



**SAINT MARY'S COLLEGE OF CALIFORNIA  
PUBLIC INFRACTIONS REPORT  
MARCH 1, 2013**

**I. INTRODUCTION.**

On December 14, 2012, officials from Saint Mary's College of California,<sup>1</sup> (Saint Mary's College) including the head men's basketball coach along with his counsel, appeared before the NCAA Division I Committee on Infractions ("the committee") to address allegations of major infractions in the men's basketball program.<sup>2</sup> Included in this case were allegations of intentional violations of NCAA bylaws concerning impermissible recruiting inducements provided to prospective student-athletes and unethical conduct on the part of a then assistant men's basketball coach who later became the director of men's basketball operations ("former assistant coach"), as well as extra benefits, a failure to promote an atmosphere for compliance and a failure to monitor by the head men's basketball coach ("head coach"). The institution also was alleged to have failed to monitor the men's basketball program.

The institution and the head coach substantially agree to the facts, and both parties agree that the violations occurred, except for the head coach's denial that he failed to monitor the former assistant coach. The institution agrees that it failed to monitor its men's basketball program. Also, the institution agrees that the head coach failed to promote an atmosphere for compliance and failed to monitor the activities of the former assistant coach. Further, it agrees that the former assistant coach knowingly committed recruiting violations and, in doing so, violated the principles of ethical conduct.

In a half-page written response, the former assistant coach did not contest the facts of the allegations involving him. He provided a brief explanation for his actions as alleged mitigation. The former assistant coach did not attend the hearing.

This case centers on the former assistant coach and the head coach. The former assistant coach knowingly committed recruiting violations involving three prospective student-athletes and, in doing so, also violated the NCAA's principles of ethical conduct. The majority of the former assistant coach's impermissible recruiting activity centered on an

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<sup>1</sup> A member of the West Coast Conference, Saint Mary's College has an enrollment of approximately 3,900 students. The institution sponsors seven men's and nine women's intercollegiate sports. This is the institution's first major infractions case.

<sup>2</sup> The former assistant coach, who was also an involved individual and named in the notice of allegations, did not participate in the infractions hearing before the committee, but did participate in one interview with the enforcement staff on July 27, 2010. References to statements made by the former assistant coach will be to the July 2010 interview and to his brief written response to the allegations made against him.

international prospective student-athlete being recruited by the institution. The former assistant coach arranged significant inducements to facilitate the recruitment and enrollment of prospective international student-athletes. The inducements for one or more of the prospective international student-athletes included travel, securing host family accommodations, local transportation and assistance in obtaining a student visa.

The former assistant coach's violations occurred both when he was employed by the institution and subsequent to his departure from the institution in late August 2009. After leaving the employ of the institution, the former assistant coach became a "representative of the institution's athletics interest" under NCAA legislation because he continued to engage in activity that assisted the institution's recruitment of a prospective student-athlete.<sup>3</sup>

The head coach's violations occurred because he knew that impermissible conditioning and practice sessions were conducted by two individuals not employed by the institution. As a result of these violations, the institution violated NCAA legislation relating to playing and practice seasons, extra benefits and coaching staff limits. The head coach also failed to promote an atmosphere for compliance and failed to monitor relative to the impermissible conditioning and practice sessions, as well as failed to monitor the activity of the former assistant coach.

This case involved major infractions of NCAA legislation committed by both the head coach and the former assistant coach. In light of these major infractions, as set forth below, the committee concludes that the following principal penalties are appropriate: four years of probation, a reduction in men's basketball grants-in-aid during the 2014-15 and 2016-17 academic years, a two-year show cause for the former assistant coach, a five-game suspension for the head coach during the upcoming 2013-14 season, significant recruiting restrictions imposed on the head coach, as well as other appropriate penalties as detailed in the penalty section of this report.

## II. CASE HISTORY.

Initial indications of possible NCAA violations involving Saint Mary's College were first brought to the attention of the NCAA enforcement staff in March 2010 when the staff received information from the NCAA Eligibility Center regarding an international prospective student-athlete ("prospect 1") and the possible involvement of the former

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<sup>3</sup> The former assistant coach's recruiting activities following his departure from the employ of the institution are attributable to the institution, pursuant to NCAA Bylaw 13.02.14 **Representatives of Athletics Interests**, subpart (c) "Be assisting or to have been requested (by the athletics department staff) to assist in the recruitment of prospective student-athletes."

assistant coach in NCAA violations associated with prospect 1. The subsequent investigation revealed that, early in the 2009-10 academic year, the California Interscholastic Federation (CIF) determined that prospect 1, a then high school senior, was not eligible to compete at his California high school because he had failed to meet the organization's transfer and residence requirements. Among the findings contained in the CIF's November 24, 2009, decision letter was that the former assistant coach had "helped place" prospect 1 at a local high school in California "so that [prospect 1] could be recruited to the former assistant coach's college after high school." The CIF shared its findings with Saint Mary's College officials. Shortly after initiating the investigation, the enforcement staff obtained a copy of an email which appeared to support the findings of the CIF. The former assistant coach sent the email to a local high school basketball coach. The subject of the email was prospect 1 and the message indicated, in relevant part, that "it's all about getting him [prospect 1] to Saint Mary's College."

Through the spring and summer of 2010, the enforcement staff interviewed numerous individuals, including prospect 1, members of his host family, local high school coaches, an official with the CIF and the former assistant coach. During this period, specifically in late August, the enforcement staff received information from an anonymous source regarding potential violations of NCAA legislation in men's basketball, including impermissible benefits and the involvement of individuals outside the institution training men's basketball student-athletes.

During the fall of 2010, the investigation shifted to the institution's campus where the enforcement staff and the institution interviewed current men's basketball student-athletes and staff members. In addition, the enforcement staff and the institution reviewed documents, including telephone records and emails. Interviews were conducted with former Saint Mary's College assistant coaches, as well as student-athletes who had transferred to other institutions. Notably, in early September, the enforcement staff received additional information from an anonymous source reporting that a local nonscholastic boys' basketball coach and professional trainer ("basketball trainer"), had conducted sessions with members of the men's basketball team during the summer, possibly in violation of NCAA legislation. The basketball trainer was interviewed later that fall.

The enforcement staff concluded its investigation in early 2012 and issued a notice of allegations to the institution and involved individuals on March 5, 2012. The institution had collaborated closely with the enforcement staff in the investigation and, after a thorough review of the evidence, agreed to the violations set forth below. As indicated earlier, the former assistant coach filed a very brief written response but did not contest the facts of the violations in which he was named. The head coach substantially agreed with the violations associated with him, with one exception; that he failed to monitor the impermissible recruiting activity of the former assistant coach. The hearing was

originally scheduled to take place in August 2012. However, after several requests for delays of the hearing date by the involved parties, first to October, then to December, the hearing took place on December 14, 2012.

### **III. FINDINGS OF FACT.**

#### **International contacts and recruiting**

Saint Mary's College hired the former assistant coach in May 2008. Prior to his tenure at Saint Mary's College, the former assistant coach was employed at an NCAA member institution as well as two separate two-year institutions.<sup>4</sup> Immediately prior to his employment by Saint Mary's College in May 2008, the former assistant coach was employed as a director of basketball operations and player development with a French-owned professional sports agency (hereafter "the agency"). This agency has National Basketball Association (NBA) and international clientele, primarily from France. The former assistant coach worked with the agency from approximately 1997 until his employment by Saint Mary's College. While employed with the agency, he became involved with the training of international (primarily French) basketball players.

After assuming his duties at the institution, the former assistant coach received a call in September 2008 from the owner of the sports agency ("agency owner") for which he was formerly employed advising him that prospect 1 was living in the United States (U.S.) and enrolled in a Florida high school.

Thereafter, at the beginning of November 2008, the former assistant coach initiated contact with prospect 1 and began recruiting him to Saint Mary's College, a fact to which the former assistant admitted.<sup>5</sup> Shortly after contacting prospect 1, the former assistant coach provided three pairs of shoes and other apparel items (track suit and jacket) to prospect 1. An email exchange between the two documents the former assistant coach's provision and prospect 1's receipt of these items.

