

NORTH CAROLINA STATE UNIVERSITY

RESPONSE

TO

NCAA NOTICE OF ALLEGATIONS

December 9, 2019

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KEY RECORDS LIST

| Ex. and FI Nos. | Name | Description |
|-----------------|---|--|
| Ex. 1 | <u>Timeline 2012 to March 2018 produced to NCAA enforcement staff</u> | Steps taken by NC State leading up to receipt of the superseding indictment and demonstration of the institution's monitoring, institutional control and affirmative steps to expedite resolution of this matter. <i>Allegation 1-(c)</i> |
| Ex. 4 | <u>U.S. v. James Gatto, et. al. Unsealed Complaint</u> | Original complaint against Gatto and Merl Code, former Adidas employees, and Christian Dawkins, Brad Augustine and Munish Sood. The original complaint included wire fraud conspiracy charges but did not initially name NC State as a victim of the crime. <i>Allegation 1-(c)</i> |
| Ex. 5 | <u>NC State Disassociation of Agent Andy Miller</u> | September 19, 2012, letter of disassociation from NC State's intercollegiate athletics program to basketball agent Andy Miller for a period of 10 years. Dawkins and TJ Gassnola, a grassroots basketball operator and government witness, were both employed by Miller and his ASM basketball agency. <i>Allegation 1-(c)</i> |
| Ex. 6 | <u>Gatto Trial – Verdict Sheet</u> | Gatto and his co-defendants were convicted of Conspiracy to Commit Wire Fraud identified as Count 1 for which NC State was a victim. <i>Allegation 1-(c)</i> |
| Ex. 7 | <u>Gassnola Judgement</u> | Gassnola pled to one count of Conspiracy to Commit Wire Fraud. Gassnola did not plead to wire fraud itself, in other words the completion of the crime, in relation to Count 1 for which NC State was a victim. <i>Allegation 1-(c)</i> |
| Ex. 10 | <u>Gatto Trial – Jury Charge</u> | In the context of the SDNY case, jury instructions from the Court describing the difference between a conspiracy to commit wire fraud versus the substantive act. With respect to NC State, in reaching its conclusion the jury had to find that either (1) Early was not involved in the alleged conspiracy or (2) Early was engaging in activities outside the scope of his employment at NC State. <i>Allegation 1-(c)</i> |
| Ex. 11 | <u>Memorandum Opinion and Order on NCAA Motion to Intervene</u> | September 4, 2019, Order from the U.S. District Court for the Southern District of New York denying the NCAA's motion to intervene and unseal certain documents. The Court stated, "We agree with the government that the information in these documents consists of hearsay, speculation and rumor..." <i>Allegation 1-(c)</i> |

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| Ex. 13 | U.S. v. James Gatto, et. al. Trial Transcript – October 3, 2018, pp. 320-321. | Testimony from Munish Sood, a cooperating witness for the government, testifying that Shawn Farmer was affiliated with then prospective student-athlete Bam Adebayo, and that Farmer and a basketball agent from Andy Miller's ASM Sports agency attempted to obtain money from Sood, allegedly on behalf of Adebayo. Adebayo committed to and did attend the University of Kentucky, a Nike sponsored institution. Allegation 1-(c) |
| Ex. 14 | Boston Globe Article, July 23, 2006, Ethical questions raised as amateur basketball recruiters engage in high stakes battle for blue chip recruits | Article that discusses TJ Gassnola's involvement in amateur basketball, his operation of the New England Playaz nonscholastic/AAU boys' basketball team and his background. Gassnola has a self-described "degree in bull." Allegation 1-(c) |
| Ex-16 | Complimentary Admissions Analysis 2015-16 and 2016-17 | Determination that all but approximately 10 tickets could have permissibly been provided to individuals, including but not limited to friends and relatives of Dennis Smith Jr., through the student-athlete complimentary admissions process. Allegations 1-(d), 1-(e), 2, 4 |
| FI-10 | MFord TR 021419 NorthCarolinaSt 00935 | Ford's detail of compliance oversight of men's basketball program's complimentary admissions. Allegations 1-(d), 1-(e), 2, 4 |
| FI-11 | JHarrick TR 050219 NorthCarolinaSt 00935 | Harrick's indication that he did not have any contact with Dennis Smith, Jr. or assist then head men's basketball coach Mark Gottfried with the evaluation of Smith, Jr. Allegation 1-(b) |
| FI-12 | JDunlap TR 050819 NorthCarolinaSt 00935 | Dunlap's detail regarding men's basketball complimentary admissions, education and oversight by athletics compliance. Allegations 1-(a), 1-(d), 1-(e), 2, 4 |
| FI-13 | MGottfried TR 050819 NorthCarolinaSt 00935 | Gottfried's oversight of Smith Jr.'s recruitment and report that former assistant men's basketball coach Orlando Early stated "that never happened" (referring to the testimony from Gassnola about the alleged payment to solidify Smith, Jr.'s commitment to NC State). Allegations 1, 2, 3 |
| FI-15 | CDoyle TR 062119 NorthCarolinaSt 00935 | Doyle's detail of NC State's extensive athletics compliance efforts and monitoring of the men's basketball program. Allegations 1-(d), 1-(e), 2, 4 |
| FI-19 | Gatto17Cr686 TGassnolaTestimony 101519 NorthCarolinaSt 00935 | Gassnola's testimony at trial wherein he confirms that \$40,000 that he allegedly took to North Carolina in November 2015 was wired to his account from an individual named Martin Fox, and that Fox had wired him a separate \$40,000 two months early in September 2015. Allegation 1-(c) |
| FI-23 | Gatto17Cr686 GovtExhibit309A 112818 NorthCarolinaSt 00935 | Trial exhibit documenting Gassnola's air travel, rental car and gas purchases related to travel to |

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| | | Raleigh, North Carolina, in November 2015 totaling \$957.59 – not including food or other charges. Allegation 1-(c) |
| FI-26 | Gatto17Cr686 GovtExhibit306D1_112818 NorthCarolinaSt 00935 | Trial exhibit documenting a deposit from Adidas for \$30,000 on November 12, 2015. Allegation 1-(c) |
| FI-27 | Gatto17Cr686 GovtExhibit1116_112818 NorthCarolinaSt 00935 | Trial exhibit documenting reimbursement request from Gassnola to Gatto for \$30,000 for October and November. Allegation 1-(c) |
| FI-28 | Gatto17Cr686 GovtExhibit1118_112818 NorthCarolinaSt 00935 | Trial exhibit documenting reimbursement request from Adidas for \$10,221.67. FI-26, FI-27 and FI-28 together account for only \$221.67 for Gassnola’s expenses, not including food or other charges. This means Gassnola would have spent at least \$735.92 during the November 2015 trip to Raleigh, North Carolina, for which he would not have been reimbursed. Allegation 1-(c) |
| FI-71 | JDunlapLoadingDockEmail_092314 NorthCarolinaSt 00935 | September 23, 2014, email from Dunlap requesting parking in the PNC Arena loading dock area. Allegation 1-(a) |
| FI-89 | Memo Dsmith 050619 NorthCarolinaSt 00935 | Doyle memorandum detailing interview of Smith, Jr. wherein Smith Jr. denies ever receiving cash or any other impermissible benefits from anyone at NC State or Farmer. Allegation 1-(c) |
| FI-111 | DYowStatement_070219 NorthCarolinaSt 00935 | Statement from former director of athletics regarding NC State’s culture of compliance and efforts taken by the athletics department to ensure NCAA rules compliance. Allegations 1, 2, 3, 4 |

INTRODUCTION

This is North Carolina State University's (NC State, the University) Response to the enforcement staff's Notice of Allegations (NOA) dated July 9, 2019.

For the University, this case began in earnest on January 16, 2018, when the Office of General Counsel was contacted by an Assistant U.S. Attorney for the Southern District of New York (SDNY or the U.S. Attorney's office) to advise of a forthcoming grand jury subpoena. The subpoena was received the following day (January 17, 2018). It sought "all documents regarding the recruitment and enrollment of Dennis Smith Jr." (Smith Jr.) See [Exhibit 1](#).

Background

Smith Jr. signed a National Letter of Intent with the University on November 11, 2015 and enrolled in January 2016 for the spring 2016 semester. See [FI-16](#). Before enrolling, Smith Jr. had suffered a season-ending knee injury that required surgery early in his final high school basketball season (2015-16). Because his high school basketball career ended prematurely, Smith Jr. completed his high school graduation requirements during the fall 2015 semester so that he could enroll early at NC State and rehabilitate his injured knee under the supervision of NC State's athletics training staff. See [Exhibit 2](#).

Smith Jr.'s successful recruitment had been considered a relatively foregone conclusion for NC State because his grandmother, a very influential figure in his life, was a life-long NC State fan. See [FI-13, p. 18](#). Essentially everyone knowledgeable of his situation believed he was destined for NC State. Smith Jr. played one season at NC State, the 2016-17 season, before declaring for the 2017 NBA draft. See [Exhibit 3](#).

On September 26, 2017, approximately four months before the aforementioned SDNY subpoena was issued to the University, the U.S. Attorneys' office for SDNY announced a series of criminal complaints against individuals associated with Adidas. See Exhibit 4. The complaints named several NCAA member institutions and prospective student-athletes, but no mention of NC State or athletes associated with the NC State men's basketball program were included in those complaints. See Id. Nevertheless, consistent with direction from the NCAA Board of Governors, the NC State athletics compliance office contacted both current and former men's basketball coaching staff members and asked whether they had any knowledge of or involvement in any activity related to the SDNY matter. See Exhibit 1. All coaches contacted, including former head coach Mark Gottfried (Gottfried) and former assistant coach Orlando Early (Early), responded that they had neither knowledge nor involvement. See Id. The University also searched email records but did not locate any relevant information. See Id.

In October 2017, an athlete agent registered in North Carolina contacted the University's Office of General Counsel and reported that he believed Smith Jr.'s enrollment had been influenced by Adidas through Smith Jr.'s father, Dennis Smith Sr. See Id. Athletics compliance staff conducted a face-to-face interview with the agent, but the agent declined to share details or any additional names of alleged involved parties. The agent stated that he had no information that Smith Jr. was involved. See Id. The General Counsel relayed the information to the Raleigh FBI office, which later relayed the information to FBI agents working with the SDNY. See Id. As previously referenced, on January 16, 2018, an Assistant U.S. Attorney for the SDNY contacted the Office of General Counsel to give notice that the University would receive a grand jury subpoena. NC State received that subpoena on January 17, 2018, and immediately began collecting records. See Id. The University also communicated with the U.S. Attorney's office about boundaries imposed by that office related to any independent investigation NC State could conduct.

