair designee informed the assistant coach that: (1) the COI does not have authority to intervene in or direct the AMA interpretations process and (2) NCAA Constitution 5.4.1.2.1.1 permits member institutions to request interpretations but does not contemplate an involved individual's participation in that process. On October 9, 2020, the assistant coach submitted a letter objecting to the inclusion of the interpretation request and AMA's response in the case record due to his exclusion from the interpretive process. The chair designee noted the assistant coach's objection but declined to exclude the interpretive response from the record.

⁸ The panel appreciates the parties' professionalism and participation in the videoconference. Although the COI has historically held in-person hearings for contested cases, Bylaw 19.7.7 contemplates the use of videoconference to resolve most infractions cases. The COI has previously utilized videoconference as a mode for infractions cases, and the circumstances related to the COVID-19 pandemic necessitate the use of videoconference to resolve pending matters. Among other recent hearings, this case serves as an example for how active infractions cases can be resolved in a fair and efficient manner through videoconferencing.

The Assistant Coach and the Agent Associate

The assistant coach, a former Division I men's basketball student-athlete, was a seasoned assistant coach with a promising future when TCU hired him in 2016. Prior to coming to TCU, he had coached at the high school and junior college levels and at three other Division I member institutions. Sometime around 2012, just as he was embarking on his Division I coaching career, the assistant coach met the agent associate while socializing at a coaching function.⁹ The agent associate would soon go on to work for a well-known sports agent.

The assistant coach and the agent associate became friends after that initial meeting and stayed in touch over the coming years. During his interview, the assistant coach explained that their friendship centered primarily on basketball, and they traded information regarding prospects and coaching vacancies among other things. The assistant coach estimated that he talked with the agent associate approximately once every month or so and occasionally ran into him at tournaments and coaching functions.

The agent associate eventually separated from the well-known sports agent and formed his own management company in June 2017. Part of the management company's business model included partnering with notable college coaches who could identify and steer potential clients to sign with the company. The management company intended to leverage the agent associate's existing connections and relationships with college basketball coaches. As part of the plan, the management company intended to pay some of the coaches in exchange for steering players to sign with the management company. Although at times the agent associate questioned the model, he also developed a list of coaches and identified which coaches to pay. Eager to begin making introductions, the management company targeted setting meetings for late July 2017 in Las Vegas. As the agent associate explained on federal surveillance when the group met to officially launch the management company, "every coach in the country is there" recruiting AAU basketball tournaments.¹⁰ The agent associate recommended meeting with one coach at a time to make each feel special and so they would not know about one another.

Although the assistant coach's name was not on the list of coaches identified by the agent associate, the two men communicated frequently via text in the weeks leading up to the Las Vegas

⁹ During his interview with the enforcement staff, the assistant coach could not recall exactly when he met the agent associate for the first time, but estimated it was in or around 2012.

¹⁰ This case appropriately included factual information that resulted from evidence submitted and positions taken in the federal government's investigation and prosecution of conspiracy and bribery in college basketball. The assistant coach argued that this information should not be imported into the record in this infractions case because the federal cases are still under appeal and the assistant coach did not participate in the federal proceedings. However, Bylaw 19.7.8.3.1 makes clear that evidence submitted and positions taken in outside proceedings are treated differently than facts established by a decision or judgment of a court. *See* Division I Proposal-2018-15. Evidence submitted and positions taken can be considered in an infractions case regardless of appeal or the individual's participation in the outside proceeding.

meetings.¹¹ Among other things, they discussed current and prospective student-athletes with whom the assistant coach had relationships. On July 9, 2017, the assistant coach texted the agent associate and told him he had "tons of action" for him and that he had a current student-athlete at another institution and two prospects "lined up." At the time, the current student-athlete—who was the assistant coach's first cousin—was a projected first round draft pick. The agent associate then asked if the assistant coach would be in Las Vegas, but the assistant coach did not reply. On July 21, 2017, the agent associate texted the assistant coach and again asked if he would be going to Las Vegas. When the assistant coach responded that he would be there, the agent associate asked if he had access to any men's basketball student-athletes with NBA potential. The assistant coach responded with the names of three TCU men's basketball student-athletes and again referenced the two prospects he had previously mentioned in his July 9 text. He added that one of the prospects was "a layup." Four days later, on July 25, 2017, the agent associate sent the assistant coach a text asking if they could meet in Las Vegas on Saturday. The assistant coach responded, "For sure!!!"

The next week, the assistant coach traveled to Las Vegas on a recruiting trip, and the management company representatives and agent associate traveled there to conduct meetings with coaches. In preparation for these meetings, the agent associate and management company representatives met on the evening of July 27, 2017. During this meeting, which was captured on government surveillance, they discussed their plan to meet with the assistant coach the following day. One of the management company representatives asked if the assistant coach was "gonna want something or no?" The agent associate responded that "he definitely will." The agent associate then suggested that the assistant coach would be able to bring in "talent" because "[h]e's getting cleared for Texas [and] Texas is a big state." The group then discussed that they would "start him small just so he's . . . in the system."

The following day, July 28, 2017, the agent associate sent the assistant coach a text asking if he was free to meet that evening. When the assistant coach confirmed that he was free, the agent associate responded, "Ok. I want u to meet my backers." At the infractions hearing, the assistant coach's counsel said this was the first time the agent associate mentioned his backers (*i.e.*, the management company representatives) to the assistant coach. He stated in his interview, however, that he was generally aware that the agent associate was trying to get his company started and that he was going to help the agent associate.

At approximately 10 p.m. on July 28, 2017, the assistant coach met with the agent associate and other representatives of the management company in a suite at a Las Vegas hotel. Government surveillance recorded one minute and 29 seconds of the encounter. As the assistant coach later described it in his interview with the enforcement staff, he talked with the group about how he could help the agent associate and about relationships and connections he had within the basketball

¹¹ One of the individuals involved with the management company—who was also a cooperating witness for the federal government—testified at trial that the management company and the agent associate had been discussing the assistant coach since approximately late May of 2017. However, the assistant coach's name did not appear in any lists, texts, emails or recorded conversations between the agent associate and management company representatives until July 27, 2017, the night before the Las Vegas meetings.

world. The transcript of the surveillance video shows that the assistant coach specifically discussed four of the players he had previously identified in his text exchanges with the agent associate. He represented to the group that one of the players (his cousin) was a projected top 10 draft pick and another (a TCU student-athlete) was a projected second round pick.

The agent associate then described how the management company would support the assistant coach, stating, "[O]bviously, you're gonna need resources to get shit done." The assistant coach responded, "Right." The agent associate went on to explain that "We gonna be able to provide you something, you know, to make sure the kids that you involved with, we get them back." Again, the assistant coach responded, "Right." The agent associate continued, "Obviously, we're gonna want to have access" to TCU student-athletes, "[a]nd the biggest thing is just, you know, you go down to supervise everything because we can't be here every day." The assistant coach responded, "No question."

The discussion then turned to logistics. The agent associate said that the management company would support the assistant coach on a monthly basis but would need some time to "get our resources together." The agent associate also explained that the support would continue into the future, whether the assistant coach was at TCU or another institution, and he talked about the need to create a stable relationship so that the management company would have "access to other programs" if the assistant coach decided to leave TCU.

At this point, the assistant coach interjected to tell the group that he had "tons of people reach out to [him] in the last six months" because his career was going in the right direction and people knew he could "get shit done." He then stated that he did not want to deal with a lot of people and preferred to find a set group he could deal with for his "whole time in the biz." The agent associate again indicated that the assistant coach would be put on a monthly payment plan. He then asked one of the management company representatives, who was actually an undercover FBI agent, "Do you have the six?" The undercover agent can be seen in the video removing cash from an envelope and placing it on the table in front of him. The agent associate then picked up the cash, which totaled \$6,000, and handed it to the assistant coach. The assistant coach folded the money, held it in his hand, and shook the undercover agent's hand before leaving the room.