After completing his junior year of high school in Florida in May 2009, prospect 1 returned to France with no intention of returning to the U.S. for his senior year. During

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<sup>4</sup>While the former assistant coach was serving as the associate head coach at one of the two-year institutions, the men's basketball program was terminated due to questions regarding housing and tuition payments made to six French student-athletes through a foundation established by an NBA player who was a French national.

<sup>5</sup> While competing in his native France, prospect 1 developed an interest in pursuing a basketball career and, in consultation with his French youth coach concluded that coming to the U.S. would allow him to further his basketball aspirations. Initially, the youth coach arranged for prospect 1 to travel to the U.S. and participate with an AAU team in Texas during the summer of 2008. Following that summer, the youth coach arranged for prospect 1 to enroll as a junior in a Florida high school and live with a host family during the 2008-09 academic year.

the summer of 2009, while he was still in France, the former assistant coach telephoned him and his father to provide details on a host family in California with whom the former assistant coach had made arrangements for prospect 1 to reside during the 2009-10 academic year.

### **Former assistant coach becomes director of basketball operations and continues recruiting**

On July 2, 2009, the former assistant coach's employment status changed from that of an assistant coach to director of basketball operations. As director of basketball operations, NCAA legislation prohibited him from engaging in recruiting and coaching activity. In a July 2 memorandum, the institution's compliance officer informed the former assistant coach of this prohibition. In July and August 2009, contrary to the instructions he received from the institution's compliance officer, the former assistant coach placed seven telephone calls to prospect 1's home in France while the young man was still a prospective student-athlete. In his July 2010 interview, the former assistant coach admitted that he called prospect 1's parents "a couple of times" during this time period.

The former assistant coach's impermissible telephone contacts with prospect 1's family were in conjunction with his efforts to arrange for prospect 1 to live with a host family not far from campus and, as a part of this arrangement, to attend a local high school. Sometime in mid-August 2009, while in the position of director of men's basketball operations, the former assistant coach approached the host family with the idea of serving as prospect 1's hosts during the 2009-10 academic year. The former assistant coach knew the family through Amateur Athletic Union (AAU) basketball. The former assistant coach made these arrangements with the understanding that prospect 1 would reside with the host family at no cost to him. The host family agreed to these arrangements and, despite the fact that they were initially not aware that they would have to bear the entire costs of prospect 1's residence with them, they ultimately covered "every expense" for the young man during the 2009-10 academic year.

In late August, the former assistant coach resigned his position as director of basketball operations.<sup>6</sup> Even though the institution no longer employed him, the former assistant coach continued to assist prospect 1 in a variety of ways. Specifically, he asked the host family to pay for the young man's airfare from France to the U.S.; transported prospect 1 from the Sacramento airport to the host family's home; and assisted the host parents with

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<sup>6</sup> The institution maintains that the former assistant coach resigned August 21, 2009, the date he submitted a letter of resignation, while the enforcement staff believes that the college employed him through August 31, the date of his final paycheck. The institution does concede, however, that the former assistant coach's activities following his departure from the employ of the institution, whether that is August 21 or August 31, are attributable to the institution, pursuant to NCAA legislation defining representatives of the institution's athletics interests.

high school enrollment of prospect 1.<sup>7</sup> On occasion during the fall of 2009 and the spring of 2010, the former assistant coach transported prospect 1 to the institution to participate in pick-up games and to attend a Saint Mary's College basketball game. Both the former assistant coach and prospect 1 reported that prospect 1 had contact with the head coach during all or some of these visits to campus.

During his July 2010 interview, the former assistant coach admitted that, after it was agreed that the host family would provide a home for the prospect, he asked the host family parents if they would also be willing to pay for the prospect's airfare from Paris, France, to Sacramento, California. The former assistant coach stated that the parents agreed, and that they subsequently purchased the airline ticket. The host family father confirmed that he had paid the cost of the airfare for prospect 1 to travel to California from France. He provided an email receipt of this purchase that showed the cost of the ticket was \$1,085.52 and that the flight occurred on August 30, 2009.

Also during his July 2010 interview, the former assistant coach reported that he met prospect 1 upon the prospect's arrival at the Sacramento International Airport on August 30, 2009, and transported him to the host family's home. The former assistant coach explained that, as the individual who made the arrangements for prospect 1 to live in the U.S., he thought it was important for him to be the person to meet the young man at the airport, rather than the host family. The host family parents confirmed that the former assistant coach transported prospect 1 from the Sacramento airport to their home upon the prospect's arrival and introduced them to the young man.

The former assistant coach also admitted that he transported prospect 1 to the institution's campus for pickup basketball games "in the spring of 2010." Prospect 1 confirmed that the former assistant coach transported him to campus to play pickup games "a few times." Both reported that on some of these occasions, there was contact between prospect 1 and the head coach. The head coach reported that he had previously met prospect 1 in October 2009 when the former assistant coach attended a pickup basketball session with the host family's son. The head coach reported that on that occasion, prospect 1, along with the host family's son, stopped by the basketball offices while they were on campus participating in the open gym. Further, on November 20, 2009, the former assistant coach, the host family father and his son attended the institution's home game against Vanderbilt.<sup>8</sup>

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<sup>7</sup> Due to complications surrounding prospect 1's student visa, prospect 1 was assessed the cost of tuition to attend the high school. The host family paid \$9,660 in tuition so that prospect 1 could attend the local high school. Without the payment of these tuition, prospect 1 would not have been allowed to attend the high school and would have been forced to return to France. The father of the host family stated that the former assistant coach was not aware that of the \$9,660 tuition payment until after it had been made.

<sup>8</sup> Prospect 1, along with the other individuals who accompanied him to the game, received complimentary admissions courtesy of the men's basketball staff. Following the game, prospect 1 had a brief meeting with the head coach in his office.

In an interview conducted by the enforcement staff and the institution, prospect 1 confirmed that he was being recruited by Saint Mary's College on the basis of conversations he had with both the former assistant coach as well as the head coach. In that regard, telephone records obtained during the course of investigation revealed that the head coach engaged in a 25 minute call with prospect 1 on November 1, 2009, two months after he arrived in California and moved in with the host family. Further, the head coach, the former assistant coach and prospect 1 exchanged numerous text and telephone calls in April and May 2010, during the time when prospect 1 was deciding which institution he would be attending and competing in intercollegiate basketball.<sup>9</sup>

### **The findings of the California Interscholastic Federation (CIF) investigation**

As set forth in the case history, the recruiting of prospect 1 by the former assistant coach caught the attention of the CIF. On two occasions the commissioner of the CIF contacted the institution regarding the activities of the former assistant coach with prospect 1. The first contact occurred in late August 2009, when the institution's compliance officer received a telephone call from the CIF commissioner concerning the former assistant coach's placement of prospect 1 at a local high school and the CIF's investigation of the circumstances of prospect 1's arrival in California. The institution's director of athletics also participated in the call. The commissioner was concerned because he believed the former assistant coach was an assistant coach at Saint Mary's College, and that the institution was recruiting prospect 1. The two informed the commissioner that they had not heard of prospect 1 and that the former assistant coach was no longer employed at the institution.<sup>10</sup>

In response to the information received from the CIF commissioner, the compliance officer and director of athletics contacted the head coach. The head coach told them that he had "heard of" prospect 1 but the institution was not actively recruiting him. The two were satisfied with the head coach's responses concerning prospect 1 and, coupled with the fact that the former assistant coach was no longer employed at the institution, believed the query from the CIF did not merit further investigation, such as reviewing the

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<sup>9</sup> The extent to which the head coach was aware of the former assistant coach's recruiting activities, particularly the recruitment of prospect 1, was explored by the committee at the infractions hearing. The head coach initially told the committee that upon hiring the former assistant coach, he advised the former assistant coach that "you don't need to recruit; we are not bringing you in to recruit, so don't think that's your deal." Later in the hearing, the head coach equivocated on his position that the former assistant coach was not supposed to recruit. The head coach further admitted that the former assistant coach was given minimal recruiting responsibilities not limited to local recruiting, but included international student-athletes from France.