On February 23, 2018, *Yahoo Sports* published an article about the sports representation agency operated by Andy Miller (ASM Sports/ASM). [See FI-34.](#) The article included documentation suggesting that a “loan” had been made to Smith Jr. and a screenshot of an email from Christian Dawkins, a one-time associate of ASM, to Miller referencing phone calls to and from former NC State coaches Gottfried, Early and Butch Pierre. [See *Id.*](#) This was of particular concern because in September 2012, then Director of Athletics Debbie Yow had disassociated Miller and his agency from NC State for 10 years due to Miller’s conduct in an unrelated matter (Miller had not been truthful when NC State questioned him about his connection with an AAU coach (Desmond Eastman) who had been decertified by the NCAA). [See Exhibit 5.](#) All NC State men’s basketball coaches were made aware of Miller’s disassociation.

In light of the *Yahoo Sports* article, the University searched records of basketball staff members for communications with Miller and ASM Sports. [See Exhibit 1.](#) No relevant email records associated with Miller, ASM Sports, and/or Dawkins were found. [See *Id.*](#) NC State also contacted the NCAA enforcement staff to advise of the University’s inquiries and results, and to seek direction and recommendations on additional inquiries. [See *Id.*](#)

On April 10, 2018, a prosecutor with the SDNY notified the Office of General Counsel by telephone that his office intended to issue a superseding indictment that would identify NC State as a victim of a conspiracy to commit fraud related to the men’s basketball program, but that no current or former NC State employees would be a subject of the indictment. However, the superseding indictment referenced an unidentified “former NC State coach” and alleged that the former coach transported money to the father of an unidentified prospective student-athlete in October 2015. [See FI-17.](#) NC State now knows that the alleged unidentified former coach was Early, and the alleged unidentified prospect was Smith Jr. The superseding indictment prompted the University to contact the NCAA enforcement staff. At that point, regular communication between the

University and the NCAA enforcement staff began and a joint, cooperative investigation ensued which culminated in the July 9, 2019 NOA.

Case Overview

Within the NOA, various violations of NCAA legislation are alleged, but only one of which, Allegation 1-(c), if standing alone, would be charged as a Level I violation. The other alleged violations are a mix of Level II and Level III violations. NC State disputes the allegations in Allegation 1-(c) and, accordingly, also strenuously disagrees that this case is a Level I case for the institution.

Allegation 1-(c) arises from the federal criminal investigation and subsequent SDNY prosecution (SDNY case) of James Gatto (Gatto), Merl Code (Code) and Christian Dawkins (Dawkins). Gatto and Code were both associated with Adidas. All three defendants were convicted of wire fraud and conspiracy to commit wire fraud arising from allegations that they were involved in using Adidas-sourced money to pay prospective student-athletes (and/or family members of those athletes) to sign National Letter of Intent (NLIs) and scholarship agreements with Adidas-sponsored colleges and universities. See Exhibit 6. The government's theory was that the alleged payments rendered the athletes ineligible to receive athletics scholarship money from their NCAA member institutions thereby making their institutions victims of fraud.¹ See Id. Gatto, Code, and Dawkins were convicted of Count One: Conspiracy to Commit Wire Fraud (against NC State et al.), Count Two: Wire Fraud (University of Louisville). See Id. Gatto was convicted of Count

¹ In the original indictment, there were only two university "victims" (Louisville and Miami) and only one count charging conspiracy to commit fraud and **no substantive counts for committing fraud itself**. In the two superseding indictments, there were four university "victims" (Louisville, Miami, Kansas and NC State) in the first count for conspiracy and **two additional substantive counts for actually defrauding Louisville and Kansas**. NC State and Miami were not included in the substantive counts and were only identified in the conspiracy count. The likely reason for this is because the Government could not prove any substantive crimes were committed against NC State and Miami, i.e., they could not prove the student athlete being recruited to NC State actually received the money.

Three: Wire Fraud (University of Kansas). See [Id.](#) Their convictions are currently on appeal to the United States Court of Appeals for the Second Circuit.

Testimony in the SDNY case by a single cooperating witness, TJ Gassnola, serves as the sole basis for Allegation 1-(c). Specifically, Gassnola testified that he offered and delivered, \$40,000 to Early to “calm the situation” involving Smith Jr., and that Early informed Gassnola that he intended to provide the money to Shawn Farmer (Farmer), a friend of the Smith family. See [FI-19, pp. 999-1000.](#) However, there is no evidence in the trial record, including Gassnola’s testimony, nor evidence developed by the NCAA enforcement staff, that;

- Early provided money to Farmer; and/or
- Farmer provided money to the Smith family.²

Furthermore, there is no evidence as to what the “situation” was that Gassnola believed (or claimed to believe) needed to be “calm(ed).” Gassnola pled guilty to one count of conspiracy to commit wire fraud and was sentenced to one-year of probation. See [Exhibit 7.](#)

NC State’s Overarching Positions

NC State takes its responsibility for NCAA rules compliance and the integrity of its intercollegiate athletics programs seriously. The athletics department has implemented extensive policies, procedures and systems designed to detect, deter and prevent potential NCAA rules violations and, if violations nonetheless occur, to detect and report them. NCAA rules education provided to the former men’s basketball staff by the athletics compliance office and monitoring of the men’s basketball program has always been thorough and extensive. That was true during the time period the alleged violations occurred. Indeed, nearly all allegations of potential NCAA rules violations in this case are the result of the actions of Early. If the allegations in this case are

² On April 30, 2019, Smith Jr. reported to the University’s deputy director of athletics, senior associate athletics director for compliance, and assistant athletics director for compliance that he was unaware of any payment from Gassnola to Early and that Smith Jr. had not accepted money in exchange for attending NC State. See [FI-89.](#)

substantiated, the violations were committed knowingly by Early, and only Early, and contrary to NCAA and University ethical standards and expectations of compliance.

The University respects the NCAA infractions process and expects it to help achieve a fair resolution for the NCAA and the University. But public statements made by NCAA executive staff appeared to foreshadow a pre-determined outcome in this and other cases arising from the SDNY criminal matter³, and there are legitimate factual questions in this matter that a hearing panel of the Committee on Infractions must review and resolve. We trust that the panel will perform its duties without influence from senior NCAA officials.

NC State remains committed to the integrity of its intercollegiate athletics programs and ensuring that all of its coaches, student-athletes and athletics programs comply with NCAA, Conference and University rules, policies and expectations. In this case, if the University's former employees acted unethically, those employees did so for their own benefit and kept their actions hidden from the University. Therefore, the Level I unethical conduct allegation involving Early identified in Allegation 1-(c) should be weighed in that context when deciding any penalties on the University or its men's basketball program.⁴ The University appreciates the anticipated thorough review of this case by the panel.

NC State's Response will address each allegation, but first the University sets forth its analysis of the application of [NCAA Bylaw 19.7.8.3.1 – Importation of Facts](#) to this case. Thereafter, because

³ On May 22, 2019, well before the enforcement staff's investigation had been completed, the NCAA vice president of governance informed an ESPN reporter following a meeting of the Knight Commission on Intercollegiate Athletics that notices of allegations "will be coming." See [Exhibit 8](#). Thereafter, on June 12, 2019, again well before the investigation had been completed, the NCAA vice president for regulatory affairs informed CBS Sports that two-high profile programs would receive notices of allegations in early July (clearly referencing NC State's case) and was quoted as stating, "The main thing is that we're up and ready. We're moving forward and you'll see consequences." See [Exhibit 9](#).

⁴ In the context of the SDNY case it is important to note that with respect to NC State, the jury found only a conspiracy to commit wire fraud and not the substantive act of wire fraud. In making this finding the jury could have come to one of two conclusions: (1) Early was not involved in the alleged conspiracy, or (2) Early was involved in the alleged conspiracy, but Early was engaging in activities outside of the course of his employment and potentially to profit personally. Although it is unclear which conclusion the jury reached, the jury could not have concluded as it did if it believed that Early was operating in the course and scope of his employment at NC State. See [Exhibit 10](#).

the evaluation of Allegation 1-(c) is of paramount importance to the processing level of the case for NC State, the Response addresses Allegation 1-(c) first, followed by the remaining subparagraphs in Allegation 1, and then Allegations 2 through 4.

POSITION ON IMPORTATION OF FACTS
([NCAA Bylaw 19.7.8.3.1](#) and Use of SDNY Evidence)

NC State understands that this is one of the first cases where [NCAA Bylaw 19.7.8.3.1 – Importation of Facts](#) – may be cited with respect to the use of information presented in a criminal trial in an NCAA infractions case. As written, [Bylaw 19.7.8.3.1](#) is narrow and does not permit the wholesale use of ANY information or evidence provided to a court, but rather establishes parameters and criteria when information is ripe and appropriate for use in the infractions process. The University acknowledges that [Bylaw 19.7.8.3.1](#) provides that NCAA hearing panels *may* consider evidence submitted and positions taken in the SDNY trial. [Bylaw 19.7.8.3.1](#) also provides, however, that the panel cannot accept as a fact any testimony from a court proceeding unless: (1) the testimony was established as a true fact in a decision or judgment, and (2) that decision or judgment is not on appeal. It is clear in this case that neither Gassnola’s testimony, nor the subsequent convictions of Gatto, Code and Dawkins, are “facts” that may be “accepted as true” in this infractions case in order to conclude that NC State violated NCAA rules.

The parameters of [Bylaw 19.7.8.3.1](#) are particularly important to ensuring a fair process for NC State, as a member institution, in this infractions case. Superimposing elements of the criminal system on the NCAA infractions process – a wholly different system of adjudication – creates inherent limitations and biases when using overlapping information.

Therefore, even though [Bylaw 19.7.8.3.1](#) allows that Gassnola’s testimony may be considered, its veracity must be stringently evaluated by the hearing panel consistent with [Bylaw 19.7.8.3 – Basis of Decision](#). In other words, just because Gassnola testified at the SDNY trial as a witness

for the government, his testimony may not be accepted as true, absent additional corroborative evidence that the hearing panel deems to be “credible, persuasive and of a kind on which reasonably prudent persons would rely in the conduct of serious affairs.”