Throughout the processing of this case, the assistant coach maintained that after he left the hotel room, he met the agent associate near the hotel's valet parking area and gave the \$6,000 cash to him. He also maintained that the agent associate asked him to do this during a conversation the two men had before entering the meeting with the management company representatives and that this was part of the agent associate's scheme to deceive the management company representatives. Text messages in the case record show that the agent associate and assistant coach agreed to meet at the valet at approximately 11:30 p.m. that evening. However, there is nothing in the record demonstrating that the assistant coach gave the agent associate the money.

In the weeks following the July 28 meeting, the assistant coach took affirmative steps to facilitate contact between the agent associate and two players the assistant coach had touted during the meeting—specifically, the assistant coach's cousin and the TCU student-athlete. With respect to

the former, the agent associate texted the assistant coach on August 2 and 3, 2017, asking what day his cousin wanted to meet and requesting meeting times and locations for his cousin's family. The assistant coach responded, "No meetings." Approximately one week later, however, the assistant coach sent texts to the agent associate containing contact information for his cousin's older brother and father, *i.e.*, the assistant coach's uncle. A few days later, the agent associate asked the assistant coach to "[t]ell Unc I just called him," and the assistant coach responded, "Call Him again his phone is broke . . . And send a text saying who you are." The agent associate confirmed that he did this, and the assistant coach responded, "I'll follow up." Within a few hours, the agent associate sent the assistant coach a text reading, "Great convo w Unc."

Approximately one month later, on September 15, 2017, the agent associate contacted the assistant coach regarding the TCU student-athlete, texting "U & [the TCU student-athlete] n town Sept 30?" The agent associate called the assistant coach the following day, and the federal government recorded the conversation. During that call, the assistant coach informed the agent associate that the TCU men's basketball team would start official practice on September 28 or 29, "so the 30th is cool." He then said to the agent associate, "This is a layup for you (U/I). He come out there and he said, (U/I) you know I don't wanna deal with none of this shit. You talking to (U/I) you rocking with him. I said, okay. So you come down here and do your business, it's a layup. And he's like, coach, I don't want nobody talking about the asshole agents. I said it don't go like that."¹² The agent associate asked whether the student-athlete was a potential second round draft pick. The assistant coach confirmed that he was, and they discussed the student-athlete's abilities and skill level in comparison to other players. The agent associate then said, "[L]et's do this . . . let's lock that in and then I'll be down (U/I) there."

Four days before the scheduled September 30 meeting, the federal government arrested the agent associate and others for their involvement in the bribery scheme. No additional meeting ever occurred. None of the current or former student-athletes or prospective student-athletes interviewed for this case met the agent associate or had a conversation with the assistant coach regarding the agent associate or the management company.

At the infractions hearing, the assistant coach stated that nothing about the July 2017 Las Vegas meeting or the subsequent text exchanges with the agent associate raised red flags for him because he had conversations like this on a regular basis, and "money doesn't make these conversations happen." He said that in the world of college basketball—which, he claimed, the panel did not understand—"information is the main thing" and "my world is predicated on relationships, you scratch my back, I scratch yours. We look out for each other, information, things like that." He stated that he did not believe he had done anything wrong in attending the Las Vegas meeting, but admitted he did not tell anyone at TCU about the meeting either before or after it occurred.

¹² In the transcripts of the federal surveillance recordings, "(U/I)" indicates that the words at that part of the recording were unintelligible to the transcriptionist and "(PH)" indicates that the transcriptionist used a phonetic spelling of the word.

The Institutional and Enforcement Staff Investigations

The arrest of the agent associate and several men's basketball coaches sent shockwaves through college basketball, campuses and athletics departments. In response, on October 11, 2017, the NCAA Board of Governors and Division I Board of Directors directed all Division I programs to examine their men's basketball programs. Even before the NCAA directive, however, TCU had initiated its own review. Shortly after news of the arrests broke, the head men's basketball coach (head coach) met with his staff and asked if anyone had information about or involvement in the activity that led to the arrests. The assistant coach did not disclose that he knew the agent associate or had any involvement in or awareness of the agent associate's scheme.

A few days later, on October 2, 2017, the then-athletics director (former athletics director) held a meeting with the men's basketball staff to question them further. The former athletics director asked each coach, one by one, if they had any knowledge of or involvement in the scheme and if they knew the agent associate. The assistant coach verbally denied any knowledge, involvement or relationship with the agent associate. During this meeting, TCU's compliance office distributed a written questionnaire that asked targeted questions regarding interactions with financial advisors, agents and apparel companies. The questionnaire asked the following two pertinent questions, Nos. 1 and 9, respectively:

Have you ever accepted (or been promised) money or anything else of value from anyone in exchange for access to (prospective or current) student athletes? Or their families? For example, a financial advisor or agent?

After hearing about the investigations involving coaches at Auburn, USC, Arizona, Oklahoma State, Louisville, and Miami, has there been any situation or occurrence that you've been involved with that you feel should be disclosed?

Although the assistant coach provided "yes" or "no" answers to other questions that were not pertinent to his meeting in Las Vegas, he left Question Nos. 1 and 9 unanswered. During an interview with the enforcement staff, the senior associate athletics director for compliance (compliance director) stated that the blank answers did not raise alarms for the compliance staff in the way a "yes" answer would have. Therefore, the staff did not follow-up with the assistant coach to ask why he left those answers blank.

In his interview, written responses and at the hearing, the assistant coach stated that he was acting on the advice of his attorney when he declined to answer Question Nos. 1 and 9 on the questionnaire. Although he was not one of the individuals charged in the September 26, 2017, federal criminal complaint, the assistant coach had been contacted by the FBI and subsequently hired criminal defense counsel. His counsel advised him not to answer questions related to the pending SDNY case.

Thus, having uncovered no information that anyone at TCU was involved in the men's basketball scandal, the institution ended its review. Approximately 16 months later, on February 14, 2019,

the federal government sent a subpoena to TCU seeking the assistant coach's employment records for use in the agent associate's upcoming trial. TCU informed the assistant coach of the subpoena and requested an interview with him to take place on March 6, 2019. The institution informed the assistant coach, via his criminal defense counsel, that he had an employment duty to cooperate and failure to do so would be a material breach of his employment agreement. Nevertheless, on March 5, 2019, the assistant coach notified TCU that he would not participate in an interview on the advice of his counsel.

On the morning of March 7, 2019, the current athletics director (athletics director) and the compliance director met with the assistant coach and came away with the impression that he was willing to interview. Later that afternoon, TCU learned that the federal government had filed a superseding indictment alleging facts associated with two unnamed coaches. Media reports identified one of these coaches as the assistant coach. TCU immediately scheduled an interview with the assistant coach for the next day, March 8, 2019. Again, however, the assistant coach did not appear for the interview. That same day, TCU sent a letter of reprimand to the assistant coach and placed him on administrative leave. TCU also told him that it expected him to interview the next morning, and failure to do so would constitute cause for termination under his employment contract. The assistant coach did not appear for the interview, and TCU terminated his employment on March 11, 2019.

The NCAA enforcement staff began its investigation soon after TCU received the superseding indictment. Unlike the institution's investigation, the assistant coach agreed to cooperate with the enforcement staff. On August 6, 2019, the assistant coach participated in an interview with the enforcement staff. During the interview, the assistant coach acknowledged his attendance at the July 28, 2017, Las Vegas meeting and admitted that he took money from a representative of the management company. He claimed, however, that he gave the money to the agent associate immediately following the meeting. The assistant coach denied that he accepted the money in exchange for his agreement to steer TCU and other student-athletes to the management company when they turned professional. He also denied that there was any agreement or understanding in place for him to receive recurring payments from the management company to continue steering players to them.