<sup>10</sup> The call took place at about the time the former assistant coach was leaving the employ of Saint Mary's College. As previously discussed, the institution maintains that his employment ceased on August 21, 2009, while the enforcement staff's position is that his employment ended on August 31, the date through which he received his salary.

former assistant coach's institutional telephone records to determine if there were calls to prospect 1, or seeking additional information from the head coach or other members of the men's basketball staff. The institution admits that, in hindsight, it should have been more proactive in investigating the issue following the initial call from the CIF commissioner.

The CIF commissioner contacted the institution a second time in November 2009. On this occasion, the commissioner spoke to the director of athletics to inform him that the institution could be mentioned publicly in the CIF's review of prospect 1's eligibility to compete in high school basketball. Despite this additional "warning" from the CIF, the director of athletics did not conduct any additional follow up with the head coach on this issue.

#### **Additional recruiting of international prospective student-athletes**

In addition to prospect 1, the former assistant coach also provided assistance to two other international prospective student-athletes ("prospects 2 and 3," respectively) on behalf of the institution. In early June 2009, for instance, prospect 2, who at that time was a current men's basketball student-athlete, needed to take the Scholastic Aptitude Test (SAT) in order to complete the admissions process at the institution. At that time, he was travelling in France. In an email exchange uncovered during the investigation, the former assistant coach had contacted a Paris employee of the sports agency where he had previously worked, in order to arrange for prospect 2 to be transported to a location in Paris where the SAT was being administered.

Email messages discovered in the course of the investigation revealed that, beginning in January 2009, the former assistant coach communicated with prospect 3. Simultaneously, the former assistant coach communicated with several high school and two-year college coaches in an apparent effort to "place" prospect 3 in an American school. This communication continued through the spring and summer of 2009, eventually leading to a series of emails revealing the former assistant coach's involvement in assisting prospect 3 with securing a student visa to travel to the U.S. and enroll at a two-year college in Texas. This assistance included the former assistant coach's provision of personal financial information in an effort to secure a student visa for prospect 3. A series of communications, dated from January to July 2009, between the former assistant coach and prospect 3, detail the extent to which the former assistant coach requested and obtained from prospect 3 information needed to study in the U.S. This information included: English proficiency certificate, medical and academic records so that prospect 3 could get his I-20 processed.<sup>11</sup> Thereafter, in emails exchanges

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<sup>11</sup> The reference to an "I-20" is the U.S. government's form required of non-citizens to obtain a student visa in order to enter the U.S. and attend school.

between the former assistant coach, prospect 3 and a two-year college assistant coach ("the two-year college assistant") in late August 2009, the former assistant coach took steps to become prospect 3's sponsor by providing financial information purportedly required by the U.S. embassy in his home country.<sup>12</sup>

The enforcement staff interviewed the two-year college assistant following the discovery of the email traffic detailed above. He stated that he believed the former assistant coach was attempting to arrange placement of prospect 3 at the two-year college because the former assistant coach ultimately wanted prospect 3 to attend Saint Mary's College. It should be noted that prospect 3 could not be located and was not interviewed.

### **Practice sessions conducted by a professional basketball trainer**

In September 2010, the enforcement staff received information from an anonymous source reporting impermissible training activity conducted with men's basketball student-athletes by a non-scholastic basketball coach who also was a personal basketball trainer (previously identified as "the basketball trainer"). Subsequent to the receipt of this information, in October and November 2010, the enforcement staff and the institution conducted interviews with numerous current student-athletes and one former student-athlete, both on and off campus. All were questioned about basketball skill development workouts with the basketball trainer. The enforcement staff and the institution determined that nine then student-athletes participated in these sessions with the basketball trainer.

Each student-athlete reported that, during the institution's summer academic term in June and July 2009, they took part in basketball training sessions under the direction of the basketball trainer at McKeon Pavilion on the institution's campus. Further, the majority of the interviewed student-athletes reported that they participated in the summer 2009 workouts at no cost to them. Moreover, the interviewed student-athletes confirmed – to varying degrees – that their workouts with the basketball trainer took place with the head coach's knowledge and acquiesce. For instance, one student-athlete (a transfer student-athlete no longer at Saint Mary's College) reported that not only did the head coach have knowledge of the workouts, but that the head coach would verbally inform the student-athletes of the workout times. One student-athlete stated that he believed the head coach must have known the basketball trainer was directing workouts because the head coach was very "hands-on" with the basketball program.

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<sup>12</sup> The committee references a specific email, dated August 27, 2009, in which the former assistant coach informs prospect 3 that he "faxed over to you a letter from me stating my sponsorship of you while you're going to school in the states along with my bank account info showing my balance of over \$14,000 for you to take to the embassy." A review of the communications between the two-year college assistant, the former assistant coach and prospect 3 ultimately led to the discovery of the violation.

The head coach stated he was aware that some of the student-athletes wanted to train with the basketball trainer in the summer of 2009 and that they did so. On occasion he saw the sessions in progress when he arrived for work. The head coach first met the basketball trainer "five or six years" before, but he could not recall the precise circumstances of their meeting. The head coach added that, prior to meeting the basketball trainer, he had seen him working with professional players in Madigan Gym and McKeon Pavilion on the institution's campus.

Student-athletes also participated in the same activity during the summer of 2010. Similar to the workouts that occurred in 2009, all of the interviewed student-athletes confirmed that, in June and July 2010, they participated in basketball skill development workouts at McKeon Pavilion and Madigan Gym on campus two to three times per week under the direction of the basketball trainer. Further, each of the student-athletes reported that the head coach was aware the workouts were taking place.

Although each of the interviewed student-athletes reported that they paid the basketball trainer \$100 for the summer 2010 workouts, their accounts of when they actually learned that they were required to pay the basketball trainer for conducting the workouts varied. Some reported that they knew they would have to pay for the workouts from the beginning of the summer. An almost equal number reported that they were not aware they would have to compensate the basketball trainer for directing the workouts until after they returned to campus for the beginning of the fall 2010 semester. In that regard, one student-athlete reported that he did not learn he would have to pay for the summer 2010 workouts until the head coach told him that the enforcement staff was investigating these training sessions. Of the nine student-athletes who participated in workouts with the basketball trainer during the summer of 2010, two did not pay him until September 2010, six did not pay until October 2010, and one did not pay until November 2.

The institution's compliance officer did not become aware of the basketball trainer's activity until November 2010, as a result of the NCAA investigation. At the time the violations occurred, the institution's procedures for monitoring men's basketball student-athlete out-of-season workouts were limited. These procedures were limited to the compliance officer meeting with teams at the end of each academic year. At that time the compliance officer informed them only that "if they work out with anybody in the summer or if they play on an outside team . . . then they're supposed to let us know what's going on in the summer."

#### **Conditioning sessions conducted by a personal trainer arranged by the head coach**

In the early fall of 2010, the owner of a local fitness and exercise business ("fitness trainer") began volunteering at the institution in the athletic and recreational sports department, in the area of strength and conditioning. The institution, consistent with its

procedures for volunteers, provided the fitness instructor with a letter detailing his volunteer status. The evidence reflected that the fitness trainer was working with the team prior to the date the institution's human resources department issued the letter.

Eight men's basketball student-athletes collectively reported that, at no cost to them, they participated in speed and footwork conditioning sessions with the fitness trainer on Saturdays in the fall of 2010 in McKeon Pavilion or on the institution's athletic fields.

The head coach confirmed that the fitness instructor conducted conditioning workouts with men's basketball student-athletes in the fall of 2010. The head coach reported that the fitness instructor asked him if he (the trainer) could work with men's basketball student-athletes and the head coach agreed. The head coach said that the fitness trainer worked with the student-athletes on "core stuff" and to "get them in shape, faster feet, make them athletic."

Similar to the activity of the basketball trainer, the compliance officer was not aware of the fitness trainer's involvement with men's basketball student-athletes until November 2010, when NCAA investigators came on campus. No one in the athletics department, including the head coach and the director of athletics, ever asked the compliance officer to determine the permissibility of the fitness trainer engaging in conditioning workouts with men's basketball student-athletes in the fall of 2010. The director of athletics reported that he learned from the head coach that he (the head coach) wanted the fitness trainer to conduct conditioning workouts with the men's basketball team. The director of athletics did not follow up on the permissibility of these workouts. The institution conceded that additional steps to monitor the fitness trainer's activities, or steps to clear his volunteer status with the compliance office to ensure compliance with NCAA rules, should have occurred.