Moreover, the evidence in the SDNY trial record consisted of sworn testimony and documents that were relied upon to secure convictions in a criminal trial. The prosecution relied on Gassnola’s testimony to support its theory that a crime associated with wire fraud had occurred. In NC State’s situation, Gatto was convicted of conspiracy to commit wire fraud and not the commission of the act itself. However, the enforcement staff now seeks to use that evidence in this infractions matter for a different purpose – to support allegations of NCAA rules violations that were not the focus of the matters at issue in the criminal trial and not subjected to the usual cross-examination and testing that would normally accompany such testimony.⁵ Here, the enforcement staff is incorrectly attempting to use SDNY’s conviction of a conspiracy to commit wire fraud as evidence that the alleged funds were delivered to Early and then to the Smith family without factual evidence that these actions actually occurred. However, using that same evidence in this infractions matter requires the hearing panel carefully analyzing the credibility and sufficiency of the evidence on NCAA rules issues, which are separate and independent from the criminal trial.

⁵ The University also notes the September 4, 2019 Order of the U.S. District Court for the Southern District of New York, denying the NCAA’s motion to intervene and unseal certain documents and evidence that was presented at the trial in the SDNY. In that Order, Judge Kaplan made clear that seeking to unseal evidence not admitted into the record in the criminal proceeding was not an appropriate way for the NCAA to gather information it needed for its own purposes separate from the criminal trial, i.e., to investigate potential rules violations. In denying the NCAA’s motion to intervene, the Court stated:

We agree with the government that the information in these documents consists of hearsay, speculation and rumor. Furthermore, the individuals referred to in these documents are not standing trial. They will not have the opportunity to test the reliability of the information contained in these materials nor respond adequately to any inferences that might be drawn on the basis of this information. In other words, the documents are of a sensitive nature, and the degree of potential injury is high. See Exhibit 11, p. 19.

While the University recognizes that the evidence at issue in the NCAA’s motion and the Court’s order was evidence involving third parties who were not parties or witnesses in the trial, similar reasoning in the September 4 Order should also apply to Gassnola’s testimony. See Id.

Neither NC State nor the NCAA has ever been a party to the SDNY criminal proceedings. Neither NC State nor the enforcement staff had the opportunity to cross-examine Gassnola to test the veracity and credibility of his testimony and to focus on specific NCAA rules issues as they related to NC State. For these reasons, there is evidence in the record that calls critical parts of Gassnola's trial testimony into question. Accordingly, as set forth in more detail in the University's response to Allegation 1-(c), Gassnola's testimony cannot be accepted without independent corroboration. Notably, the U.S. Attorney's Office took great pains to corroborate Gassnola's testimony on the issues that mattered to the prosecution of that case because they knew that without corroboration Gassnola's testimony was of limited relevance.

SUMMARY OF NC STATE'S POSITIONS ON ALLEGATIONS

Only one allegation – Allegation 1(c) – is a potential Level I violation. With respect to Allegation 1-(c), the narrative promulgated by the enforcement staff is that Adidas helped secure the commitment of Smith Jr. to NC State by facilitating a payment of \$40,000 through Gassnola to Early, who was then *going to* provide that money to a friend of Smith Jr.'s family. However, a thorough review of the SDNY trial record shows that the evidence does not support key parts of Allegation 1-(c). First, there is no evidence that the alleged \$40,000 payment was provided to Smith Jr. or his family. Second, the weight of the evidence supports that: (1) the source of the alleged \$40,000 payment from Gassnola to Early was not Adidas, but was Martin Fox (Fox), an individual affiliated with professional basketball player agents and business managers and who had no known relationship with Adidas, and (2) Gassnola was acting on his own behalf or on behalf of Fox, an agent or business manager when Gassnola allegedly provided \$40,000 to Early. Therefore, the University disagrees with Allegation 1-(c).

Without Allegation 1-(c), this is not a Level I case. Instead, this case can appropriately be designated as, at most, a Level II for NC State. The remaining Allegations 1-(a), 1-(b), 1-(d), 1-

(e), 2 and 4 all involve Level II or Level III violations. With respect to Allegations 1-(a) and 1-(b), NC State agrees with the cited underlying facts of both allegations. However, the University notes that the same or similar conduct identified in Allegation 1-(a) would typically be processed as a Level III violation. In addition, the facts set forth in Allegation 1-(b) do not constitute a violation of NCAA rules. Finally, the NCAA four-year statute of limitations ([Bylaw 19.5.11](#)) bars both allegations 1-(a) and 1-(b) because the cited activities occurred four years prior to the verbal Notice of Inquiry in this case, which was delivered on October 1, 2018.

Allegations 1-(d), 1-(e), 2 and 4, all involve the impermissible provision of complimentary men's basketball admissions to Farmer, members of Smith Jr.'s family, and two nonscholastic basketball coaches who coached other student-athletes. NC State acknowledges that the violations occurred. However, in most of the situations cited, there was a way for the individuals to permissibly receive the complimentary admissions. That significantly lessens the impact of the violation and any real "benefit" provided to the individuals. For example, the University determined that out of the alleged 160 impermissible admissions, only approximately 10 admissions could not otherwise have been permissibly provided through available student-athlete complimentary admissions. These complimentary admissions violations were primarily the result of the then-men's basketball coaching staff ignoring rules and well-established processes regarding complimentary admissions, even though NC State educated the coaches on those rules. The University has implemented corrective actions to ensure the same or similar conduct will not occur now or in the future.

NC State's Analysis of Allegation 1-(c) – The alleged \$40,000 payment from TJ Gassnola to Orlando Early

1. [NCAA Division I Manual Bylaws 11.5.1, 11.7.6, 13.1.2.4, 13.2.1 and 13.7.2.1.6 (2014-15); 10.01.1, 10.1, 10.1-(b) and 13.2.1 (2015-16); 12.11.1, 13.8.1, 16.2.1.1, 16.8.1 and 16.11.2.1 (2016-17)]

It is alleged that from September 2014 through March 2017, Orlando Early (Early), then men's basketball assistant coach and lead recruiter, violated the NCAA principles of ethical conduct when he and members of the men's basketball staff committed multiple recruiting violations and provided extra benefits during the recruitment and subsequent enrollment of then men's basketball prospective student-athlete Dennis Smith Jr. (Smith). Early and the men's basketball staff members arranged for and/or provided Smith and individuals associated with him approximately \$46,700 in impermissible inducements and benefits. As a result, Smith competed in 32 contests and received actual and necessary expenses while ineligible. Specifically:

- (c) In November 2015, Early violated the NCAA principles of ethical conduct when he knowingly arranged for and/or provided an impermissible recruiting inducement of \$40,000 to an individual associated with Smith. Specifically, Early arranged for TJ Gassnola (Gassnola), a representative of the institution's athletics interests and then outside consultant for Adidas, which was also a representative of the institution's athletics interests, to provide Early with \$40,000 in cash to ensure Smith's commitment to the institution. Early informed Gassnola that he intended to provide the money to Shawn Farmer (Farmer), an individual responsible for teaching or directing an activity in which a prospective student-athlete is involved and the trainer of then student-athlete Smith who would then provide the money to the Smith family. [NCAA Bylaws 10.01.1, 10.1, 10.1-(b) and 13.2.1 (2015-16)]

EVIDENTIARY OVERVIEW

As referenced above, the enforcement staff has based Allegation 1-(c) entirely on evidence obtained from the SDNY trial of Gatto, Code and Dawkins, as well as the plea agreement of T.J. Gassnola (Gassnola), a cooperating witness who received no prison time in exchange for testifying as a government witness. Also, as addressed in the Introduction, based on the authority granted to NCAA hearing panels through [Bylaw 19.7.8.3.1 – Importation of Facts](#) – the Panel may consider evidence submitted and positions taken in the SDNY trial. However, [Bylaw 19.7.8.3.1](#) also mandates that the Panel may not accept as true any facts (i.e., evidence) from the SDNY trial unless (1) the facts were established in a decision or judgment and (2) that decision or judgment is not on appeal. Neither of these requirements have been met.

Evidence submitted during the SDNY trial included the testimony of Gassnola that he provided money to the families of multiple prospective student-athletes on behalf of Adidas⁶ to assist the recruiting efforts of several NCAA member institutions. As it pertains to NC State, Gassnola testified that “Orlando Early (Early) reached out to me, that there were some issues surrounding Dennis [Smith Jr.] and the people around him. There were certain things that were promised to the family, from whom I don’t know...” [See FI-19, p. 998.](#) Gassnola did not identify what Early claimed had been promised, and he was not told the identity of the person who allegedly made the “promises.” Smith Jr. had announced his commitment to NC State on September 10, 2015, approximately two months prior to the alleged conversation between Gassnola and Early that Gassnola described at trial. [See Exhibit 12.](#) Gassnola did not assert that Early (or anyone else) told him the money was to maintain Smith Jr.’s prior commitment to NC State. Instead, Gassnola testified that he decided entirely on his own to offer Early \$40,000 because he (Gassnola) was “nervous” that Smith Jr. would back out of his commitment to NC State ([see FI-19, p. 1002](#)); that he flew to Raleigh, North Carolina, in November 2015; and that he provided \$40,000 to Early. [See FI-19, pp. 998-99.](#) Gassnola stated that when he gave Early \$40,000, Early said he was going to give the money to Shawn Farmer, an associate of Smith Jr. and Smith Jr.’s family.⁷ [See FI-19, pp. 1000.](#) While Gassnola’s testimony may be considered by the panel, it may not be

⁶ Adidas is the apparel sponsor for NC State and many other NCAA Division I member institutions. The fact that Adidas and NC State have a contractual relationship does not, in and of itself, make Adidas a representative of the University’s athletics interests, nor is NC State responsible for the conduct of all persons the University knew or should have known were affiliated with Adidas. This is especially true when individuals, like Gassnola, operate independent of Adidas and with independent motivations outside of the individual’s employment responsibilities.