IV. ANALYSIS

The violations in this case involve unethical conduct resulting from the assistant coach's participation in a bribery scheme and his subsequent failure to cooperate and provide truthful information during investigations by TCU and the enforcement staff. The conduct resulted in Level I violations for both TCU and the assistant coach.

A. UNETHICAL CONDUCT AND REPRESENTING AN INDIVIDUAL IN MARKETING ATHLETICS ABILITY OR REPUTATION [NCAA Division I Manual Bylaws 10.01.1, 10.1. 10.1-(d) and 11.1.3 (2016-17)]

The assistant coach attended a meeting with the agent associate and representatives of the agent associate's new business management company. At the meeting, the assistant coach discussed specific men's basketball student-athletes with whom he had relationships and touted their athletics ability and professional potential. At the conclusion of the meeting, he accepted \$6,000. Following the meeting, he communicated with the agent associate regarding potential meetings with some of these student-athletes. TCU agreed that the conduct established Level I violations. The assistant coach disputed the violations. The panel concludes that the violations occurred, and they are Level I for both TCU and the assistant coach.

1. NCAA legislation relating to unethical conduct and representing individuals in marketing athletics ability or reputation.

The applicable portions of the bylaws may be found at Appendix Two.

2. The assistant coach violated legislation related to ethical conduct and representation when he accepted cash in exchange for agreeing to direct prospective and current men's basketball student-athletes to a management company.

Beginning in late July 2017 and continuing through September 2017, the assistant coach participated in a scheme to direct men's basketball prospects and student-athletes to a management company led by his friend, the agent associate. The agreement originated during a meeting with the agent associate and representatives of his newly formed management company, where the assistant coach suggested that he could steer student-athletes to the management company when they turned professional. The assistant coach accepted \$6,000 cash at the conclusion of the meeting. Following the meeting, he followed through on the agreement by facilitating contact between the agent associate and the family of a student-athlete and by facilitating a meeting between the agent associate and a TCU student-athlete. The agent associate was arrested before the meeting could occur. The assistant coach's conduct resulted in Level I violations of Bylaws 10 and 11.

Bylaw 10 governs ethical conduct in collegiate athletics, with Bylaw 10.01.1 generally requiring student-athletes and athletics staff to act with honesty and sportsmanship at all times. Bylaw 10.1 identifies several categories of unethical conduct, including the receipt of benefits by an institutional staff member for facilitating or arranging a meeting between a student-athlete and an agent, financial advisor, or representative of an agent or financial advisor. Bylaw 11 governs the conduct of athletics personnel. Under Bylaw 11.1.3, athletics department staff members are prohibited from representing, either directly or indirectly, any individual in the marketing of their athletics ability or reputation to an agent, and from accepting compensation for such services.

The assistant coach's actions during the July 28, 2017, Las Vegas meeting established violations of NCAA legislation. During the meeting, the assistant coach touted the abilities of a TCU student-athlete and the assistant coach's cousin, who was a student-athlete at another institution. Specifically, he represented that they would both do well in the NBA draft, with his cousin being

a potential top 10 pick. He also represented his own ability to "get shit done." The assistant coach verbally indicated his agreement as the agent associate detailed the management company's desire for access to TCU student-athletes, the plan to pay the assistant coach on a monthly basis to provide that access, and the management company's commitment to continuing the payments even if the assistant coach left TCU for another institution. The assistant coach indicated that this type of arrangement would meet his needs as he was looking for a "set group" to work with for the duration of his coaching career and did not want to deal with a lot of other people, *i.e.*, other agents and financial advisors. At the end of the meeting, the assistant coach accepted \$6,000 cash from the management company.

Over the next two months, the assistant coach took affirmative steps to follow through on his agreement with the management company. First, he facilitated a call between his cousin's father and the agent associate. Then he facilitated a meeting between the agent associate and a TCU student-athlete. The agent associate's arrest prevented that meeting from occurring. When the assistant coach accepted money in exchange for agreeing to arrange or facilitate meetings between representatives of the management company and student-athletes, he violated Bylaws 10.01, 10.1 and 10.1-(d). Furthermore, in touting the student-athletes' professional potential to the management company representatives, the assistant coach represented the student-athletes in marketing their athletics ability and reputation in violation of Bylaw 11.1.3.

The assistant coach has denied any responsibility for these violations. He claimed he did not accept a bribe or enter into an agreement with the management company because he did not retain possession of the money. Further, he argued that he did not facilitate or arrange any meetings with student-athletes. These claims are not supported by the record, and they are inconsistent with decisions in recent cases involving similar circumstances.

First, the assistant coach's claim that he did not keep the money is immaterial to whether a Bylaw 10 violation occurred. He took possession of the money in conjunction with discussions regarding specific student-athletes and later took steps to connect the agent associate with those student-athletes. By definition, this is a violation of Bylaw 10.1-(d) and the more general Bylaw 10.01.1. The management company representatives targeted the assistant coach for his ability to direct potential clients to them. By the conclusion of the July 2017 meeting, they understood that he would do just that, and they paid him accordingly. From the management company's perspective, the transaction was complete at that point, and this would be the first in a series of payments that would establish a business relationship with the assistant coach. By any measure, the assistant coach's conduct violated Bylaw 10.1-(d).¹³

¹³ The panel acknowledges the September 24, 2020, interpretation in which the AMA staff determined that the facts jointly submitted by TCU and the enforcement staff constituted a violation of Bylaw 10.1-(d). The assistant coach has objected to the inclusion of that interpretation in the case record because he maintains that it omits critical facts, including his assertion that he did not keep the money he received during the Las Vegas meeting. As explained, the question of whether the assistant coach kept the money is not relevant to the panel's analysis. The panel's conclusion that a Bylaw 10.1-(d) violation occurred is based on the assistant coach's acceptance of money—regardless of whether he kept it and regardless of whether any meetings occurred—in exchange for his agreement to steer student-athletes to the management company. This conduct is within the reasonable scope of the legislation, and the panel's conclusion that it violates Bylaw 10.1-(d) is consistent with past applications of the legislation. See COI Internal Operating Procedure (IOP) 5-9-3; *Creighton University* (2021); and *University of Southern California (USC)* (2021).

Second, whether any meetings occurred between the agent associate and a student-athlete is likewise irrelevant to the Bylaw 10.1-(d) analysis. Case specific guidance in the recently decided *University of South Carolina, Columbia* (2021) case identified that a Bylaw 10.1-(d) violation occurs when an institutional staff member accepts benefits for the purpose of arranging a meeting between a student-athlete and an agent or advisor, regardless of whether any meetings actually occur. *See also University of Southern California (USC)* (2021) (concluding a Bylaw 10.1-(d) violation occurred notwithstanding that the involved individual did not arrange or facilitate any meetings following his acceptance of the bribe money).

It is beyond dispute that the assistant coach facilitated a meeting between the agent associate and a TCU student-athlete. The agent associate may have initiated the conversation about the meeting, but the assistant coach quickly responded and informed the agent associate that the student-athlete would be available to meet on the designated date and would be "a layup" for the agent associate. Before the COI, the assistant coach maintained that this was simply an exchange of information between a coach and an agent, which is not a violation of NCAA legislation. But the record demonstrates that the assistant coach's conduct went beyond a mere exchange of information. The assistant coach arranged to introduce the student-athlete to the agent associate, and he did so after having accepted \$6,000 from the agent associate's management company for this very purpose. In this way, the assistant coach's conduct is distinguishable from the conduct of the assistant coach in *Creighton University* (2021), where the COI concluded that the assistant coach violated Bylaws 10.01 and 10.1, but not 10.1-(d). The Creighton coach remained silent during the meeting with the management company representatives and did not discuss prospects or student-athletes. Following the meeting, he did nothing to further the management company's business model. This behavior stands in contrast to the assistant coach in this case, whose conduct clearly constitutes "facilitating or arranging a meeting" as contemplated by Bylaw 10.1-(d).