#### **IV. ANALYSIS.**

Given the findings of fact, the committee must resolve certain issues concerning the men's basketball program and the actions by or omissions of the former assistant coach and the head coach. Specifically, the findings in this case fall into five areas: 1) recruiting violations, 2) unethical conduct on the part of the former assistant coach for knowing involvement in those recruiting violations, 3) impermissible training and coaching sessions permitted by the head coach and, 4) the head coach's failure to monitor and a failure to promote an atmosphere for compliance, 5) a failure to monitor by the institution.

##### **A. IMPERMISSIBLE RECRUITING ACTIVITIES. [NCAA BYLAWS 13.02.14; 13.1; 13.1.3.4.1; 13.2; 13.2.1; 13.2.1.1(b),(g),(h); 13.5]**

The impermissible recruiting activities in this case involve providing shoes and apparel, making impermissible telephone calls, and/or providing travel arrangements to three different prospective student-athletes. The former assistant coach engaged in the impermissible recruiting activity as part of his effort to secure the enrollment of the prospective student-athletes at the institution. The enforcement staff and the institution substantially agreed to the facts of this finding and that those facts constituted violations of NCAA legislation relating to the former assistant coach's recruiting activity with prospects 1, 2<sup>13</sup> and 3.

The committee concludes that those findings of fact constitute violations of NCAA legislation.

**1. NCAA legislation regarding recruiting restrictions.**

The applicable portions of the bylaws state:

**13.02.14 Representatives of Athletics Interests.** A "representative of the institution's athletics interests" is an individual . . . who is known (or who should have been known) by a member of the institution's executive or athletics administration to: *(Revised: 2/16/00)*

(c) Be assisting or to have been requested (by the athletics department staff) to assist in the recruitment of prospective student-athletes;

**13.1 Contacts and Evaluations.**

**13.1.3.4.1 Institutional Staff Members.** All telephone calls made to a prospective student-athlete (or the prospective student-athlete's parents, legal guardians or coaches) must be made by the head coach or one or more of the assistant coaches who count toward the numerical limitations in Bylaw 11.7.4 (see Bylaw 11.7.1.2). In bowl subdivision football and women's rowing, such telephone calls also may be made by a graduate assistant coach, provided the coach has successfully completed the coaches' certification examination per Bylaw 11.5.1.1. *(Revised: 1/10/95,*

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<sup>13</sup> The violations involving prospect 2 were found to be secondary.

*1/9/96 effective 8/1/96, 1/12/04 effective 8/1/04, 4/27/06 effective 8/1/06, 5/26/06, 12/12/06, 12/15/06, 4/26/12)*

## **13.2 Offers and Inducements.**

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

**13.2.1.1 Specific Prohibitions.** Specifically prohibited financial aid, benefits and arrangements include, but are not limited to, the following:

(b) Gift of clothing or equipment;

(g) Free or reduced cost services, rentals or purchases of any type<sup>14</sup>

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(h) Free or reduced cost housing

## **13.5 Transportation.**

**13.5.1 General Restrictions.** An institution may not provide transportation to a prospective student-athlete other than on an official paid visit or, on an unofficial visit, to view a practice or competition site in the prospective student-athlete's sport and other institutional facilities and to attend a home athletics contest at any local facility when accompanied by an institutional staff member. During the official paid visit, transportation may be provided to view a practice or competition site and

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<sup>14</sup> It was originally alleged that a violation of Bylaw 13.2.1.1(e) [provision of cash or like items] had occurred relative to the arrangements the former assistant coach had made for prospect 1 to travel cost-free to the U.S. After reviewing the bylaw cites, the committee concluded that the more appropriate legislation is Bylaw 13.2.1.1(g) [free or reduced cost services, rentals or purchases of any type.] The underlying conduct was not in dispute and the committee simply applied a different subparagraph of the same governing bylaw (13.2.1.1).

other institutional facilities located outside a 30-mile radius of the institution's campus. (*Revised: 1/11/89, 10/28/97, 11/1/00, 1/9/06 effective 8/1/06, 4/27/06*)

**2. Offers and inducements provided to international prospective student-athletes.**

In his brief written response to the notice of allegations, the former assistant coach admitted to the facts comprising the recruiting violations, although he attempted to argue that some of the circumstances comprising the violations resulted in no violations occurring. The institution agrees that violations occurred. The committee concludes that these facts constitute a violation of NCAA bylaws.

The facts demonstrate that the former assistant coach was directly involved in the provision of several pairs of shoes as well as other items of apparel to prospect 1, items specifically prohibited in the offers and inducements legislation, NCAA Bylaw 13.2.1.1(b), and which was admitted by the former assistant coach. The committee concludes that email messages obtained during the course of the investigation document an exchange of communication between the former assistant coach and prospect 1 in which the items were offered by the former assistant coach and their receipt confirmed by prospect 1.

Additional details concerning the former assistant coach's involvement with recruiting violations, as they relate to prospect 1, were gleaned from his July 2010 interview with the enforcement staff. For instance, it was during the July 2010 interview that the former assistant coach stated he provided transportation upon prospect 1's arrival to the U.S. and later assisted with prospect 1's enrollment in high school. Although he did not have any prior knowledge that the host family would make the \$9660 tuition payment, the former assistant coach was a key factor in the host family arrangement. The sponsorship and expense payments, like the tuition payment, were violations that could have been reasonably anticipated and prevented.

Finally, with respect to prospect 1, the former assistant coach reported that he transported prospect 1 to the institution's campus so he could take part in an open gym and attend a men's basketball game. The committee finds the former assistant coach's statements to be credible and reasonable evidence upon which to conclude that violations of NCAA Bylaws 13.2.1 and 13.5.1 occurred.

Likewise, the former assistant coach's involvement with prospect 3 demonstrates additional recruiting violations. The former assistant coach provided his personal bank account information to prospect 3 to demonstrate financial support and thus assist prospect 3 in obtaining a student visa. The committee finds that this was part of a larger effort to "place" prospect 3 in a Texas two-year college. While both the institution and the former assistant coach do not dispute the facts of this violation, both take the position that the former assistant coach was not employed by the institution at the time. The committee is not convinced. Although the former assistant coach had already resigned his position he became a representative of the institution's athletics interests when he began making financial arrangements to sponsor prospect 3. These financial arrangements constitute an inducement which is prohibited and not expressly permitted by NCAA legislation or generally available to the institution's prospective students. See NCAA Bylaw 13.2.1. The committee concludes that these facts constitute a violation attributable to the institution pursuant to NCAA Bylaw 13.2.1.

**3. Additional recruiting violations in the form of impermissible telephone calls.**

The former assistant coach admitted that he made the impermissible recruiting calls, attributing them to "a misunderstanding" in that he was "in the mindset of an assistant coach at the time." The institution agrees the violations occurred. The committee concludes that these facts constitute a violation of NCAA bylaws.

The facts in this case demonstrate that the former assistant coach, though prohibited by bylaw, called a prospective student-athlete for the purposes of recruiting him. Once the former assistant coach's employment status changed from that of an assistant coach to director of basketball operations, his actions were governed, in part, by NCAA Bylaw 13.1.3.4.1. Pursuant to the bylaw, all telephone calls made to a prospective student-athlete (or parents, guardians or coaches) must be made by countable coaches; that is the head coach or assistant coaches. Directors of basketball operations are expressly prohibited from engaging in recruiting and coaching activity under NCAA legislation. The institution's compliance officer informed the former assistant coach of this prohibition in a July 2 memorandum. In July and August 2009, contrary to the instructions the former assistant coach had received from the institution's compliance officer, the former assistant coach placed seven

telephone calls to prospect 1's home in France while the young man was still a prospective student-athlete. The institution agrees that violations occurred. The committee concludes that these facts constitute a violation of Bylaw 13.1.3.4.1

**B. FORMER ASSISTANT COACH'S UNETHICAL CONDUCT. [NCAA BYLAWS 10.1 and 10.1(c)]**

The unethical conduct in this case involved the former assistant coach's knowing involvement in providing impermissible recruiting inducements as set forth in the previous section of this report. The enforcement staff and the institution substantially agreed to the facts of this finding and that those facts constitute violations of NCAA legislation. However, the institution did not believe that the former assistant coach's actions relative to prospect 2 and the recruiting telephone calls he placed to prospect 1 and his parents rise to the level of unethical conduct. In his written response, the former assistant coach did not address the question of whether he engaged in unethical conduct. However, in an October 26, 2012, telephone conversation with the enforcement staff, he denied that he did anything unethical. The former assistant coach took this position even though he did not dispute the underlying facts of the recruiting violations in which he engaged. Rather, in some instances, he rationalized his actions and/or proffered reasons why he believed his conduct did not violate NCAA rules.