⁷ Farmer also affiliated himself with other prospective student-athletes in North Carolina who committed to and attended other institutions sponsored by shoe and apparel companies other than Adidas. In at least one of those situations, Farmer acted on behalf of an agent – not in an effort to ensure that the prospect committed or maintained a commitment to an institution. Specifically, Munish Sood, another government witness at the SDNY trial, testified that Farmer and Stephen Pina, a basketball agent from Andy Miller’s ASM Sports agency, attempted to obtain money from Sood allegedly on behalf of Bam Adebayo, who was a prospective student-athlete in the same class as Smith Jr., and was committed to and did attend the University of Kentucky, a Nike sponsored institution. [See Exhibit 13, pp. 320-321.](#)

accepted as true or as a fact. Rather, it must be evaluated under the legislated standard of [Bylaw 19.7.8.3](#).⁸

UNIVERSITY'S CONCLUSIONS

NC State acknowledges that documentary evidence exists supporting that Gassnola traveled to Raleigh in November 2015. [See FI-23](#). The University also acknowledges that Gassnola testified that prior to his November 2015 trip to Raleigh, he offered to provide Early with \$40,000, and thereafter delivered that amount of money to Early at a later time. [See FI-19, p. 1000](#).

For the reasons detailed below, the University agrees that any receipt of money by Early from Gassnola would have constituted a violation of NCAA Bylaws 10.01.1 and 10.1, as to the conduct of Early.⁹ However, NC State does not agree that this alleged conduct should be imputed to the University as a Level I violation of NCAA Bylaw 13.2.1 because, contrary to Allegation 1-(c), there is no evidence in the SDNY trial, and there is no other evidence in the record of this infractions case, that:

- Early actually provided \$40,000 (or any amount of money) to Farmer;
- Farmer provided any amount of money to Smith Jr.'s family; or
- Farmer provided any amount of money to Smith Jr.

In the absence of this evidence, there is no factual basis on which this panel can conclude that if Gassnola delivered \$40,000 to Early, the \$40,000 (or any portion of the \$40,000) went beyond

⁸ [Bylaw 19.7.8.3 – Basis of Decision](#) – directs the hearing panel to base its decision on information presented to it that it determines to be credible, persuasive and of a kind on which reasonably prudent persons rely in the conduct of serious affairs.

⁹ Early was no longer employed by the University during the time of the investigation in this matter and he refused to respond to requests submitted by the enforcement staff and by the University to participate in an interview. Pursuant to [Bylaws 19.7.8.3.2](#) and [19.7.8.3.3](#), Early's failure to participate in an investigation (and to respond to a notice of allegations against him) can be viewed by a hearing panel as an admission of the alleged violation for purposes of the penalties against him (the former employee). However, those bylaws do not permit the panel to use a former employee's failure to participate in an interview or respond to a notice of allegations as an admission against his **former employer**, NC State.

Early. Indeed, as detailed below, the evidence contradicts such a conclusion. Specifically, the evidence in the record demonstrates that Smith Jr. *did not* receive any money and that he was unaware of any money being provided to Farmer and/or to his family by Adidas, Gassnola or Early. For these reasons, the evidence does not support a finding of violations of Bylaws 10.1-(b)¹⁰ and 13.2.1 of the 2015-16 NCAA Manual.

In addition, the weight of the evidence does not support the enforcement staff's allegations that (1) the \$40,000 (or any amount of money) that Gassnola claimed he provided to Early came from Adidas, NC State's apparel provider, or (2) the alleged money was intended to ensure Smith Jr.'s commitment to NC State. To the contrary, credible and persuasive evidence demonstrates that Adidas was not the source of the \$40,000 and that the money was not used to ensure Smith Jr.'s commitment to NC State. The \$40,000 allegedly delivered by Gassnola to Early was from, and was provided on behalf of, a professional agent (or business manager working on the agent's behalf). For these reasons, the evidence does not support a finding of violations of Bylaws 10.1-(b)¹¹ and 13.2.1 of the 2015-16 NCAA Manual.

REVIEW OF THE EVIDENCE

A. Gassnola is not a credible witness and his statements must have independent corroboration to be credited

Again, Allegation 1-(c) is based solely on the testimony of Gassnola (and related records) in the SDNY trial.¹² Because [Bylaw 19.7.8.3.1](#) does not permit the panel to accept Gassnola's testimony

¹⁰ Allegation 1-(c) cites NCAA Bylaw 10.1-(b) of the 2015-16 NCAA Manual; however, it appears that the NCAA intended to cite 10.1-(c) of the 2015-16 Manual which provides that unethical conduct includes "Knowing involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefit or improper financial aid."

¹¹ 10.1-(c) of the 2015-16 NCAA Manual, 10.1-(b) of the 2019-20 NCAA Manual.

¹² There were documents entered into evidence in the SDNY trial that indicate that (1) Gassnola withdrew \$40,000 from his bank account on October 30, 2015, and (2) Gassnola traveled to Raleigh Durham on November 2, 2015 (and apparently returned the next day). See [FI-19, pp. 1005-07](#). In addition, there are documents pertaining to multiple deposits into Gassnola's bank account.

in the SDNY trial as true, an assessment of Gassnola's credibility is essential in determining whether his testimony in the SDNY trial is credible and persuasive evidence for purposes of this infractions matter. For the reasons set forth below, the University respectfully submits that Gassnola is not a credible witness and his testimony, for purposes of establishing a Level I recruiting-inducement violation on the part of NC State, cannot substantiate a finding.

Gassnola is an individual with a self-described "degree in bull," who has an extensive criminal history that includes assault, larceny, receipt of stolen property, tax evasion and habitual traffic offenses. See FI-19, pp. 916-18, 926-29 and Exhibit 14. Gassnola's primary occupation over the years leading up to his plea agreement has been founder and operator of New England Playaz, a 501-(c)(3) nonprofit organization, that operates nonscholastic/AAU boys basketball teams. See FI-19, pp. 916-18, 926-29, 978 and Exhibit 14. Despite its legal status as a charitable organization, Gassnola regularly funneled money through New England Playaz for improper purposes. Specifically, Gassnola arranged for money from agents, business managers and an apparel company, among others, to flow through New England Playaz to him to personally enrich himself based on his affiliations with prospective student-athletes and involvement in nonscholastic/AAU boys' basketball. See e.g., FI-19, p. 1034 and Exhibit 15. Gassnola's failure to report his "earnings" from New England Playaz resulted in the federal government uncovering Gassnola's tax fraud. Gassnola was also charged with conspiracy to commit wire fraud based on efforts to conceal payments that he arranged to the families of athletes associated with several institutions. See FI-19, pp. 913-14. He subsequently became a government witness in the SDNY trial to reduce or eliminate his potential federal jail sentence.¹³ See FI-19, p. 935. In short, Gassnola has a long history of dishonest and criminal conduct, his testimony in the SDNY trial

¹³ Gassnola was sentenced to one-year supervised release, including two months of home confinement and electronic monitoring, and a \$100 fine. See Exhibit 7.

was motivated by self-interest, and his statements should not be accepted as credible and persuasive in this NCAA infractions matter.

NC State has carefully reviewed Gassnola's testimony and the other evidence submitted in the SDNY trial that is relevant to Allegation 1-(c). While there is supporting evidence for certain parts of Gassnola's testimony, the University concludes that Gassnola's testimony as a whole as it pertains to Adidas and NC State is not consistent with the weight of the evidence. Therefore, this panel should find that there is not sufficient credible and persuasive evidence to support a Level I recruiting-related violation against the institution. Specifically, the weight of the evidence does not support the premise of Allegation 1-(c) – that Adidas, through Gassnola, was assisting with NC State's recruitment of Smith Jr. In addition, there is no evidence to support various other portions of Allegation 1-(c).

B. The Available Evidence Does Not Support Allegation 1-(c) or a Level I Violation.

There are multiple subparts to Allegation 1-(c): (1) that Gassnola provided \$40,000 to Early; (2) that Early provided \$40,000 to Farmer; (3) that Farmer provided \$40,000 to Smith Jr. and/or his family; (4) that Adidas supplied the \$40,000 to Gassnola; and (5) that the purpose of the \$40,000 payment was to ensure Smith Jr.'s commitment to NC State. Each subpart is discussed in detail below. Each of these items must be supported by credible and persuasive evidence for the panel to find that the alleged violations of Bylaws 10.1-(b)¹⁴ and 13.2.1 occurred.

1. Evidence that Gassnola Provided \$40,000 to Early.

Gassnola stated that in the fall of 2015, Early contacted him regarding an unspecified issue with Smith Jr. and allegedly indicated that "certain things were promised to the family." [See FI-19, p. 998.](#) Neither Gassnola nor anyone else identified what alleged promises had been made or

¹⁴ 10.1-(c) of the 2015-16 NCAA Manual, 10.1-(b) of the 2019-20 NCAA Manual.

who made those promises, and Gassnola never indicated that Early requested money. Instead, Gassnola stated that he unilaterally “offered to bring \$40,000 (to Early) to calm the situation,” and that Early did not turn down his offer. [See FI-19, p. 999.](#) Gassnola did not explain why \$40,000 was the amount of money necessary to “calm the situation.” It is not credible on its face or possible that Gassnola and Early failed to discuss the amount of money necessary to “calm the situation.” Regardless, Gassnola’s vague testimony is the only evidence in the record of the extent of the alleged conversation. Gassnola reported that he flew to Raleigh with \$40,000, met Early at his house and delivered the money to Early. [See Id.](#)

Gassnola’s statements about taking money to Raleigh were supported by (1) his bank statement showing that he withdrew \$40,000 on October 30, 2015, (2) his credit card statement showing that he purchased an airline ticket to fly to the Raleigh-Durham International Airport on November 2, 2015, and (3) his credit card statement showing that he rented a car at the Raleigh-Durham International Airport on November 2, 2015, and returned the rental car the same day. [See FI-19, pp. 1105-07, FI-26 and FI-23.](#) But this evidence only demonstrates that Gassnola likely took \$40,000 to North Carolina. It does not corroborate other parts of his testimony about the phone conversation with Early, specifically why he gave money to Early.

2. There is No Evidence that Early Actually Provided the \$40,000 to Farmer

The record lacks any evidence that the money allegedly provided by Gassnola to Early was passed on by Early to Farmer. At the SDNY trial, Gassnola claimed that when he gave the \$40,000 to Early, he (Early) stated that he “was giving the money to Shawn Farmer.” [See FI-19, p. 1000.](#) Neither Early nor Farmer were defendants or witnesses in the SDNY trial and neither were interviewed in the NCAA investigation. As a result, this purported statement by Early was inadmissible hearsay and no independent corroboration of the statement exists in the trial record or in the record of this infractions case. For all these reasons, particularly Gassnola’s background

of dishonesty and criminal conduct, the panel should not consider Gassnola's hearsay statement about what Early would do with the money as credible and persuasive.¹⁵

Even accepting Gassnola's hearsay account of Early's purported future intent, no evidence of any kind was presented at the SDNY trial or during the NCAA investigation and infractions proceeding demonstrating that Early provided the \$40,000 to Farmer. Without any evidence Farmer received the money, or any credible and persuasive evidence of an "arrangement" by Early for a prospective student-athlete, his family or friends, to receive a benefit, the panel cannot find that a violation of Bylaw 13.2.1 occurred.