Finally, with respect to Bylaw 11.1.3, the assistant coach claimed there could be no violation where (1) no student-athletes or prospects consented to his representation, and (2) he did not receive compensation because he gave the \$6,000 payment to the agent associate. Neither argument is persuasive. Regarding the first argument, the assistant coach imputes a requirement that does not exist in Bylaw 11.1.3. Nowhere in the bylaw does it state that there has to be a representation agreement in place—or even that the student-athlete has to be *aware* of the representation—in order for a violation to occur.

As to the assistant coach's second argument, as discussed above, there is no information in the record to corroborate that he gave the money to the agent associate following the meeting. And in any event, the plain language of Bylaw 11.1.3 does not require that an individual retain possession of the compensation they receive in order for a violation to occur. Thus, consistent with recent cases involving similar circumstances, the panel concludes that the assistant coach's conduct violated Bylaw 11.1.3. *See USC, South Carolina* and *Oklahoma State University (OSU)* (2020); *but see Creighton* (neither alleging nor concluding a violation of Bylaw 11.1.3 where the assistant coach did not make representations regarding the abilities or potential of student-athletes during his meeting with the management company).

Pursuant to Bylaw 19.1.1, the Bylaw 10 and 11 violations are Level I because the conduct seriously undermined or threatened the integrity of the Collegiate Model and involved an ethical conduct violation. TCU agreed that the conduct established an ethical conduct violation and was Level I. Relevantly, the COI has also concluded that similar conduct establishes Level I violations for involved individuals and their institutions. See *Creighton*; *USC*; *South Carolina*; *University of Alabama* (2020); and *OSU*.¹⁴ In these cases, the COI specifically concluded that institutional staff members who accepted money from individuals affiliated with the agent associate, his management company or other professional services organizations committed Level I violations for the actor and the institution. Here, TCU agreed and accepted responsibility for the Level I violation committed by its employee. Accordingly, and consistent with Bylaw 19.1.1, the violation is Level I for both the assistant coach and TCU.

B. UNETHICAL CONDUCT, PROVISION OF FALSE OR MISLEADING INFORMATION AND FAILURE TO FURNISH INFORMATION RELEVANT TO THE INSTITUTION'S INVESTIGATION [NCAA Division I Manual Bylaws 10.01.1, 10.1, 10.1-(a) and 10.1-(c) (2017-18 and 2018-19)]

The assistant coach committed additional unethical conduct violations during TCU's investigation. First, in 2017, he provided false or misleading information—both verbally and on a written questionnaire—when he denied accepting money in exchange for providing access to student-athletes. Then, when his involvement with the agent associate's scheme came to light in 2019, he refused to participate in an interview with the institution. TCU agreed that the conduct established Level I violations. The assistant coach disputed the violations but argued that if any violation did occur it was Level III. The panel concludes that violations occurred, and they are Level I.

1. NCAA legislation relating to unethical conduct.

The applicable portions of the bylaws may be found at Appendix Two.

2. The assistant coach violated ethical conduct legislation when he provided false or misleading information in response to questions from the TCU athletics department and refused multiple requests to participate in an interview with the institution.

The assistant coach failed to meet the membership's expectations for conduct during an institution's investigation in two ways. First, he provided false or misleading information when he verbally denied any knowledge of or involvement in the bribery scheme and when he later declined to answer questions on a compliance questionnaire regarding acceptance of money in exchange for access to student-athletes. Second, he failed to furnish information relevant to the institution's

¹⁴ *Oklahoma State* is currently under appeal. Similarly, the involved individual is appealing portions of his case in *USC*. Further, although *Alabama* and *South Carolina* were decided through the summary disposition process and may be viewed as less instructive under COI Internal Operating Procedure (IOP) 4-10-2-2, the panel cites to them because they involved similar underlying conduct and violations.

investigation when he refused multiple requests to interview with TCU. The assistant coach's conduct violated Bylaw 10.

As mentioned, Bylaw 10 establishes ethical conduct standards, and Bylaw 10.01.1 requires all institutional staff members to act with honesty and sportsmanship. Specific examples of unethical conduct include refusal to furnish information relevant to an investigation of possible violations when requested to do so by the NCAA or the individual's institution (*see* Bylaw 10.1-(a)) and knowingly furnishing to the NCAA or the individual's institution false or misleading information concerning an individual's involvement in or knowledge of potential violations (*see* Bylaw 10.1-(c)).

In an effort to uncover any potential connections between the college basketball scandal and the TCU men's basketball program, the institution questioned the coaching staff verbally and in writing. On both occasions, the assistant coach did not tell the truth. First, when the athletics director questioned him verbally during the staff meeting immediately following the arrests, the assistant coach denied any knowledge of the agent associate and any involvement in the events that led to the arrests. Then, on October 2, 2017, the assistant coach intentionally failed to answer two questions on a compliance questionnaire that would have revealed his involvement in the scheme. After TCU eventually discovered his involvement in March 2019 by way of the superseding indictment, the assistant coach refused multiple requests by TCU to participate in an interview. When the assistant coach denied any involvement with the agent associate's scheme—both verbally and by failing to respond to questions on the compliance questionnaire—he provided false or misleading information in violation of Bylaw 10.1-(c). In refusing to interview, he failed to provide information relevant to the institution's investigation, a violation of Bylaw 10.1-(a).

The assistant coach has argued that he should not be held responsible for these violations because he was acting on the advice of counsel, who directed him not to answer any questions related to the SDNY matter. The panel recognizes that following counsel's advice—particularly where there is a possibility of criminal prosecution in a parallel proceeding—is a legitimate consideration. However, individual decisions related to outside legal proceedings do not absolve individuals from their obligations under NCAA bylaws. Individuals always have a choice whether to follow their counsel's advice. When individuals make the choice to elevate their interests in outside proceedings over their obligations under NCAA bylaws, there can still be NCAA consequences. *See Creighton* (concluding the assistant coach violated Bylaw 10 when he provided untruthful information on a compliance questionnaire related to his interaction with agents); *University of Connecticut* (2019) (stating that "[t]here is no automatic exception for reliance on the advice of counsel" and concluding that the former head men's basketball coach violated Bylaw 10.1-(a) when he refused to participate in a second interview on the advice of counsel due to his involvement in separate legal proceedings); and *University of Minnesota, Twin Cities* (2000) (concluding an academic counselor violated Bylaw 19.01.3—precursor to Bylaw 19.2.3—when he refused to participate in an interview on the advice of counsel due to an ongoing federal investigation). As in these cases, the assistant coach violated Bylaw 10 when he provided untruthful information to the institution and refused to participate in an interview.