After review and consideration, the committee concludes that those facts constitute violations of NCAA legislation.

**1. NCAA legislation regarding unethical conduct.**

The applicable portions of the bylaws state:

**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: *(Revised: 1/10/90, 1/9/96, 2/22/01, 10/5/10)*

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

**2. The provision of apparel items as unethical conduct by the former assistant coach.**

The former assistant coach generally denied that he breached the principles of ethical conduct, although his written submission did not address this issue. He admitted to providing the apparel items. The enforcement staff and the institution agree that the former assistant coach provided impermissible inducements in the form of shoes and apparel to prospect 1 and that this action constituted unethical conduct.

The facts demonstrate and the former assistant coach admitted that certain items of apparel were provided to prospective student-athletes by him. The provision of shoes and apparel to a prospective student-athlete is a clear and unquestionable violation of fundamental NCAA legislation. A veteran NCAA coach such as the former assistant coach had to have known that such action was contrary to NCAA recruiting legislation. The committee concludes that the former assistant coach's knowing involvement in that activity constitutes a violation of Bylaw 10.1-(c).

**3. Impermissible contacts by a non-countable coach constitutes unethical conduct.**

With respect to the calls made while the director of basketball operations, the former assistant coach acknowledged placing the calls, but attempted to excuse the calls because he was in the "mindset" of an assistant coach. He did not address whether the placement of these calls was unethical. There was disagreement between the enforcement staff and the institution as to whether the placement of such telephone calls constituted a violation of NCAA unethical conduct legislation. The institution took the position "that seven telephone calls from a director of basketball operations to a prospective student-athlete (or his relatives) is not the type of violation commonly characterized as, or supporting a finding of, unethical conduct." We have concluded that the former assistant coach defied clear instruction for the compliance office and notwithstanding the number of calls knowingly violated the principle of ethical conduct.

The facts demonstrate that the former assistant coach's employment status changed from that of assistant coach to director of basketball operations. Upon this change in position, the institution's compliance officer notified the former assistant coach that, as the director of basketball operations, he could not engage in recruiting activity that was permitted with his previous position. Contrary to these instructions, the former assistant

coach placed seven telephone calls to prospect 1's home in France while the young man was still a prospective student-athlete. The former assistant coach explained these calls as "a misunderstanding" because he was "in the mindset of an (assistant coach) at the time." The fact that the former assistant coach placed these calls after the compliance office expressly warned him not to engage in recruiting activity, including telephone calls, a factor in the committee's conclusion that these facts constitute a violation of Bylaw 10.1.

**4. Unethical Conduct: Arranging for cost-free international travel, housing, high school enrollment and local transportation for a prospect.**

The former assistant coach admitted to making the above arrangements and the involvement in the inducements surrounding prospect 1's move to the U.S. in the fall of 2009, but did not address the question of whether these arrangements and inducements were unethical. The institution and the enforcement staff agreed that the former assistant coach knew, or had reason to know, that his activities in making arrangements for prospect 1's long-term lodging with a local family, cost-free international travel, high school enrollment and provision of local transportation, were contrary to NCAA legislation, particularly those arrangements that occurred during the period of time that he was employed at Saint Mary's College. The former assistant coach did not deny that he took these actions. Rather, he attempted to rationalize these actions by claiming he felt "responsible" for prospect 1 and, with some of these violations, he was no longer employed at Saint Mary's College.

The facts demonstrate that, because of the activity in which he engaged in relative to prospect 1, after he left the employ of the institution, the former assistant coach attained the status of a "representative of the institution's athletics interests" and, as such, his actions continued to violate NCAA legislation. Regardless, all of this impermissible activity was part and parcel of the former assistant coach's attempt to recruit prospect 1 to Saint Mary's College. The committee concludes that these actions by a veteran coach constitute a violation of the principles of ethical conduct as defined by Bylaws 10.1 and 10.1-(c).

**5. Unethical Conduct: Providing personal financial information for a prospective student-athlete for the purposes of obtaining a student visa.**

The former assistant coach admitted to providing personal financial information for the purpose of facilitating prospect 3's entry into the U.S. and enrollment at a two-year institution, but argued that this occurred after he left the employ of the institution. The institution and the enforcement staff agreed that the former assistant coach violated the principles of ethical conduct.

The facts demonstrate that the former assistant coach provided his personal financial information in an effort to sponsor prospect 3. The former assistant coach carried out these steps so that prospect 3 could enter the U. S. to attend an American school. Providing the personal banking account information was meant to affect the sponsorship of prospect 3. The committee concludes that an experienced collegiate coach, such as the former assistant coach, knew or should have known, that his actions in sponsoring the prospect were contrary to NCAA rules, regardless of whether the former assistant coach was employed by institution. The committee concludes that the facts constitute violations of NCAA bylaws 10.1 and 10.1-(c).

**C. IMPERMISSIBLE PRACTICE SESSIONS AND EXCEEDING COUNTABLE COACH LIMITATIONS. [NCAA BYLAWS 11.7.1.1.1, 11.7.1.1.1.4, 11.7.7.4, 16.11.2.1, 17.02.1, 17.1.6.2.1, 17.1.6.2.1.1, 17.3.6 and 17.3.6.1]**

During the summer vacation periods of 2009 and 2010, a basketball trainer provided skill-related instruction to numerous men's basketball student-athletes on the institution's campus. Because these workout sessions with the basketball trainer occurred in institutional facilities and involved skill instruction, he was considered a "countable coach." Further, these sessions with the basketball trainer met the definition of countable athletically related activities which are not permissible during the summer vacation period. Finally, student-athletes did not pay for workout sessions with the basketball trainer in the summer of 2009. The institution agrees with the facts.

The committee concludes that these facts constitute violations of NCAA legislation.

**1. NCAA legislation regarding coaching staff limitations and out-of-season practice.**

The applicable portions of the bylaws state:

**11.7.1.1.1 Countable Coach.** An athletics department staff member must count against coaching limits as soon as the individual participates (in any manner) in the coaching of the intercollegiate team in practice, games or organized activities directly related to that sport, including any organized staff activity directly related to the sport.

**11.7.1.1.4 Use of Outside Consultants.** An institution may use or arrange for a temporary consultant to provide in-service training for the coaching staff, but no interaction with student-athletes is permitted unless the individual is counted against the applicable coaching limits. An outside consultant may not be involved in any on- or off-field or on- or off-court coaching activities (e.g., attending practices and meetings involving coaching activities, formulating game plans, analyzing video involving the institution's or opponent's team) without counting the consultant in the coaching limitations in that sport. (*Adopted: 1/10/92, Revised: 3/10/04*)

**11.7.7.4 Limitations on Number of Coaches and Off-Campus Recruiters.** There shall be a limit on the number of coaches who may be employed by an institution and who may contact or evaluate prospective student-athletes off campus at any one time in each sport as follows:

Men's basketball: 4

*(Revised: 1/10/91 effective 8/1/92, 1/10/92 effective 8/1/92, 1/9/96 effective 8/1/96, 1/14/97, 4/25/02 effective 8/1/02, 1/12/04 effective 8/1/04, 4/29/04 effective 8/1/04, 4/28/05, 4/28/05 effective 8/1/05, 2/3/06, 12/15/06, 4/26/07 effective 8/1/07, 1/17/09 effective 8/1/09, 1/15/11 effective 8/1/11, 4/28/11 effective 8/1/12, 8/11/11)*

**16.11.2.1 General Rule. (Nonpermissible benefits)** The student-athlete shall not receive any extra benefit. The term "extra benefit" refers to any special arrangement by an institutional employee or representative of the institution's athletics interests to provide the student-athlete or his or her relatives or friends with a benefit not expressly authorized by NCAA legislation.