3. There is No Evidence that Farmer Provided the \$40,000 to Smith Jr. or His Family

In addition to there being no evidence that Farmer received money from Early, no evidence of any kind was submitted in the SDNY trial or in the NCAA enforcement investigation that Farmer provided \$40,000 (or any other amount) to Smith Jr. or his family.

In fact, the only evidence obtained and submitted in the NCAA enforcement investigation suggests the opposite. On April 30, 2019, Smith Jr. reported to the NC State's deputy director of athletics, senior associate athletics director for compliance, and assistant athletics director for compliance that he was unaware of any payment from Gassnola to Early and that he (and/or his family) had not accepted money in exchange for attending NC State. See FI-89. Likewise, head men's basketball coach Mark Gottfried reported that Early informed him that Early did not do anything wrong and that Gottfried had nothing to worry about because "that never happened" (referencing the alleged payment to solidify Smith Jr.'s commitment). See FI-13, p. 31. This is

¹⁵ Early was no longer employed by the University during the time of the investigation in this matter. Pursuant to [Bylaws 19.7.8.3.2](#) and [19.7.8.3.3](#), Early's failure to participate in an investigation and to respond to a notice of allegations against him can be used as an admission of the alleged violation for purposes of the penalties against him (the former employee). However, those bylaws do not permit the panel to use a former employee's failure to participate in an interview or respond to a notice of allegations as an admission against his **former employer**, NC State.

the only evidence in the record of this case that directly addresses the question of whether anyone provided money to Smith Jr. or his family.

Nevertheless, the enforcement staff has proposed to the University that “circumstantial evidence” suggests that the Smith family received some type of unidentified income in January 2016 because Dennis Smith Sr. moved from government housing in Fayetteville, North Carolina, to a rental home. See FI-88. This evidence is insufficient for any conclusion related to the source of Smith Sr.’s rental payments. First, under the enforcement staff’s theory that Smith Jr.’s family must have received some unearned money to afford this move, there is no basis to conclude that any money that may have been used for the move derived from Early. Second, neither the enforcement staff nor NC State possess bank account records or other information about other possible funds that the Smith family might have had available to them in the fall and/or winter of 2015. Absent proof that no other funds were available, there is no basis to find that Smith Jr. received a cash payment to attend NC State as alleged. To the extent that the panel is inclined to consider this “circumstantial evidence,” such evidence does not establish that the Smith family received unearned money, and it does not establish the source of any such money. To cobble together this “circumstantial evidence” and make the leap to a serious bylaw violation is without merit and unjust.

For all the foregoing reasons, the enforcement staff’s theory – based only on “circumstantial evidence” – is nothing more than sheer speculation and does not provide credible and persuasive evidence upon which the panel can conclude that \$40,000 or any amount of funding was ever provided to Smith Jr. or his family.

4. Adidas was not the Source of the Alleged \$40,000 Payment from Gassnola to Early and the Payment did not Ensure Smith Jr.'s Commitment to NC State
 - a. *There Is Credible and Persuasive Evidence that Gassnola Obtained the \$40,000 from the Representative of an Agent and it was used in an Effort to Have Smith Jr. Sign with the Agent*

Prior to his alleged discussion with Early about some unspecified promises to Smith Jr.'s family, Gassnola communicated with Martin Fox about arranging a meeting amongst Smith Sr., Farmer and Lester Knipsel, a business manager who represents athletes and celebrities. See FI-19, pp. 1131-1132, citing Defense Exhibit 185A. Like Gassnola, Fox "wore many hats" including working for basketball agent Andy Miller. See FI-19, pp. 1122, 1164-66. Fox has no known relationship with Adidas. On October 20, 2015, Fox wired exactly \$40,000 into Gassnola's account. See FI-19, pp. 1121-1122. There is absolutely no evidence that money was from Adidas, and it appears that the only reason Gassnola had \$40,000 available to withdraw on October 30, 2015, was the deposit from Fox. After Gassnola withdrew \$40,000 from his account on October 30, 2015, his account balance dwindled to \$2,917.83. See FI-26. Thus, the record is clear that the \$40,000 Gassnola withdrew from his account on October 30, 2015, and allegedly took to Raleigh and gave to Early, was money that Gassnola received from Fox.

Even more, this was not the first time Fox provided money to Gassnola. Specifically, on September 1, 2015, seven weeks before the above-referenced \$40,000 transfer from Fox to Gassnola, Gassnola received a separate \$40,000 from Fox. See FI-19, 1129-1133. After receiving that \$40,000 from Fox, Gassnola withdrew the money from his bank account on September 4, 2015, and traveled to Raleigh, North Carolina, on September 7. See *Id.* This trip mirrored the subsequent November 2015 trip that Gassnola made to Raleigh. Unconvincingly, Gassnola testified, "I don't recall any of that" when asked specifically about the purpose of the

September 2015 trip to Raleigh and why he withdrew \$40,000 from his bank account prior to that trip.¹⁶ This testimony underscores that Gassnola is not credible.

In both the September and November 2015 circumstances, the evidence demonstrates that the \$40,000 in question in this case came from Fox and not Adidas. The logical conclusion is that Fox attempted to secure Smith Jr. as a client once he turned professional.

b. Gassnola's Payment to Early is Inconsistent with His Pattern of Payments to the Families of Other Prospective Student-Athletes.

The manner in which Gassnola allegedly received the money in this circumstance was inconsistent with Gassnola's process of providing illicit payments to prospective student-athletes on behalf of Adidas at other NCAA member institutions. Specifically, in all other circumstances covered in the SDNY trial that involved Gassnola allegedly providing money to individuals associated with other NCAA schools, Gassnola testified that he first communicated with Gatto to explain why he needed funds, submitted a fraudulent invoice to Adidas and finally received payment from Adidas *in advance* of providing money to prospective student-athletes or their family members. See [FI-19, pp. 1027-1033](#). In most circumstances, Gassnola also kept a portion of the money for his own personal use for gambling or tickets to sporting events.

The following chart illustrates Gassnola's consistent course of action related to Adidas payments to other prospects' families, which most importantly included *prepayment* by Adidas to Gassnola and the use of some of the prepaid funds for Gassnola's own benefit:

| DATE | NARRATIVE | SUPPORTING INFORMATION |
|----------|--|---|
| 10/15/16 | Gassnola submits invoice to Adidas for \$50,000 for tournament fee. Gassnola testified that \$30,000 of \$50,000 to be provided to the mother of a prospective student-athlete who enrolled at another involved institution. | FI-19, pp. 1027-1028 , Exhibit 16 , Government Exhibit 1023 |

¹⁶ If true, no evidence exists that Gassnola provided this \$40,000 to a NC State coach, employee, recruit or student-athlete on this September 2015 trip to Raleigh.

| | | |
|----------|--|--|
| 10/21/16 | \$50,000 invoice paid by Adidas to Gassnola through New England Playaz bank account. | FI-19, pp. 1028-1030, Exhibit 16 , Government Exhibit 306A-1 |
| 10/31/16 | Gassnola withdraws \$50,000 from New England Playaz bank account. | FI-19, pp. 1028-1030, Exhibit 16 , Government Exhibit 306A-1 |
| 11/1/16 | Gassnola provided \$30,000 in cash to mother of a prospective student-athlete who enrolled at another involved institution. Gassnola testified that he bought Super Bowl tickets and College Football Playoff tickets with the remainder of the money. | FI-19, p. 1030, Exhibit 16 , Government Exhibit 309C |
| 1/18/17 | \$90,000 wire transfer to New England Playaz bank account. | FI-19, p. 1033, Exhibit 16 , Government Exhibit 306A-2 |
| 1/19/17 | \$27,500 withdrawal from New England Playaz bank account. Gassnola testified that \$20,000 was to be provided to the mother of a prospective student-athlete who enrolled at another involved institution and \$7,500 was for Gassnola's personal spending and gambling. | FI-19, p. 1034, Exhibit 16 , Government Exhibit 306A-2 |
| 1/19/17 | \$20,000 in cash provided to mother of a prospective student-athlete who enrolled at another involved institution. | FI-19, pp. 1032-1033, Exhibit 16 , Government Exhibit 309D |

In the NC State case, however, Gassnola does not claim (and did not testify) that he spoke with Gatto prior to the payment to Early, and Gassnola did not receive money from Adidas *in advance* of allegedly paying Early. Rather, as discussed above, Gassnola received exactly \$40,000 from Fox only days before his alleged payment to Early.

Despite the foregoing, Gassnola asserted that the \$40,000 that he claims he gave to Early on November 2, 2015, was Adidas money that he advanced out of his own funds and then sought reimbursement. This version is not credible or persuasive for the reason set forth above, and again highlights the persistent credibility issues inherent in Gassnola's testimony overall. Moreover, the evidence shows that Gassnola never sought reimbursement from Adidas for \$40,000. Rather, on November 12, 2015, Gassnola received reimbursement of \$30,000, allegedly for "Monthly Consultant Fee, travel expenses for October & November," and on November 17, 2015, he separately sought reimbursement for "Consultant Fee/Travel expenses" in the amount of \$10,221.67. See [FI-26](#), [FI-27](#), [FI-28](#). If these payments, cobbled together, were intended to be reimbursements for an alleged payment of \$40,000, they somehow only accounted for \$221.67 for Gassnola's last minute air travel, rental car and gasoline bill in Raleigh. However,

the documents show that these expenses total \$957.59 —not including food or other charges. See FI-23. That leaves \$735.92 that Gassnola would have spent for which he would not have been reimbursed. Moreover, under this theory, Gassnola would have received no compensation at all for his “consultant fee.” This would not have benefitted Gassnola, and he would have lost money. In short, Gassnola’s story does not add up in multiple ways.