This violation is not cured, as the assistant coach has argued, by his later cooperation with the enforcement staff's investigation. An institutional staff member's obligation to cooperate with his or her employer's investigation is no less important than the obligation to cooperate with the enforcement staff. Member institutions have a responsibility to monitor their athletics programs to ensure compliance and to timely report any instances of non-compliance. They cannot carry out this responsibility without the full and timely cooperation of their staff members. A staff member's failure to timely interview or provide truthful information significantly hinders the institution's ability to ascertain whether violations have occurred and to promptly report those violations to the NCAA. When an investigation is delayed, valuable information can be lost. Additionally, there can be repercussions for the institution in the form of aggravating and mitigating factors should an infractions case ensue. As the COI has routinely emphasized, the responsibility to cooperate means *full* cooperation throughout the process. *See Connecticut* (concluding that the head men's basketball coach failed to cooperate when he declined to participate in a second interview) and *University of Louisiana at Lafayette* (2016) (concluding that an assistant football coach failed to cooperate when he declined to participate in a third interview and furnish phone records after having participated in two interviews earlier in the investigation). Thus, the assistant coach's failure to cooperate with TCU is not cured by his eventual cooperation with the enforcement staff.

Because the assistant coach was employed at TCU at the time of the conduct, the violations apply to both the assistant coach and TCU. Pursuant to Bylaw 19.1.1, the violations are Level I because they seriously undermine and threaten the integrity of the Collegiate Model. *See* Bylaw 19.1.1-(d) (identifying individual unethical conduct or dishonest conduct as an example of a Level I violation). The COI has regularly concluded that Level I violations occur when individuals provide false or misleading information or refuse to participate in an interview. *See Creighton* (concluding that the assistant coach's provision of untruthful information on a compliance questionnaire constituted a Level I violation); *Georgia Institute of Technology (Georgia Tech)* (2019) (concluding that the assistant coach committed Level I violations when he lied in an interview and denied involvement in the underlying violations and attempted to persuade a student-athlete to lie); and *Connecticut* (concluding the head coach's refusal to participate in a second interview constituted a Level I violation). As in these cases, the assistant coach's provision of false or misleading information and refusal to interview constitute Level I violations.

C. POST-SEPARATION UNETHICAL CONDUCT AND FAILURE TO COOPERATE [NCAA Division I Manual Bylaws 10.1, 10.1-(c), 19.2.3 and 19.2.3-(b) (2019-20)]

After separating from TCU, the assistant coach engaged in additional unethical conduct when, during an interview with the enforcement staff, he provided false or misleading information regarding his agreement with the agent associate's management company. The assistant coach disputed the violation. The panel concludes a violation occurred and it is Level I.

1. NCAA legislation relating to unethical conduct and the responsibility to cooperate.

The applicable portions of the bylaws may be found at Appendix Two.

2. The assistant coach violated ethical conduct legislation when he provided false or misleading information to the enforcement staff regarding his agreement with the management company.

During the assistant coach's August 6, 2019, interview with the enforcement staff, he denied accepting money and entering into an agreement to steer players to the management company. These denials are refuted by video surveillance and other information in the record—particularly the assistant coach's own actions and statements. The panel concludes that the assistant coach's statements during the interview constituted false or misleading information in violation of Bylaws 10 and 19. The violation is Level I.

As stated previously, Bylaw 10 establishes ethical conduct standards and Bylaw 10.01.1 requires all staff members to act with honesty and sportsmanship. Among other examples, Bylaw 10.1-(c) states that the provision of false or misleading information constitutes unethical conduct. Similarly, Bylaw 19.2.3 obligates current and former institutional staff members to cooperate with the objectives of the Association and its infractions program. Full cooperation includes timely participation in interviews and providing complete and truthful responses.

The assistant coach made statements during his August 6, 2019, interview that are not supported by the record in this case. He denied that he accepted \$6,000 from the management company in exchange for his agreement to steer student-athletes to retain the management company's services when they turned professional. Although he acknowledged that he physically took possession of the money, he claimed he did not "accept" the money because it was never intended for him, and he gave it to the agent associate following the meeting. He also denied that there was any agreement in place for him to continue receiving payments from the management company.

These denials run counter to the factual information in this case. Video surveillance captured the assistant coach touting the abilities of specific student-athletes and prospects with whom he had relationships and suggesting that he could steer these players to the management company. During that same conversation, the agent associate stated *twice* that the management company would pay the assistant coach on a monthly basis and would continue to do so even if he left TCU for another institution. The surveillance also clearly showed the assistant coach accepting \$6,000 cash from the management company, holding the money in his hand as he shook hands with a management company representative and then leaving the room with the money. There is no information in the record that corroborates the assistant coach's claim that he gave the money to the agent associate following the meeting. Finally, text exchanges in the record document the affirmative steps taken by the assistant coach to facilitate contact between the agent associate and two of the student-athletes the assistant coach discussed during the Las Vegas meeting.

The events of July 28, 2017, created an agreement between the assistant coach and the management company. Whether the assistant coach kept the money is irrelevant. The management company representatives understood that they were paying the assistant coach in exchange for his agreement to steer players to them. At the point they paid the assistant coach, it solidified the business relationship.

In this way, the assistant coach's conduct is different than that of the associate head coach in *USC* and aligns more closely with the conduct of the assistant coach in *Creighton*. In *USC*, the COI did not conclude that the associate head coach provided false or misleading information when his account and explanation around some facts and circumstances differed from the enforcement staff's interpretation of the same events. In *USC*, the associate head coach admitted that he received payments in exchange for directing basketball players from USC to retain the services of certain financial advisors and business managers.¹⁵ He further acknowledged that his conduct could be viewed as developing a tacit understanding of an agreement. Although the associate head coach stated that the amount of money he received may have been different than his plea agreement, the COI explained that the slight variance was immaterial to whether a Level I violation occurred in an infractions case. The COI did not believe that the minor discrepancy rose to unethical conduct or a failure to cooperate.

Here, as in *Creighton*, the facts are different. Although the assistant coach acknowledged that he made the wrong decision in agreeing to attend the meeting, he has not acknowledged that his conduct established violations and ran afoul of core principles and standards of conduct. As such, the assistant coach's denials establish a further violation—especially when his conduct demonstrated a clear and ongoing business relationship.

Pursuant to Bylaw 19.1.1, the violation is Level I because it seriously undermines and threatens the integrity of the Collegiate Model. *See* Bylaw 19.1.1-(d) (identifying individual unethical or dishonest conduct as an example of a Level I behavior). As noted above, the COI has regularly concluded that Level I violations occur when individuals provide false or misleading information. *See Georgia Tech* and *University of the Pacific* (2017). The assistant coach's denials were at the very least misleading. More accurately, they were false. As such, Level I violations occurred.

V. PENALTIES

For the reasons set forth in Sections III and IV of this decision, the panel concludes that this case involved Level I violations of NCAA legislation. Level I violations are severe breaches of conduct that undermine or threaten the integrity of the Collegiate Model and provide or are intended to provide substantial or extensive advantages or benefits. The conduct at the center of this case undermines and threatens the foundation of the Collegiate Model.

¹⁵ Pursuant to Bylaw 19.7.8.3.1, that information was accepted as true based on the associate head coach's guilty plea as part of the federal government's criminal prosecution.

In considering penalties, the panel first reviewed aggravating and mitigating factors pursuant to Bylaws 19.9.2, 19.9.3 and 19.9.4 to determine the appropriate classifications for the parties. The panel then used the current penalty guidelines (Figure 19-1) and Bylaws 19.9.5 and 19.9.7 to prescribe penalties.

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

Aggravating Factors for TCU

19.9.3-(a): Multiple Level I violations by the institution;

19.9.3-(b): A history of Level I, Level II or major violations; and

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

Bylaw 19.9.3-(a), *Multiple Level I violations*, applies because TCU is responsible for two Level I violations—the assistant coach's unethical conduct in conjunction with the July 2017 Las Vegas meeting and his unethical conduct during the institution's investigation of his involvement in that meeting. TCU argued, however, that the factor should not apply because both violations derived from the same underlying conduct.¹⁶ As the COI recently explained in *Creighton*, an individual's failure to meet conduct standards during an investigation involves separate and independent actions that establish separate and independent violations. Thus, Bylaw 19.9.3-(a) applies even where the second violation is a derivative violation (*e.g.*, unethical conduct, head coach responsibility, failure to monitor and lack of institutional control). *See Creighton* and *Georgia Tech*. The panel takes into account, however, that the subsequent unethical conduct in this case occurred during TCU's investigation and despite TCU's efforts to obtain truthful information and persuade the assistant coach to participate in an interview. Thus, the panel assigns the factor less weight due to the unique circumstances of the second unethical conduct violation.