**17.02.1 Countable Athletically Related Activities.** Countable athletically related activities include any required activity with an athletics purpose involving student-athletes and at the direction of, or supervised by, one or more of an institution's coaching staff (including strength and conditioning coaches) and must be counted within the weekly and daily limitations under Bylaws 17.1.6.1 and 17.1.6.2. Administrative activities (e.g., academic meetings, compliance meetings) shall not be considered as

countable athletically related activities. (*Adopted: 1/10/91 effective 8/1/91, Revised: 10/31/02 effective 8/1/03*)

#### **17.1.6.2.1 Institutional Vacation Period and Summer.**

##### **17.1.6.2.1.1 Sports Other Than Championship Subdivision Football.**

In sports other than championship subdivision football, a student-athlete may not participate in any countable athletically related activities outside the playing season during any institutional vacation period and/or summer. Strength and conditioning coaches who are not countable coaches and who perform such duties on a department-wide basis may design and conduct specific workout programs for student-athletes, provided such workouts are voluntary and conducted at the request of the student-athlete. (*Adopted: 10/31/02 effective 8/1/03, Revised: 4/28/05, 12/15/06*)

**17.3.6 Out-of-Season Athletically Related Activities.** In basketball, student-athletes and members of the coaching staff shall not engage in countable athletically related activities outside the institution's playing season except as permitted in Bylaw 17.1.6.2. (*Revised: 4/28/05 effective 8/1/05, 4/27/06 effective 8/1/06*)

**17.3.6.1 Summer Practice.** Practice that is organized or financially supported by a member institution shall be prohibited during the summer unless specifically authorized in the bylaws (e.g., foreign tour) or through official interpretations. An institution may pay fees associated with the use of institutional practice and competition facilities by student-athletes engaged in voluntary athletically related activities in their sport. (*Adopted: 4/28/05, Revised: 9/27/05, 11/1/07 effective 8/1/08*)

## **2. Exceeding coaching staff limitations, out-of-season practice, extra benefits.**

The institution and the enforcement staff agreed that the basketball trainer engaged in organized basketball skill training sessions with men's basketball student-athletes on the institution's campus during the summers of 2009 and 2010. The head coach was aware of these sessions and condoned them. By conducting these training sessions, the basketball trainer met the definition of a countable coach per Bylaw 11.7.1.1.1, and thus, the institution exceeded the limit on countable coaches in men's basketball as set forth in Bylaw 11.7.7.4. The institution used the basketball trainer as an outside consultant to work with men's basketball

student-athletes in an effort to enhance their basketball skills. NCAA legislation allows for the use of outside consultants, however, the legislation precludes them from interacting with student-athletes, which the basketball trainer did during the summers of 2009 and 2010, thus violating the provisions of Bylaw 11.7.1.1.4.

The student-athletes did not pay for these independently-conducted sessions during the summer the summer of 2009. As such, those student-athletes received an extra benefit as defined by Bylaw 16.11.2.1, which was confirmed by the NCAA's academic and membership affairs staff at the point in time that the violation was discovered in November 2010. Payments for the workouts that occurred in 2010 were made after they had been conducted, in some cases, several months later.

In men's basketball, as well as all sports other than football, student-athletes may not participate in countable athletically related activity during the summer, with the exception of strength and conditioning activities conducted by athletics department employees in those positions. These skill-training sessions were considered to be "countable athletically related activity" and occurred during the summer, thus they occurred out-of-season for men's basketball. As a result, the committee concluded that violations of NCAA Bylaws 17.1.6.2.1.1, 17.3.6 and 17.3.6.1 occurred.

**D. THE HEAD COACH'S FAILURE TO MONITOR AND PROMOTE AN ATMOSPHERE FOR COMPLIANCE. [NCAA BYLAW 11.1.2.1]**

The head coach failed to monitor the activities of the former assistant coach related to the recruitment of prospect 1 both during the period of time the former assistant coach was employed by the institution and following his resignation. Further, the head coach failed to monitor relative to the activities of the basketball trainer.

With respect to the first component, the head coach claimed he was not interested in recruiting prospect 1 at the time the violations occurred. Further, the head coach argued that the allegation does not "demonstrate how (the head coach) committed a violation."

Relating to the second component, the head coach was aware of the men's basketball student-athletes' workouts with the basketball trainer. The head coach admits that he failed to monitor those activities to ensure compliance with NCAA legislation.

The institution does not dispute the findings of fact and is in agreement that violations occurred. The committee concludes that these facts constitute violations of Bylaw 11.1.2.1.

**1. NCAA legislation regarding responsibility of a head coach.**

The applicable bylaw states:

**11.1.2.1 Responsibility of Head Coach. (2008-09 and 2009-10 NCAA Manuals).** It shall be the responsibility of the institution's head coach to promote an atmosphere of compliance within the program supervised by the head coach and to monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to the head coach. *(Adopted: 4/28/05)*

**2. The head coach's failure to monitor and failure to promote an atmosphere for compliance relative to the recruiting activity of the former assistant coach.**

The head coach disagreed that he failed to monitor and failed to promote an atmosphere for compliance relative to the activities of the former assistant coach. A factor in that denial was the head coach's claim that his program was not interested in recruiting prospect 1. The institution and the enforcement staff agreed that the head coach failed to monitor and failed to promote an atmosphere for compliance relative to the activity of the former assistant coach.

The facts demonstrate that the institution and the head coach were aware that the former assistant coach has been employed as an associate head coach at a California two-year college that had its basketball program terminated due to improprieties involving housing and tuition payments made on behalf of six French student-athletes. The institution and the head coach knew that prior to joining the staff at Saint Mary's College, the former assistant coach worked for a Paris-based sports agency. It was through connections with this agency that the former assistant coach began recruiting prospect 1, a French national. The head coach knew, or should have known, the nature of these relationships and the former assistant coach's prior employment experiences. These were "red flags" for the head coach and should have alerted him to the need for heightened vigilance with regard to the former assistant coach's recruiting activity.

On the issue of the extent to which the institution's men's basketball program was interested in recruiting prospect 1, the evidence is overwhelming that the institution was, in fact, actively engaged in recruiting the young man despite the head coach's attempts to characterize the institution's interest in him as minimal. First, as set forth in the Finding of Facts section of this report, during his only interview, the former assistant coach acknowledged that he was, in fact recruiting prospect 1. Moreover, in an August 24, 2009, email message to a local high school coach, also cited earlier in this report, the former assistant coach wrote that "it's all about getting him (prospect 1) to Saint Mary's College."<sup>15</sup>

The head coach disagreed that he failed to monitor and failed to promote an atmosphere for compliance relative to the activities of the former assistant coach. A factor in that denial was the head coach's claim that his program was not interested in recruiting prospect 1. The institution and the enforcement staff agreed that the head coach failed to monitor and failed to promote an atmosphere for compliance relative to the activity of the former assistant coach.

As further evidence of the former assistant coach's recruiting activity with prospect 1 and the head coach's knowledge of this activity, there were on-campus meetings, telephone conversation and numerous text messages exchanged, all of which, to varying degrees, involved the head coach, the former assistant coach and prospect 1. Based on the record, the committee finds that the institution actively recruited prospect 1. The head coach was not only fully aware of the former assistant coach's recruitment of prospect 1 while the former assistant coach was employed at the institution, but the head coach also knew that the former assistant coach continued to maintain contact with prospect 1 once he left the institution.

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<sup>15</sup> The committee notes that the body that administers high school sports in California, the CIF, independently came to the conclusion that the former assistant coach had "helped place" prospect 1 at a local high school in California "so that (prospect 1) could be recruited to the former assistant coach's college after high school." Even after the California governing body for high school sports contacted the institution about the irregularities of the former assistant coach's involvement with prospect 1, and institutional administrators contacted the head coach to inquire about this, the head coach continued to recruit prospect 1 and chose to ignore the fact that the former assistant coach had an on-going relationship with the young man. The CIF's communication with the institution regarding prospect 1's situation is discussed in more detail as part of the institution's failure to monitor finding.