In summary, the credible and persuasive evidence does not support the enforcement staff’s theory that the November 2, 2015, \$40,000 payment, both in source and function, was made using Adidas funds, or that payment served to ensure the enrollment of Smith Jr. at NC State.¹⁷ Instead, Fox was the source of the funds, and the payment was likely made in anticipation of Smith Jr.’s pay-back potential as a professional athlete and his retention of Fox as his agent or business manager. The University acknowledges that these payments would have compromised Smith Jr.’s eligibility, if the payments were in fact ever were provided to Smith Jr. or his family, which the evidence does not support. Regardless, the evidence here does not support a Bylaw 13.2.1 violation.

¹⁷ As first noted in the Introduction section, Smith Jr.’s successful recruitment had been a relatively foregone conclusion for NC State because his grandmother, a very influential figure in his life, was a lifelong NC State fan. Virtually everyone knowledgeable of his situation believed he was destined for NC State, and no evidence that he seriously considered any other institution exists.

CONCLUSION

NC State acknowledges that Gassnola's uncorroborated testimony suggests that Early was offered a \$40,000 payment and that \$40,000 was delivered by Gassnola to Early. However, there is no evidence that the alleged \$40,000 payment was provided to Farmer, Smith Jr. or the Smith family. Because Early refused to participate in an interview as part of the enforcement staff's and the University's investigation into the allegation made by Gassnola, [NCAA Bylaw 19.7.8.3.3](#) allows the hearing panel to view Early's refusal as an admission that he received money from Gassnola. However, it does not mean that the remainder of the unsubstantiated allegation may be deemed credible for purposes of a Level I finding against the University. To do so, given the serious inconsistencies identified herein would not only be unfair to NC State, but contradict the credible and persuasive evidence in the record.

Most importantly, the weight of the evidence does not support the conclusion that the \$40,000 payment originated from Adidas or that Gassnola was acting as a representative of the institution's athletics interests at the time of the payment. Rather, NC State concludes, and respectfully submits to the Panel, that credible and persuasive evidence supports a finding that the \$40,000 delivered by Gassnola to Early was from, and was provided on behalf of, a professional agent or business manager, and not on behalf of Adidas and not for the purpose of securing Smith Jr.'s enrollment at NC State. Therefore, a 13.2.1 violation cannot be substantiated in this case.

University's Analysis of the Remaining Level II and Level III Allegations

Without Allegation 1-(c), this is not a Level I case and none of the remaining allegations are of the type that should be categorized as Level I "severe breaches of conduct." Specifically, none of the remaining allegations include a substantial recruiting or competitive advantage, or substantial or extensive benefits provided to a student-athlete or prospective student-athlete in order to gain a recruiting advantage. Rather, the remaining allegations suggest a failure by one assistant men's

basketball coach, who no longer works for NC State, to follow necessary and established processes with respect to complimentary admissions. The former assistant men's basketball coach acted contrary to NC State policies, rules education and directives related to providing individuals with tickets to some basketball contests – the majority of which the individuals could have received in a permissible way.

1-a. In September 2014, the then director of basketball operations arranged for approximately \$80 in impermissible recruiting inducements in the form of special parking in the loading dock of PNC Arena for Smith and three other prospects to use during their unofficial visits to attend the institution's September 27, 2014, football contest versus Florida State University. [NCAA Bylaws 13.2.1 and 13.7.2.1.6 (2014-15)]

UNIVERSITY'S CONCLUSION

NC State agrees that the weight of the evidence supports a conclusion that the facts and circumstances described in Allegation 1-a occurred and as it relates to then prospective student-athlete Dennis Smith Jr. constitute a violation of NCAA legislation. However, the University notes that the NCAA four-year statute of limitations bars this allegation because the event occurred more than four years prior to the verbal Notice of Inquiry on October 1, 2018. Even if the statute of limitations did not bar the allegation, this isolated violation related to a parking spot at a football game constitutes a minimal benefit at most. Thus, the violation should be characterized as Level III.

REVIEW OF THE EVIDENCE

On September 23, 2014, then NC State men's basketball director of operations Jeff Dunlap sent an email to the PNC Arena director of production that requested access for "a couple coaches and couple recruits" to park in the PNC Arena dock driveway during a football contest. [See FL-71](#). PNC Arena is the location of NC State men's basketball home contests, and the University shares PNC Arena with a professional hockey team that manages the arena. PNC Arena is

located adjacent to the NC State football stadium and parking at PNC Arena is also used for NC State home football contests.

Dunlap reported that he made a September 23, 2014 parking request so that he and then assistant men's basketball coach Orlando Early could access the secure parking area with prospective student-athletes who were on a permissible unofficial visit. See FI-12, p. 37. Dunlap stated that basketball recruits who visit the University typically do not have their own vehicles; thus, coaches will transport the recruits around campus, including to the site of home football contests when campus visits occur on the weekend of a home football contest. See id. Dunlap indicated that in the instance referenced in the allegation, he provided the recruits names to PNC Arena staff to allow the recruits to get through security when entering PNC Arena, not to individually park their vehicles. See id. Early and Smith Jr. refused to cooperate and be interviewed regarding this matter.

However, Dunlap's testimony is not supported by the available evidence. Specifically, a contemporaneous unofficial visit compliance form shows that then prospective student-athlete Dennis Smith Jr. was transported to the game on September 27, 2014, by his friend Brian Scarborough. See FI-72. Despite Dunlap's testimony, the September 23, 2014, email combined with the unofficial visit form suggests to the University that Smith Jr. was transported to the game in question by Scarborough and that Smith Jr. and Scarborough rode in their own vehicle to the football contest. Accordingly, it is more likely than not that at least Smith Jr. received impermissible parking at the PNC Arena loading dock. However, NC State does not have sufficient evidence to conclude whether any other prospects received the same parking benefit.

- 1-(b) On September 29, 2014, the then head men's basketball coach allowed a former colleague, who was not a countable coach or certified to recruit off-campus, to accompany him to an evaluation of Smith at an off-campus recruiting event at the John D. Fuller Recreational Center in Fayetteville, North Carolina. [NCAA Bylaws 11.5.1, 11.7.6 and 13.1.2.4 (2014-15)]

UNIVERSITY'S CONCLUSION

NC State agrees with the underlying facts of the allegation, but the facts do not constitute a violation of NCAA rules. Specifically, the former colleague and mentor of the then head men's basketball coach identified in this allegation was a then 76-year-old retired basketball coach who was visiting the former head men's basketball coach in a personal capacity. The former colleague and mentor did not meet the legislated criteria to be considered a coach or a representative of the University's athletics interests such that the provisions of NCAA Bylaws 11.5.1, 11.7.6 and 13.1.2.4 are applicable. At the same time, like Allegation 1-(a), the University notes that the NCAA four-year statute of limitations applies in this circumstance because the event occurred more than four years prior to the verbal Notice of Inquiry on October 1, 2018. Even if the statute of limitations did not bar the allegation, and the hearing panel finds a violation, this was an inadvertent violation that was isolated and limited in nature and should be characterized as Level III.

REVIEW OF THE EVIDENCE

Early in former head men's basketball coach Mark Gottfried's coaching career, Jim Harrick hired Gottfried in various capacities. See [FI-13, p. 9-10](#). Harrick has since served as a mentor to Gottfried both professionally and personally. See [id.](#) At the time of Gottfried's drive to Fayetteville to observe Smith Jr., Harrick was 76 years old and had been retired as a collegiate and professional basketball coach for seven years. See [id.](#) Gottfried reported that after retirement, Harrick annually visited Gottfried and stayed in Gottfried's home. See [FI-13, pp. 11-13](#). On the date in question, Gottfried stated that rather than leave Harrick at the Gottfried home by himself,

he invited Harrick to join him on the one- plus hour car ride to Smith Jr.'s high school, where Gottfried planned to watch Smith Jr.'s practice, which was open to the public. [See FI-13, p. 13.](#) Harrick reported that he did not have any contact with Smith Jr., nor did he assist Gottfried with the evaluation. [See FI-11, pp. 9 and 13.](#)

- 1-(d) On 26 occasions between January 2016 through March 2017, Early violated the principles of ethical conduct when he knowingly provided approximately \$2,119 in impermissible recruiting entertainment benefits in the form of 44 complimentary admissions on the men's basketball office pass list to Farmer. [NCAA Bylaws 10.01.1, 10.1, 10.1-(b) and 13.8.1 (2015-16 through 2016-17)]

UNIVERSITY'S CONCLUSION

NC State agrees that the means utilized by Early to provide complimentary admissions to Farmer constitute a violation of NCAA Bylaw 13.8.1.¹⁸ However, a comprehensive review of the overall complimentary admissions records for men's basketball revealed that Farmer did not receive a benefit that he could not have otherwise received in a permissible manner. These complimentary admissions would have been permissible if Early simply had directed Farmer and then student-athlete Dennis Smith Jr. to coordinate Farmer's admission through the student-athlete complimentary admissions list. Therefore, although Early did not follow proper procedures, NC State does not agree that the evidence and circumstances warrant a finding of unethical conduct on the part of Early.

REVIEW OF THE EVIDENCE

Shawn Farmer, who owned a car detailing business, was a friend of Dennis Smith Jr. and his family. [See FI-13, pp. 22 and 26.](#) NC State believes that Farmer's interest in attending the games in question was to watch Smith Jr. play, and not because Farmer occasionally earned

¹⁸ A full discussion of the applicable NCAA rules and men's basketball office pass list is set forth in NC State's response to Allegation 2 beginning on pages 32-33.

money as a basketball trainer. NCAA Bylaw 13.8.1 permits the University to provide up to two complimentary admissions to any individual responsible for teaching or directing an activity in which a prospective student-athlete is involved (e.g., AAU coach, trainer, etc.). NCAA Bylaw 16.2.2.1 permits student-athletes to provide up to four complimentary admissions to regular-season (home or away) competitions and up to six complimentary admissions for postseason competitions in the student-athlete's sport. There is no restriction on who can use a student-athlete's complimentary admissions, nor is there a limit on the number of complimentary admissions that can be transferred from one student-athlete to a teammate.

Here, rather than have Farmer seek complimentary admissions through Smith Jr., which was the appropriate method of providing Farmer admission, it appears that Early placed Farmer on the men's basketball office pass list. Early and all members of the men's basketball coaching staff were educated extensively regarding the permissible use of complimentary admissions. [See FI-15, pp. 63-75](#). Specifically, coaches knew that AAU coaches and trainers could only receive two complimentary admissions, and that family members of student-athletes needed to obtain complimentary admissions through the involved student-athletes. [See FI-15, p. 5](#).