With respect to Bylaw 19.9.3-(b), *A history of Level I, Level II or major violations*, TCU argued that minimal weight should be given to this factor due to the unique nature of the violations in this case and the absence of a failure to monitor, lack of institutional control or head coach responsibility violation. The panel determines that the factor applies and assigns it normal weight. This is TCU's sixth Level I, Level II or major infractions case, and its most recent case occurred in 2019. Although the panel recognizes that the 2019 case involved violations of a different nature, the panel will not minimize the weight of this factor when the institution has had two cases within such a short period. Indeed, TCU's 2019 case was still pending when the enforcement staff issued the NOA in this case. Accordingly, the panel determines that Bylaw 19.9.3-(b) applies with normal weight. *See USC* (applying the factor with normal weight where the institution had six previous

¹⁶ TCU also noted that the factor did not apply in *Alabama*. However, the subsequent unethical conduct violation in that case was a post-separation violation, *i.e.*, the conduct occurred after the involved individual separated from the institution. Thus, *Alabama* is not relevant to the panel's analysis.

cases, with the most recent occurring eleven years prior); *South Carolina* (applying the factor with normal weight where the institution had three cases within a span of four years); and *Alabama* (applying the factor with normal weight where the institution had six previous cases and the most recent occurred three years prior).¹⁷

The enforcement staff proposed Bylaw 19.9.3-(j), *Conduct or circumstances demonstrating an abuse of a position of trust*, which TCU opposed.¹⁸ The panel determines that Bylaw 19.9.3-(h), *Persons of authority condoned, participated in or negligently disregarded the violation*, is more appropriate. Although both TCU and the enforcement staff stated at the hearing that they did not believe Bylaw 19.9.3-(h) should apply, the application of this factor is consistent with other recent cases involving similar factual predicates. See *Creighton* (applying Bylaw 19.9.3-(h) rather than Bylaw 19.9.3-(j)); *USC* (same); *South Carolina* (same); *Alabama* (same); and *OSU* (same). Without a doubt, the assistant coach was a person of authority who participated in the violations. As the COI noted in *USC*, persons of authority often hold positions of trust, and there may be times when both factors apply to an institution. However, authority derives from the institution, and it was the assistant coach's position of authority at a high-profile institution that made him particularly attractive to the management company. Accordingly, Bylaw 19.9.3-(h) applies.

Mitigating Factors for TCU

19.9.4-(c): Affirmative steps to expedite final resolution of the matter;

19.9.4-(d): An established history of self-reporting Level III or secondary violations;¹⁹ and

19.9.4-(f): Exemplary cooperation.

In addition to these three agreed-upon mitigating factors, TCU proposed two additional factors: (1) Bylaw 19.9.4-(b), *Prompt acknowledgment of the violation, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties*; and (2) Bylaw 19.9.4-(e), *Implementation of a system of compliance methods designed to ensure rules compliance and satisfaction of institutional/coaches' control standards*. The panel determines that neither applies. Further, the panel applies significant weight to Bylaw 19.9.4-(f).

Bylaw 19.9.4-(b) does not apply because TCU's conduct did not meet all three components of the factor. The panel agrees that TCU promptly acknowledged the violations and accepted

¹⁷ Although *Alabama* and *South Carolina* were decided through the summary disposition process and may be viewed as less instructive under COI IOP 4-10-2-2, the panel cites to them throughout this section because they involved similar underlying conduct and violations. Thus, the COI's application of aggravating and mitigating factors in those cases is relevant.

¹⁸ The enforcement staff also originally proposed Bylaw 19.9.3-(m), *Intentional, willful or blatant disregard for the NCAA constitution and bylaws*, for TCU but withdrew it at the hearing.

¹⁹ TCU self-reported 113 Level III violations over the last five years, an average of approximately 23 violations per year.

responsibility; however, TCU did not promptly impose meaningful penalties.²⁰ The NOA in this case was issued on December 17, 2019, and TCU did not identify any self-imposed penalties until it submitted its amended response to the NOA on October 14, 2020. TCU did not self-impose any penalties in its initial March 30, 2020, response. By contrast, the *USC* NOA was issued around the same time—December 13, 2019—and by that point, USC had already self-imposed penalties that went into effect in the 2018-19 academic year. In light of TCU's significant delay in self-imposing penalties, the panel determines that Bylaw 19.9.4-(b) does not apply.

Nor do the facts of this case support the application of Bylaw 19.9.4-(e). The panel notes, in particular, that the assistant coach's failure to answer all questions on the October 2017 compliance questionnaire did not raise any red flags for the compliance staff, and the staff did not follow-up with the assistant coach to ask why he failed to answer. Although TCU's compliance staff and athletics administration generally reacted to the 2017 arrests and 2019 superseding indictment in a swift and appropriate manner, this failure to follow-up represents a misstep that cuts against application of Bylaw 19.9.4-(e). Furthermore, unlike in the recent *USC*, *Alabama* and *South Carolina* cases, the enforcement staff did not agree to the application of this mitigating factor. The panel determines that the factor does not apply.

Aggravating Factors for the Assistant Coach

- 19.9.3-(a): Multiple Level I violations by the involved individual;
- 19.9.3-(e): Unethical conduct, compromising the integrity of an investigation, failing to cooperate during an investigation or refusing to provide all relevant or requested information;
- 19.9.3-(h): Persons of authority condoned, participated in or negligently disregarded the violation or wrongful conduct;
- 19.9.3-(l): Conduct was intended to generate pecuniary gain for the involved individual; and
- 19.9.3-(m): Intentional, willful or blatant disregard for the NCAA constitution or bylaws.

The enforcement staff proposed five aggravating factors, Bylaws 19.9.3-(a), (e), (j), (l) and (m), for the assistant coach's conduct. The assistant coach disagreed with all five factors. The panel concludes that five aggravating factors apply, agreeing with four of the factors identified by the enforcement staff but substituting Bylaw 19.9.3-(h) for Bylaw 19.9.3-(j).

With respect to Bylaw 19.9.3-(a), the factor applies because the panel concluded that the assistant coach committed multiple Level I violations. The COI has regularly applied this factor to involved individuals when their conduct results in more than one Level I violation. *See Creighton, Georgia Tech, OSU, South Carolina and Alabama.*

²⁰ Although TCU has always accepted responsibility for the Bylaw 10.01.1 and 10.1 violations, the institution initially disputed the Bylaw 10.1-(d) and 11.1.3 violations and argued that the violations should be Level II for the institution. However, TCU changed its position and accepted Level I responsibility for all violations as relevant interpretive and case guidance emerged. The COI has previously determined that this factor can apply even when parties advocate for a different level or do not fully agree to violations. *See OSU* (determining the factor applied even where OSU advocated for Level II violations and disputed the application of Bylaws 10.1-(d) and 11.1.3) and *University of Tennessee at Chattanooga* (2018) (determining the factor applied to a head men's tennis coach who contested violations but repeatedly acknowledged his shortcomings and accepted responsibility).