The committee further notes that despite knowing about the former assistant coach's involvement with prospect 1 at all relevant times, the head coach did not have any conversations with the compliance office about the propriety of the former assistant coach's interaction with prospect 1. He did not question the former assistant coach about the circumstances of prospect 1's move to California, including how his living accommodations were arranged or how he traveled from his home country to the U.S.

A head coach has an obligation to foster a spirit of compliance in his program and, as part of that obligation, he must observe and monitor the activities of his assistant coaches and staff to ensure that they are acting in compliance with NCAA rules. The purpose of Bylaw 11.1.2.1 is to remove ignorance of their assistants' actions as a defense for head coaches. The committee concludes that the head coach failed to monitor the activities of the former assistant coach and, in doing so, failed to promote an atmosphere for compliance, as alleged.

**3. The head coach's failure to monitor and failure to promote an atmosphere for compliance relative to the activity of the basketball trainer.**

The head coach admitted that he failed to monitor and failed to promote an atmosphere for compliance relative to the activities of outside trainers. The enforcement staff and the institution agreed that the head coach failed to monitor and failed to promote an atmosphere for compliance in this regard. The committee agrees with the institution and the head coach that he violated NCAA bylaws.

The facts demonstrate that the head coach was aware of the activity and occasionally saw the workouts in progress when he arrived for work. Regarding the failure of student-athletes to pay the trainer in 2009, the head coach did not follow-up and ensure that the young men paid the basketball trainer. The head coach accepts responsibility for the extra benefit violations which ensued. The committee concludes that the head coach failed to monitor relative to the activities of the basketball trainer and in doing so, failed to promote an atmosphere for compliance in violation of NCAA Bylaw 11.1.2.1.

**E. THE INSTITUTION'S FAILURE TO MONITOR. [NCAA CONSTITUTION 2.8.1]**

The institution failed to conduct an adequate investigation of the information provided by the CIF as it related to the recruitment of prospect 1. The institution failed to monitor the involvement of men's basketball student-athletes with outside basketball trainers and conditioning coaches to ensure compliance with NCAA legislation. The committee concludes that violations of Constitution 2.8.1 occurred.

**1. NCAA legislation regarding a failure to monitor.**

The applicable bylaw states:

**NCAA Constitutional provision 2.8.1 - Responsibility of Institution:**

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

**2. The institution's failure to monitor or respond appropriately to the information provided by the CIF.**

The institution agreed that it failed to respond or conduct the proper inquiry to the information provided by the CIF and thus failed to monitor. The committee agrees that violations of Constitution 2.8.1 occurred.

The facts demonstrate that the institution should have taken additional measures once contacted by CIF officials in the fall of 2009 concerning the former assistant coach's activities. The committee is particularly concerned that when advised that former assistant coach was involved in the placement of prospect 1 at a local high school for the purpose of recruiting the young man to Saint Mary's College, the institution limited its inquiry to asking the head coach, whose program would benefit, if he knew about prospect 1. The head coach stated that he had "heard of" prospect 1, but the institution was not recruiting him. There were no additional interviews or review of records. The institution failed to investigate to determine if NCAA bylaws or institutional policies had

been violated. We find that these facts constitute a violation of Constitution 2.8.1.

**3. Failure to Monitor Workouts and Training Sessions Conducted by Outside Personnel.**

The institution also agreed that it failed to monitor relative to the conditioning and training sessions conducted by outside individuals with enrolled men's basketball student-athletes. The committee agrees that an additional violation of Constitution 2.8.1 occurred.

The facts in this instance demonstrate that a volunteer fitness trainer and a professional basketball trainer conducted cost-free, on campus conditioning sessions with members of the men's basketball team.<sup>16</sup> The institution did not have in place proper mechanisms to monitor and, more importantly, there was a lack of communication within the athletics department. For example, the senior athletics department staff did not communicate with the compliance officer that the workouts conducted by the fitness trainer and the basketball trainer were taking place. The workouts conducted by the basketball trainer were particularly serious, as they violated seven different bylaws. The institution concedes that additional steps to monitor in order to ensure compliance with NCAA rules, should have occurred. The committee concludes that the facts constitute violations of Constitution 2.8.1.

**V. SECONDARY VIOLATIONS.**

**1. IMPERMISSIBLE ARRANGEMENT FOR TRANSPORTATION OF A PROSPECT. [NCAA BYLAW 13.2.1]**

In June 2009, the former assistant coach arranged for an individual to transport a prospective student-athlete from a locale in Paris, France, to a testing site in Paris to enable the young man to take an SAT examination.

**2. IMPERMISSIBLE USE OF A PERSONAL TRAINER. [NCAA BYLAWS 11.7.1.1.1 and 16.11.2.1]**

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<sup>16</sup> The committee determined that the conduct of the fitness trainer amounted to a secondary violation. See Section V-2, Secondary Violations.

The head coach arranged for a personal trainer from Sacramento, California, to conduct several conditioning sessions with men's basketball student-athletes on the institution's campus at no cost to the men's basketball student-athletes.

**3. IMPERMISSIBLE PROVISION OF TICKETS TO A NONSCHOLASTIC COACH FOR A POSTSEASON EVENT. [NCAA BYLAW 13.8.1]**

On two occasions in 2009, one on March 17 and the other on March 23, the men's basketball coaching staff provided the basketball trainer (who is also a nonscholastic basketball coach) with impermissible complimentary admissions to National Invitational Tournament (NIT) contests in which Saint Mary's College was competing.

**VI. PENALTIES.**

The committee is the independent administrative body of the NCAA charged with adjudicating infractions cases involving member institutions and their employees. For the reasons set forth Part IV of this report, the Committee on Infractions finds that this case involved major violations of NCAA legislation. The committee considered the institution's cooperation in the processing of this case. Cooperation during the infractions process is addressed in NCAA Bylaw 19.01.3 - Responsibility to Cooperate and NCAA Bylaw 32.1.4 – Cooperative Principle. The committee concludes that the cooperation exhibited by the institution was consistent with its obligation under Bylaws 19.01.3.3 and 32.1.4. However, the committee notes that the information that triggered the investigation was reported to the enforcement staff from other sources, rather than through self-discovery and self-reporting by the institution.

Although the violations were limited to one sport, the violations included unethical conduct on the part of the former assistant coach through his involvement in serious recruiting violations. Further, the head coach violated NCAA legislation relating to head coach responsibility and monitoring, while the institution failed to monitor relative to the men's basketball program. In keeping with its mandate and in consideration of the institution's self-imposed penalties and corrective actions, the committee issues the following penalties. [**Note:** Penalties proposed or self-imposed by the institution are so noted (below) and the institution's corrective actions are contained in Appendix One.]

**General Administrative Penalties Imposed on the Institution**

1. Public reprimand and censure.

2. Four years of probation from March 1, 2013, through February 28, 2017. [Note: the institution proposed a two-year period of probation.]

### **Penalties Imposed on the Men's Basketball Program**

3. The institution shall reduce grants-in-aid in men's basketball from 13 to 11 for the 2014-15 and 2015-16 academic years. [Note: the institution had self-imposed a reduction from 13 to 12 men's basketball grants-in-aid for the 2014-15 academic year.]
4. From the date of the release of this report and concluding with the start of the 2017-18 academic year, the institution's men's basketball team will be not be allowed to participate in a foreign tour as defined in Bylaws 17.28 and 17.3.5.4.
5. During the 2013-14, 2014-15 and 2015-16 academic year, the institution may not participate in a multiple-team event as defined in Bylaw 17.3.5.1.1. [Note: If the institution has already scheduled participation in a multi-team event during the 2013-14 season, it may delay the implementation of this penalty by one year.]
6. During the 2013-14 and 2014-15 academic years, no skill instruction for the men's basketball team, as defined in Bylaw 17.1.6.2.2, will be allowed.
7. Reduced, from 12 to nine, the maximum number of permissible official visits in men's basketball during the 2012-13 and 2013-14 academic years. [Institution imposed]
8. Limited to 85, from a maximum of 130, the number of recruiting person days available to the men's basketball coaching staff during the 2012-13 and 2013-14 academic years.(The men's basketball program has averaged 109 recruiting person days during the past four years). [Institution imposed]
9. Reduced, from three to two, the maximum number of full-time coaches permitted to be off-campus recruiting at any one time during the 2012-13 academic year. [Institution imposed]
10. Limited out-of-season countable athletically related activities for men's basketball student-athletes to seven hours during the eight-hour segment of the 2012-13 basketball preseason.[Institution imposed]
11. Limited in-season countable athletically related activities for men's basketball student-athletes to 18 hours during the 20-hour segment of the 2012-13 season. [Institution imposed]

12. Will reduce, from eight to six, the number of hours permitted for men's basketball student-athletes to participate in required weight-training, conditioning and skill-related instruction during the 2013 summer vacation period. [Institution imposed.]