The University conducted a comprehensive review of the impermissible complimentary admissions outlined in Allegations 1-(d), 1-(e) and 2. The University determined that out of the total alleged impermissible admissions, only 10 admissions could not have been accounted for as permissible complimentary admissions from student-athletes. [See FI-15, p. 29](#) and [Exhibit 16](#).

CONCLUSION

NC State agrees that the circumstances of Allegation 1-(d) constitute a violation of NCAA rules. Early, on his own accord, added Farmer to the men's basketball office pass list rather than have Farmer and Smith Jr. arrange admissions for Farmer. However, the actual benefit provided in

this situation was one of convenience and not the underlying value of the ticket. NC State has implemented corrective actions to ensure that the same or similar violations will not occur in the future.

- 1-(e) On 13 occasions between November 2016 and February 2017, Early violated the principles of ethical conduct when he knowingly provided approximately \$4,562 in impermissible benefits in the form of 106 impermissible complimentary admissions on the men's basketball office pass list to then student-athlete Smith's family and friends. [NCAA Bylaws 10.01.1, 10.1, 10.1-(b), 16.2.1.1 and 16.11.2.1 (2016-17)]

UNIVERSITY'S CONCLUSION

NC State agrees that the means utilized by Early to provide complimentary admissions to members of Smith Jr.'s family constitutes a violation of NCAA Bylaws 16.2.1.1 and 16.11.2.1.¹⁹ However, a full review of men's basketball student-athletes' complimentary admissions during this time period indicates that Smith Jr.'s family could have received the same admissions in a permissible manner through the student-athlete complimentary admissions list. Thus, although Early did not follow proper procedures, the evidence and circumstances do not warrant a finding of unethical conduct on the part of Early.

REVIEW OF THE EVIDENCE

NC State directs the hearing panel to its response to Allegation 1-(d) for a discussion of Early's use of the men's basketball office pass list. Similar to Allegation 1-(d), Early knew or should have known to direct members of Smith Jr.'s family to the student-athlete complimentary admissions list. In nearly every situation, complimentary tickets could have been provided to Smith Jr.'s family through the student-athlete complimentary admissions list in a permissible manner. See [Exhibit 16](#).

¹⁹ A full discussion of the applicable NCAA rules and men's basketball office pass list is set forth in NC State's response to Allegation 2 beginning on pages 32-33.

CONCLUSION

NC State agrees that the facts and circumstances of Allegation 1-(e) constitute a violation of NCAA legislation. Early added members of Smith Jr.'s family to the men's basketball office pass list rather than requiring that family members request available tickets from Smith Jr. However, the actual benefit provided in this circumstance, as in Allegation 1-(d), was one of convenience and not the underlying value of the ticket. In nearly every situation, there was a permissible way for Smith Jr.'s family to attend games through the student-athlete complimentary admissions list. NC State has implemented corrective actions to ensure that the same or similar violations will not occur in the future.

2. [NCAA Division I Manual Bylaw 13.8.1 (2015-16)]

It is alleged that on nine occasions from January through March 2016, men's basketball staff members violated NCAA recruiting restrictions when they provided approximately \$862 in impermissible benefits in the form of 14 complimentary admissions. Specifically:

- a. On seven occasions during January and February 2016, men's basketball staff provided approximately \$436 in impermissible benefits in the form of eight impermissible complimentary admissions on the men's basketball office pass list to Stanley Bland (Bland), an individual responsible for teaching or directing an activity in which a prospective student-athlete is involved. [NCAA Bylaw 13.8.1 (2015-16)]
- b. On March 8 and 9, 2016, the men's basketball staff provided approximately \$426 in impermissible benefits in the form of six impermissible complimentary admissions on the men's basketball office pass list to Keith Stevens (Stevens), an individual responsible for teaching or directing an activity in which a prospective student-athlete is involved. Specifically, the men's basketball staff provided Stevens three complimentary admissions to each of the men's basketball Atlantic Coast Conference Tournament contests against Wake Forest University and Duke University. [NCAA Bylaw 13.8.1 (2015-16)]

UNIVERSITY'S CONCLUSION

NC State agrees that the means by which complimentary admissions were provided to Bland and Stevens constitute a violation of NCAA legislation. However, like Allegations 1-(d) and 1-(e), a review of the facts and circumstances of Allegations 2-(a) and 2-(b) demonstrates that Bland and

Stevens did not receive a benefit that they could not have otherwise received in a permissible manner because both individuals had coached student-athletes on the men's basketball team from whom they could have permissibly received tickets.

REVIEW OF THE EVIDENCE

Applicable NCAA Rules

As noted in the University's responses to Allegations 1-(d) and 1-(e), NCAA legislation permits institutions to provide student-athletes with up to four complimentary admissions for regular-season (home or away) competitions and up to six complimentary admissions for postseason competitions in the student-athlete's sport. See [NCAA Bylaw 16.2.1.1](#) and [NCAA Bylaw 16.2.1.1.1](#). There are no restrictions as to whom a student-athlete may designate to use a complimentary admission (e.g., friends, relatives, trainers and agents), provided the student-athlete does not receive payment or anything of value in exchange for the complimentary admission and does not designate the complimentary admission at the direction of an institutional staff member. See [NCAA Bylaw 16.2.2.1](#) and [FI-078](#). Student-athletes may also transfer unused complimentary admissions to a teammate, and he or she can provide additional tickets to their own guests. NCAA rules separately allow for individuals responsible for teaching or directing an activity in which a prospective student-athlete is involved (e.g., AAU coach, basketball trainer, etc.) to receive up to two complimentary admissions per regular season home athletics contests directly from the institution. See [NCAA Bylaw 13.8.1](#).

The Men's Basketball Office Pass List

The men's basketball coaches received four hard tickets for their personal use (e.g., to provide to family and personal friends), and were required to use the men's basketball office pass list if coaches wanted additional tickets. See [FI-12, p. 16](#). Jeff Dunlap (Dunlap), former director of men's basketball operations, reported that he received calls from athletics compliance regarding

the individuals on the men's basketball office pass list to ensure that the tickets were being provided permissibly, i.e., in accord with NCAA rules. See [Id.](#) Generally, the men's basketball office pass list was to be used on a limited basis for business contacts of the men's basketball program, including vendors, former players and potential donors, in addition to being used to provide tickets consistent with NCAA Bylaw 13.8.1. See [FI-15, p. 5.](#)

Maggie Burge (Burge), men's basketball administrative assistant, and Dunlap were responsible for adding names to the men's basketball office pass list. Coaches would share their ticket requests with Burge or Dunlap and were required to designate or categorize the relationship of the individual to be placed on the list. See [FI-5, pp. 15-18.](#) Often, the guests would simply be listed as a guest of Dunlap, as he became the default or "rollover" name, even for guests he did not know. See [FI-12, p. 26.](#)

The men's basketball staff was provided rules education by athletics compliance and the ticket office prior to the season regarding the proper procedure for the pass list and was aware of the limitations related to the provision of complimentary tickets to AAU coaches, high school coaches and any individuals associated with prospects. See [FI-12, pp. 19-20, pp. 26-27](#) and [FI-15, p. 5.](#) NC State compliance emphasized that limitation and the men's basketball staff understood that AAU coaches, high school coaches, or any individual who coached prospects could not be provided with more than two tickets to a home competition and could not receive any complimentary tickets to away contests or tournament competition. See [FI-12, p. 26-27](#) and [FI-15, p. 5.](#)

2-(a) – The Provision of Eight Impermissible Complimentary Admissions to Stanley Bland

Stanley Bland was an AAU coach for then NC State men's basketball student-athlete Cat Barber. See [FI-15, p. 19.](#) Therefore, he could have permissibly received complimentary admissions from Barber. See [FI-78.](#) It was also permissible for Bland, who was an individual responsible for

teaching or directing an activity involving a prospective student-athlete, to receive two complimentary admissions to a home competition from NC State. Bland was provided one extra complimentary admission to six home contests, and two extra complimentary admissions to one home contest. Specifically, Bland received a total of three complimentary admissions to the Louisville, Florida State, Duke, Georgia Tech, Clemson, and North Carolina competitions, and a total of four complimentary admissions to the Wake Forest competition. [See FI-62 and FI-67.](#)

2-(b) – The Provision of Six Impermissible Complimentary Admissions to Keith Stevens

Like Bland, Keith Stevens was the AAU coach for then NC State men’s basketball student-athletes Leenard Freeman and Beejay Anya and could have permissibly received complimentary admissions to the postseason contests in question from either student-athlete. [See FI-15, p. 15 and FI-78.](#) However, Stevens was considered an individual responsible for teaching or directing an activity in which a prospective student-athlete is involved, and could not receive any complimentary admissions from the University to a postseason competition. Stevens received three complimentary admissions to each of the men’s basketball Atlantic Coast Conference Tournament contests against Wake Forest University on March 8, 2016, and Duke University on March 9, 2016. Stevens was listed as a guest of Jeff Dunlap for each of the competitions. [See FI-62.](#) According to Dunlap, it is likely that Rob Moxley, a former men’s basketball assistant coach, requested that Stevens be placed on the coaches’ pass list for the tournament games, as Moxley recruited prospective student-athletes who participated on Stevens’ AAU team. [See FI-12, pp. 27 and 29.](#)

With respect to both Allegations 2-(a) and 2-(b), the University determined that student-athlete complimentary admissions were available for each of the identified contests and could have been provided to Bland and Stevens. [See Exhibit 16.](#)

CONCLUSION

NC State agrees that the facts and circumstances of Allegation 2 resulted in a violation of NCAA legislation. However, Bland and Stevens could have permissibly complimentary admissions. Each individual was a then student-athlete's former AAU coach and had a logical nexus to those student-athletes. Therefore, Bland and Stevens were eligible to receive complimentary admissions from the respective student-athletes they had coached. The violations in this instance occurred as a result of the coaches' inattention to the rules concerning the men's basketball office pass list. NC State has implemented corrective actions to ensure the same or similar violations will not occur in the future.