The analysis of Bylaw 19.9.3-(e) is equally straightforward. The assistant coach's conduct established multiple unethical conduct violations, including the provision of false or misleading information during the institutional and enforcement staff investigations and refusal to interview with TCU. The COI has routinely applied this factor to involved individuals who engaged in conduct that established unethical conduct violations. *See Creighton, USC, OSU, Georgia Tech, South Carolina and Alabama.* Likewise, it applies here.

The enforcement staff originally identified Bylaw 19.9.3-(j), *Conduct or circumstances demonstrating an abuse of a position of trust*, for the assistant coach. However, the panel determines that Bylaw 19.9.3-(h), *Persons of authority condoned, participated in or negligently disregarded the violation or wrongful conduct*, is more appropriate. The assistant coach was unquestionably in a position of trust. But as the COI recently explained in *Creighton*, Bylaw 19.9.3-(j) has more often applied where an involved individual's actions violated the trust of student-athletes by involving them (or their family members) in violations or putting them in compromising positions. *See OSU* (applying the factor when the associate head coach admitted at his sentencing hearing that he abused his position of trust for his own personal gain); *Georgia Tech* (applying the factor to the assistant coach after he attempted to use his position to influence a student-athlete to change what the student-athlete previously told the enforcement staff); *Alabama* (applying the factor when the associate director of athletics accepted money from a financial advisor and then used his position to introduce the financial advisor and the financial advisor's representative to the father of a high-profile Alabama student-athlete); and *South Carolina* (applying the factor when the assistant coach accepted bribe payments in exchange for his agreement to arrange a meeting for an agent and a prominent student-athlete who was expected to enter the NBA draft and the student-athlete's family). The four current and former student-athletes and prospects interviewed for this case confirmed that the assistant coach never introduced them to the agent associate or had a conversation with them regarding the agent associate and/or his management company.

Bylaw 19.9.3-(h), on the other hand, plainly applies. As stated previously, the assistant coach was a person of authority who participated in violations. Furthermore, his position of authority as an assistant coach at a high-profile institution in Texas was what made him attractive to the management company. Indeed, the agent associate and management company representatives discussed the assistant coach's potential recruiting reach in Texas the night before the July 28, 2017, Las Vegas meeting. The application of this factor is uncomplicated, and the COI has regularly applied it where coaches are directly involved in violations. *See Creighton, USC, OSU, Georgia Tech, Siena College (2020) and DePaul University (2019); see also South Carolina and Alabama.* Given the assistant coach's position, and consistent with these cases, the panel determines that the factor applies.

With respect to Bylaw 19.9.3-(l), *Conduct was intended to generate pecuniary gain*, the factor applies because the assistant coach went into the meeting knowing he would be paid. Although he maintains that he did not keep the money, there is no information in the record that corroborates this claim. There is, however, video footage showing the assistant coach accepting the money and

leaving the meeting with it in his hand. The factor applies and aligns with recently decided cases involving similar facts and circumstances. *See Creighton, USC, South Carolina, Alabama, and OSU.*

Finally, the panel determines that Bylaw 19.9.3-(m), *Intentional, willful or blatant disregard for the NCAA constitution or bylaws*, applies to the assistant coach. The assistant coach went into the Las Vegas meeting with eyes wide open. Although he may have found out only moments before, he knew that the agent associate's backers would be there, and he knew that he would be paid at the conclusion of the meeting. During the meeting, he touted the abilities of players with whom he had relationships. He agreed when the agent associate talked about providing "resources" to him on a monthly basis and the management company's need for "access" to TCU student-athletes. And he accepted \$6,000 cash at the end of the meeting. Even if the assistant coach's purpose in doing this was to help his friend, he intentionally violated NCAA legislation and disregarded fundamental principles of the Collegiate Model in doing so. The COI has applied this factor in other recent cases involving similar conduct, and it applies here as well. *See Creighton, USC, South Carolina, Alabama and OSU.*

Mitigating Factors for the Assistant Coach

19.9.4-(c): Affirmative steps to expedite final resolution of the matter; and

19.9.4-(h): The absence of prior conclusions of Level I, level II or major violations committed by the involved individual.

The enforcement staff and the assistant coach agreed that Bylaw 19.9.4-(h) applies. Additionally, the assistant coach proposed Bylaw 19.9.4-(c), *Affirmative steps to expedite final resolution of the matter*. The panel determines that this factor also applies.

After his initial refusal to interview with TCU, the assistant coach cooperated fully once the enforcement staff's investigation began. He participated in two interviews, timely provided all documents requested by the enforcement staff (or explained why requested documents were not available), permitted mirror imaging of his cell phone and provided extensive personal financial records, including records of accounts jointly held by his wife. When involved individuals cooperate in a full and timely manner such as this, it undoubtedly expedites the infractions process. The panel determines that Bylaw 19.9.4-(c) applies to the assistant coach.

By applying this factor, the panel by no means undermines its conclusion that the assistant coach violated Bylaw 10 when he provided false or misleading information to and refused to participate in an interview with TCU. That violation occurred. However, when the enforcement staff became involved in the case, the assistant coach's behavior—*i.e.*, his willingness to cooperate and participate in an interview—changed. The panel determines that this change and his subsequent efforts expedited the resolution of this case.

All the penalties prescribed in this case are independent and supplemental to any action the NCAA Division I Committee on Academics has taken or may take through its assessment of postseason

ineligibility, historical penalties or other penalties. In prescribing penalties, the panel considered TCU's cooperation in all parts of this case. As noted in the mitigating factors, TCU demonstrated exemplary cooperation throughout the matter. The panel also considered TCU's corrective actions, which are contained in Appendix One. The panel prescribes the following penalties (self-imposed penalties are so noted):

Core Penalties for Level I-Mitigated Violations (Bylaw 19.9.5)²¹

1. Probation: Three years of probation from June 29, 2021, through June 28, 2024.²²
2. Financial penalty: TCU shall pay a fine of \$5,000 plus one percent of the men's basketball budget.²³ (Self-imposed.)

Core Penalties for Level I-Aggravated Violations (Bylaw 19.9.5)

3. Show-cause order: The assistant coach engaged in unethical conduct when he accepted money in exchange for his agreement to direct basketball student-athletes to retain the services of a business management company. During his participation in this scheme, he violated NCAA legislation prohibiting athletics staff members from representing individuals in marketing their athletics ability or reputation. The assistant coach also engaged in unethical conduct when he provided false or misleading information during the institutional and enforcement staff investigations and when he refused to participate in interviews requested by the institution. Therefore, the assistant coach shall be subject to a five-year show-cause order from June 29, 2021, through June 28, 2026. Pursuant to COI IOP 5-15-3-1, any NCAA member institution employing the assistant coach in an athletically related position during the five-year show-cause period shall be required to contact the Office of the Committees on Infractions (OCOI) to make arrangements to show cause why restrictions on all athletically related activity should not apply.

Although each case is unique, this show-cause order is appropriately within the range of other show-cause orders prescribed in SDNY-related infractions cases. Unlike the involved individuals who received 10-year show-cause orders in other cases (*see OSU, South Carolina and Alabama*), the assistant coach cooperated fully with the enforcement staff's investigation. Furthermore, the panel took into account that no meetings between the agent associate and student-athletes, prospects or their families occurred that were arranged by the assistant coach.

²¹ If an opportunity to serve a penalty will not be available due to circumstances related to COVID-19, the penalty must be served at the next available opportunity. With the exception of postseason bans, probation and general show-cause orders, this methodology applies to all penalties, including institutional penalties, specific restrictions within show-cause orders and head coach restrictions, unless otherwise noted.

²² The COI's methodology for penalties impacted by COVID-19 does not apply to probation. TCU proposed a two-year period of probation.

²³ The fine from the program must be calculated in accordance with COI IOPs 5-15-4 and 5-15-4-1.