#### **Penalties Imposed on the Head Men's Basketball Coach**

13. The head men's basketball coach failed in his duty to monitor his program and failed to promote an atmosphere for compliance as set forth in Section IV-D. Specifically, the head coach did not monitor the activities of the former assistant coach and the activities of outside individuals who conducted training sessions with members of the men's basketball team. In doing so, the head coach failed to promote an atmosphere for compliance. Therefore, pursuant to NCAA Bylaw 19.5, if the head coach remains employed at Saint Mary's College or any other NCAA member institution during the 2013-14 academic year, he shall be suspended from all coaching duties for the first five conference games of the 2013-14 season. If Saint Mary's College or other employing member institution does not agree to this suspension, it shall appear before the committee and show cause why the penalty is not appropriate. The provisions of this suspension require that the head coach not be present in the arena where the games are played and shall not have any contact/communication with members of his coaching staff and men's basketball student-athletes during the suspension period. The prohibition includes all coaching activities for the period of time which begins at 12 midnight the day of the first conference game and ends at 11:59 p.m. the day of the fifth conference game. [Note: If a non-conference contest is scheduled in the midst of the first five conference games, it may count as one of the five games for the purposes of this penalty.] During that period, the head coach may not participate in any activities that are defined as "coaching," including, but not limited to, team travel, practice, video review and team meetings. Finally, the results of those contests from which the head coach is suspended shall not count on the head coach's career coaching record.
14. The head men's basketball coach will be restricted from off-campus recruiting for the 2013-14 academic year. [Note: the institution self-imposed that the head coach not engage in recruiting activity during the July 2012 recruiting period and that he be prohibited from off-campus recruiting during the April 2013 recruiting period.]

#### **Penalty Imposed on the Former Assistant Men's Basketball Coach**

15. The former assistant men's basketball coach knowingly engaged in recruiting violations and in doing so, violated the principles of ethical conduct. Therefore,

the former assistant coach will be informed in writing by the NCAA that, due to his involvement in the violations set forth in this report, if he seeks employment at an NCAA member institution during a two-year period (March 1, 2013, to February 28, 2015), he and the involved institution shall be requested to appear before the Committee on Infractions to consider whether the member institution should be subject to the show-cause procedures of Bylaw 19.5.2(k).

### **Other Administrative Penalties and Measures**

16. During this period of probation, the institution shall:
  - a. Continue to develop and implement a comprehensive educational program on NCAA legislation to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes' eligibility for admission, financial aid, practice or competition;
  - b. Submit a preliminary report to the office of the Committees on Infractions by May 1, 2013, setting forth a schedule for establishing this compliance and educational program; and
  - c. File with the office of the Committees on Infractions annual compliance reports indicating the progress made with this program by December 15 of each year during the probationary period. Particular emphasis should be placed on the monitoring of recruiting activity in men's basketball and adherence to NCAA rules and regulations pertaining to volunteers who work with student-athletes in athletically related capacities. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.
  
17. During the period of probation, the institution shall:
  - a. Inform prospective student-athletes in men's basketball that the institution is on probation for four years and the violations committed. If a prospective student-athlete takes an official paid visit, the information regarding violations, penalties and terms of probation must be provided in advance of the visit. Otherwise, the information must be provided before a prospective student-athlete signs a National Letter of Intent.
  - b. Publicize 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 report located on the athletic department's main webpage. The institution's statement must: (i) clearly describe the infractions; (ii) include the length of the probationary period associated with the major infractions case; and (iii) give members of the general public a clear indication of what happened in the major infractions case to allow the public (particularly prospective student-athletes and their families) to make informed, knowledgeable decisions. A statement that refers only to the probationary period with nothing more is not sufficient. The institution may meet its responsibility in a variety of ways and the committee's approval of the statement will not be unreasonably withheld.

18. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.
19. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's current athletics policies and practices conform to all requirements of NCAA regulations.

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As required by NCAA legislation for any institution involved in a major infractions case, Saint Mary's College shall be subject to the provisions of NCAA Bylaw 19.5.2.3, concerning repeat violators, for a five-year period beginning on the effective date of the penalties in this case, March 1, 2013.

Should Saint Mary's College or any involved individual appeal either the findings of violations or penalties in this case to the NCAA Division I Infractions Appeals Committee, the Committee on Infractions will submit a response to the appeals committee.

The Committee on Infractions advises the institution that it should take every precaution to ensure that the terms of the penalties are observed. The committee will monitor the penalties during their effective periods. Any action by the institution contrary to the terms of any of the penalties or any additional violations shall be considered grounds for extending the institution's probationary period or imposing more severe sanctions or may result in additional allegations and findings of violations. An institution that employs an individual while a show-cause order is in effect against that individual, and fails to adhere to the penalties imposed, subjects itself to allegations and possible findings of violations.

Should any portion of any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the

Committee on Infractions. Should any actions by NCAA legislative bodies directly or indirectly modify any provision of these penalties or the effect of the penalties, the committee reserves the right to review and reconsider the penalties.

NCAA COMMITTEE ON INFRACTIONS

Britton B. Banowsky, chair

John S. Black

Greg Christopher

Melissa (Missy) Conboy

Christopher L. Griffin (coordinator of appeals)

Roscoe W. Howard Jr.

Eleanor W. Myers

James O'Fallon

Gregory Sankey

Rodney J. Uphoff (coordinator of appeals)

## APPENDIX ONE

### **CORRECTIVE ACTIONS AS IDENTIFIED IN THE INSTITUTION'S SEPTEMBER 4, 2012, RESPONSE TO THE NOTICE OF ALLEGATIONS.**

- An Athletic Oversight Committee will be in place no later than April 1, 2013, and will be charged, among other responsibilities, to provide guidance to the president concerning NCAA compliance-related matters. The Oversight Committee will be comprised of faculty and (nonathletics) staff members and will report directly to the president. An initial assignment for the Oversight Committee will be to evaluate the athletics department compliance office and the responsibilities of those individuals within the office, with a report and recommendations regarding the staffing to be made to the president.
- Saint Mary's College has revised its procedures and policies for hiring volunteer staff members in the department of athletics and recreational sports to ensure better oversight and reporting assignments for such individuals.
- Extensive and increased rules education has been and will continue to be conducted with all coaches, student-athletes, strength and conditioning staff, and athletics trainers concerning playing and practice season limitations and summer workouts.
- Extensive and increased rules education has been and will continue to be conducted with all coaches and student-athletes concerning extra benefits pertaining to free- or reduced-cost services, permissible recruiters, reporting of violations, and ethical conduct expectations.
- The compliance staff has developed a system to document and monitor men's basketball student-athletes' summer workouts with outside parties.
- The institution is implementing improved measures to control the "free use" of gym facilities, including both increased monitoring and additional physical security measures.
- The West Coast Conference office will conduct a comprehensive athletics compliance review during the 2012-13 academic year, per its agreement with its member institutions to conduct such reviews on a four-year rolling basis. Additionally, the institution will have an independent outside evaluator conduct an athletics compliance review during the 2014-15 academic year.
- The men's basketball staff will be required to attend both an NCAA Regional Rules Seminar and an ethics program developed by the institution's office of Human Resources

during the 2012-13 year. Athletics department senior staff will also attend a 2013 Regional Rules Seminar.

In addition to the corrective measures that Saint Mary's College fully believes will help prevent the recurrence of the violations addressed in the institution's response to the notice of allegations, the institution is taking significant and noteworthy actions with respect to the men's basketball program, including penalties directed specifically at addressing the conduct of coaching staff members who were determined to have been involved in violations of NCAA legislation.