See OSU (prescribing a 10-year show-cause order where the associate head coach arranged and personally attended a meeting between a financial advisor and an *OSU* student-athlete) and *Alabama* (prescribing a 10-year show-cause order where the associate athletics director arranged and personally attended a meeting between the father of a student-athlete, a financial advisor and the financial advisor's representative).

However, while no in-person meetings ultimately occurred, the assistant coach took active steps to facilitate a phone call between the agent associate and a student-athlete's father and to facilitate a meeting between the agent associate and another student-athlete. That meeting likely would have occurred had the agent associate not been arrested four days before the scheduled meeting date. This conduct differentiates the assistant coach from the involved individuals in *Creighton* and *USC*, who did not take steps to facilitate or arrange meetings with student-athletes following their July 2017 Las Vegas meetings with the management company.

Additionally, unlike the involved individual in *USC*, the assistant coach did not accept responsibility for his actions. He maintained throughout the processing of this case that no violations occurred or, if they did, they were Level III at most. He attempted to justify his actions by telling the panel that this is just how things work in college basketball. Even if true, that does not excuse his conduct, which violated NCAA legislation and the fundamental principles of the Collegiate Model. Thus, in light of the assistant coach's affirmative steps to facilitate contact between the agent associate and student-athletes and their families, as well as his lack of accountability, the panel determined that a more significant show-cause order was warranted for the assistant coach than the two- and three-year show-cause orders prescribed in *Creighton* and *USC*, respectively.

Additional Penalties for Level I-Mitigated Violations (Bylaw 19.9.7)

4. Public reprimand and censure through the release of the public infractions decision.
5. During the period of probation, TCU shall:
 - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct coaches, the faculty athletics representative, all athletics department personnel and all institutional staff members with responsibility for recruiting and certification legislation.
 - b. Submit a preliminary report to the OCOI by August 13, 2021, setting forth a schedule for establishing this compliance and educational program.
 - c. File with the OCOI annual compliance reports indicating the progress made with this program by April 15, during each year of probation. Particular emphasis shall be placed on rules education and monitoring related to staff interaction with agents and advisors.

- d. Inform prospects in the men's basketball program in writing that TCU is on probation for three years and detail the violations committed. If a prospect 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 prospect signs a National Letter of Intent.
 - e. Publicize specific and understandable information concerning the nature of the infractions by providing, at a minimum, a statement to include the types of violations and the affected sport programs and a direct, conspicuous link to the public infractions decision located on the athletic department's main webpage "landing page" and in the media guides for men's basketball. The institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the case; and (iii) give members of the general public a clear indication of what happened in the case to allow the public (particularly prospects and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient.
6. Following the receipt of the final compliance report and prior to the conclusion of probation, TCU's chancellor shall provide a letter to the COI affirming that TCU's current athletics policies and practices conform to all requirements of NCAA regulations.

The COI advises TCU and the assistant coach that they should take every precaution to ensure that they observe the terms of the penalties. The COI will monitor TCU while it is on probation to ensure compliance with the penalties and terms of probation and may extend the probationary period, among other action, if TCU does not comply or commits additional violations. Likewise, any action by TCU or the assistant coach contrary to the terms of any of the penalties or any additional violations shall be considered grounds for prescribing more severe penalties and/or may result in additional allegations and violations.

NCAA COMMITTEE ON INFRACTIONS PANEL

Carol Cartwright, chief hearing officer
Richard Ensor
Alberto Gonzales
Joel Maturi
Gary L. Miller
Joseph Novak
Jill Redmond

APPENDIX ONE

TCU'S CORRECTIVE ACTIONS IDENTIFIED IN ITS RESPONSE TO THE NOTICE OF ALLEGATIONS

TCU has, for many years, provided significant education and monitoring in the area of agents and amateurism for men's basketball (MBB). In response to the revelations associated with college basketball recruiting that were exposed in the FBI/SDNY matter, the compliance staff began the practice of meeting with MBB student-athletes for them to complete an Amateurism Questionnaire at the beginning of the fall semester and increased its monitoring and education efforts.

In addition to the above-referenced enhancements, the ongoing education provided, forms administered, and monitoring performed by TCU Compliance relevant to the alleged violations are described below.

Education:

- Provide education on agents to all student-athletes across all sports, including MBB student-athletes, three times a year (beginning of fall semester, end of fall semester, and end of spring semester).
- Provide education to MBB student-athletes on agents and draft process twice a year (in the fall at the beginning of the season and in Feb/March toward the end of the season).
- Provide MBB agent and draft educational documents and updates to MBB staff members periodically.
- Provide education to MBB staff on updates by the Commission on College Basketball and relevant NCAA rules changes periodically.

Forms:

- Meet with MBB student-athletes for them to complete the Department of Athletics Interview Questions Form prior to the season beginning (October).
 - This form requires student-athletes to answer whether they have received benefits from agents/advisors or apparel companies.
- Meet with MBB student-athletes for them to complete the Amateurism Questionnaire at the beginning of the fall semester [*newly implemented in fall 2019*].
 - This questionnaire details recruiting visits, previous coaches/teams, agents, benefits, etc.
- All athletics department staff, including MBB staff, complete an Outside Income Form at the beginning of each academic year.
 - On this form staff members must disclose all income they have received outside of the institution.
- All athletics department staff, including MBB staff, complete a Certification of Compliance Form at the beginning of each academic year.

- This form affirms that staff members have reported any and all possible NCAA violations.

Monitoring:

- All guests for complimentary admissions sports, including MBB, must be entered in the JumpForward database for review.
 - Staff members and student-athletes who receive complimentary admissions must answer questions regarding each guest they would like to attend a game.
 - All guests entered into JumpForward are run through the database and compared against the watch list to prevent any impermissible guests.
- For all complimentary admissions sports, including MBB, a percentage of games (pass lists) are scrutinized in a more thorough review after the game has occurred.
- MBB staff members must sign a Complimentary Admissions Affirmation statement at the beginning of each season.
 - This form states that staff members will not add impermissible guests to their pass list.
- Compliance staff members attend and travel to all home and away games for MBB to monitor activities, such as pass lists, agents, recruits, etc.

APPENDIX TWO
Bylaw Citations

Division I 2016-17 Manual

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

10.1 Unethical Conduct. Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

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

11.1.3 Representing Individuals in Marketing Athletics Ability/Reputation. Staff members of the athletics department of a member institution shall not represent, directly or indirectly, any individual in the marketing of athletics ability or reputation to an agent, a professional sports team or a professional sports organization, including receiving compensation for arranging commercial endorsements or personal appearances for former student-athletes, except as specified in Bylaw 11.1.3.1, and shall not receive compensation or gratuities of any kind, directly or indirectly, for such services.

Division I 2017-18 Manual

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

10.1 Unethical Conduct. Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

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

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

Division I 2018-19 Manual

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

10.1 Unethical Conduct. Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

(a) Refusal to furnish information relevant to an investigation of a possible violation of an NCAA regulation

when requested to do so by the NCAA or the individual's institution;

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

Division I 2019-20 Manual

10.1 Unethical Conduct. Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member, which includes any individual who performs work for the institution or the athletics department even if he or she does not receive compensation for such work, may include, but is not limited to, the following:

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

19.2.3 Responsibility to Cooperate. Institutions, current and former institutional staff members, and prospective and enrolled student-athletes of member institutions have an affirmative obligation to cooperate fully with and assist the NCAA enforcement staff, the Complex Case Unit, the Committee on Infractions, the Independent Resolution Panel and the Infractions Appeals Committee to further the objectives of the Association and its infractions program, including the independent accountability resolution process. Full cooperation includes, but is not limited to:

(b) Timely participation in interviews and providing complete and truthful responses.