3. [NCAA Division I Manual Bylaw 11.1.1.1 (2015-16 and 2016-17)]

It is alleged that during the 2015-16 and 2016-17 academic years, Mark Gottfried (Gottfried), then men's basketball head coach, is presumed responsible for the violations detailed in Allegation Nos. 1-(c), 1-(d), 1-(e) and 2 and did not rebut the presumption of responsibility. Specifically, Gottfried did not demonstrate that he monitored his direct report, Orlando Early (Early), then men's basketball assistant coach and lead recruiter, for compliance as it pertained to Early involving TJ Gassnola (Gassnola), a representative of the institution's athletics interests and then outside consultant for Adidas, and Shawn Farmer (Farmer), an individual associated with then men's basketball prospective student-athlete Dennis Smith Jr. (Smith), in Early's recruitment of Smith, which involved the arrangement and/or provision of a \$40,000 recruiting inducement. Additionally, Gottfried did not demonstrate that he monitored his staff's provision of complimentary admissions on the men's basketball office pass list, which involved the provision of 164 impermissible complimentary admissions to individuals associated with prospects and Smith's family and friends.

UNIVERSITY'S CONCLUSION

NC State requires its head coaches to adhere to all NCAA rules, monitor their assistant coaches and report potential areas of NCAA compliance risk to the University. All the allegations in this case were the result of the actions or inactions of former assistant men's basketball coach Early and former head men's basketball coach Mark Gottfried. With respect to Allegations 1-(d), 1-(e) and 2, Gottfried failed to ensure that his coaches were using the men's basketball office pass list consistent with NCAA rules and in accordance with the extensive education provided by NC State.

With respect to Allegation 1-(c), Gottfried failed to adequately monitor Early's interactions with third parties who, for their own benefit, inserted themselves into the recruiting process of then prospective student-athlete Dennis Smith Jr.

4. [NCAA Division I Manual Constitution 2.8.1 (2015-16 and 2016-17)]

It is alleged that during the 2015-16 and 2016-17 academic years, the scope and nature of the violations detailed in Allegation Nos. 1-(d), 1-(e) and 2 demonstrate that the institution violated the NCAA principle of rules compliance when it failed to adequately monitor its men's basketball program's provision of complimentary admissions on the men's basketball office pass list by its failure to establish an adequate system for ensuring compliance with NCAA legislation.

UNIVERSITY'S CONCLUSION

NC State agrees that in limited instances, it failed to adequately monitor the men's basketball office pass list.²⁰ NC State has a robust compliance function, and takes seriously its obligation to educate about, monitor for, and report on NCAA rules violations. NC State had significant education and monitoring efforts related to complimentary ticket lists that were consistent with the National Association for Athletics Compliance (NAAC) reasonable standards. In response to these violations, the University has implemented corrective actions to ensure that the same or similar violations do not occur in the future.

REVIEW OF THE EVIDENCE

In its responses to Allegations 1-(d), 1-(e) and 2, the University established that with respect to all but 10 of the impermissible complimentary admissions at issue, the individuals could have permissibly received complimentary tickets directly from a student-athlete. See Exhibit 16. Therefore, any actual impermissible benefit provided was minimal. Had the University identified these situations contemporaneously, the tickets would have been reassigned to a different list

²⁰ The University refers the hearing panel to the University's review of the evidence in Allegations 1-(d), 1-(e) and 2 for a full discussion of the underlying facts.

and then distributed permissibly. In fact, reassignment occurred on at least one occasion when members of Smith Jr.'s family were moved from the men's basketball office pass list to permissible slots available for student-athlete complimentary admissions. [See FI-15, p. 80.](#)

Further, the University maintained written policies and procedures related to complimentary admissions, engaged both coaches and other constituents in comprehensive rules education related to complimentary admissions, and regularly monitored complimentary admissions lists. The violations resulting from the men's basketball office pass list was an anomaly in an otherwise compliant program.

Written Policies and Procedures

The NC State athletics department's guiding principle as articulated by the former director of athletics was "E.R.A." – an acronym for how the athletics department would **E**stablish a culture of NCAA rules compliance, **R**einforce the culture, and **A**ct with integrity if the culture was threatened. [See FI-111.](#) This was regularly communicated to all athletics staff and it was through this lens that the athletics department implemented compliance systems. The University maintained written policies and procedures related to the permissible manner with which complimentary admissions could be provided and the processes for providing complimentary admissions that were distributed to all coaching staffs and updated on an annual basis. [See FI-10, p. 6.](#) The ticket office also maintained a system, policies and procedures to prevent violations and to handle complimentary admissions consistent with NCAA rules (e.g., requiring an ID, ensuring there was a signature, etc.). [See FI-10, p. 33.](#) These systems worked efficiently for student-athlete and recruit tickets.

Rules Education

The men's basketball staff was provided NCAA rules education on complimentary admissions prior to the season and regularly throughout the academic year. [See FI-12, p. 19.](#) In addition,

student-athletes and the ticket office staff also received regular rules education. [See FI-15, p. 33.](#) Further, via email communications, compliance staff frequently reminded athletics department staff and men's basketball coaches and staff about complimentary admissions rules and policies. [See FI-15, pp. 63-74.](#) Every former men's basketball coach and staff member interviewed by the NCAA indicated that they understood NCAA rules related to complimentary admission for coaches and families.

Monitoring

The NC State athletics compliance office monitored the complimentary ticket lists for irregularities or potential violations by using athletics compliance software and by checking the number of tickets provided to student-athletes' guests and recruits. [See FI-10, p. 29.](#) The athletics compliance staff also created a list of known agents and third parties that it used to cross-check with the student-athlete complimentary admissions list. [See FI-15, pp. 6-7.](#) The enhanced monitoring of student-athlete complimentary admissions was an effort to identify situations where known agents or their associates attempted to connect themselves with student-athletes. That gave the University the opportunity to identify situations with known bad actors, intervene and prevent violations. [See Id.](#) The athletics compliance office focused primarily on student-athletes and recruits lists, along with the potential involvement of agents and other third parties because the perceived risks associated with the men's basketball coaches pass list was minimal. [See FI-10, pp. 30-31.](#)

CONCLUSION

Although NC State acknowledges that it failed to adequately monitor one isolated aspect of the complimentary admission process in the men's basketball program, the men's basketball office pass list, the University nevertheless maintained practices consistent with NAAC Reasonable standards in all other areas regarding complimentary admissions. NC State educated men's

basketball coaches on the permissible complimentary admissions, and the athletics compliance office implemented a system to identify agents and intervene if agents or other outside influences involved themselves with student-athletes. In response to this violation, the University has implemented corrective actions to ensure that the same or similar actions do not occur in the future.

C. Response to Potential Aggravating and Mitigating Factors

| <u>Aggravating Factors Asserted by Enforcement Staff</u> | University's Positions | Rationale |
|--|--|---|
| Multiple Level I and II violations by the institution. NCAA Bylaw 19.9.3-(a) and -(g) | Agrees in part – Disagrees in part. | As set forth in its responses to Allegations 1, 2, and 4, the University acknowledges that Level II violations occurred with respect to Allegations 1-(d), 1-(e), 2, and 4. However, the University asserts that Allegation 1-(c) is the only potential underlying Level I violation in this case. Further, the information articulated in Allegation 1-(c) that alleges the involvement of a representative of the institution's athletics interests and a recruiting violation, therefore implicating institutional culpability is disputed. The remaining allegations set forth in the subparts of Allegation 1 are either Level II or Level III violations, and with respect to Allegation 1-(b) it is disputed whether a violation occurred. While the University acknowledges the panel may find the former head men's basketball coach culpable with respect to Allegation 3, the University does not believe the failure to monitor Level II and Level III violations by the former head men's basketball coach warrants a Level I finding. |
| A history of Level I, Level II or major violations by the institution. NCAA Bylaw 19.9.3-(b) | Acknowledges history, but history is a mitigating factor | The University acknowledges the five major infractions cases identified by the staff, but notes the most recent case occurred in 1989, some 30 years ago. However, the University believes that this record – 30 years without a major infraction – should be weighed as a mitigating factor by the hearing panel. |
| Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. NCAA Bylaw 19.9.3-(h) | Disagrees | There is one former assistant men's basketball coach involved in Allegation 1-(c), 1-(d) and 1-(e). The University did not consider the former assistant men's basketball coach to be a "person of authority" during his time at the University – nor did the government in the SDNY case, which determined that the University did not know about the assistant coach's alleged involvement. The former assistant coach had no hiring or firing authority, had no control of the University, men's basketball or athletics budgets, and was not responsible for any other employees. |

| | | |
|--|------------------|--|
| <p>A pattern of noncompliance within the sport program involved. NCAA Bylaw 19.9.3-(k)</p> | <p>Disagrees</p> | <p>This case primarily involves one student-athlete and one Level I allegation that involved a single former assistant men's basketball coach's alleged unethical conduct and limited complimentary ticket violations. This is not evidence of a pattern of noncompliance in the men's basketball program, but rather suggests carelessness with respect to preventable complimentary admissions violations and actions of a former assistant coach that resulted in violations.</p> |
|--|------------------|--|

| <p><u>Mitigating Factors Asserted by Enforcement Staff</u></p> | <p>University's Positions</p> | <p>Rationale</p> |
|--|--------------------------------------|--|
| <p>An established history of self-reporting Level III or secondary violations. NCAA Bylaw 19.9.3-(d)</p> | <p>Agrees</p> | <p>The University has self-reported a total of 91 Level III violations over the past five academic years for an average of approximately 18 Level III violations per year.</p> |

| <p><u>Mitigating Factors Asserted by University</u></p> | <p>Rationale</p> |
|---|--|
| <p>Affirmative steps to expedite final resolution of this matter. NCAA Bylaw 19.9.3-(c)</p> | <p>On or about March 1, 2018, and more than one month prior to the superseding indictment which formed the basis for this case, NC State contacted the NCAA enforcement staff and advised of its intended inquiries related to a Yahoo Sports article that alleged Andy Miller's ASM Sports Agency with providing a loan to Dennis Smith, Jr. On March 23, 2018, the University contacted the enforcement staff to report its ongoing efforts and its response to a subpoena from the SDNY. Following the April 10, 2018, release of the superseding indictment naming NC State as a victim of fraud, on April 13, 2018, the University again contacted the enforcement staff to discuss proposed next steps related to an investigation. Thereafter, and once the NCAA enforcement staff was permitted to engage in its own fact gathering, the University worked cooperatively with the enforcement staff to produce all documents submitted to the SDNY in response to the subpoena issued to NC State, conduct interviews and complete the NCAA investigation. On July 9, 2019, less than nine months after the trial testimony relied upon by the staff in this case, the NCAA issued a Notice of Allegations to the University. The processing of this case in such an expedient manner could only have been accomplished through the affirmative steps of the University to move this matter to resolution.</p> |

| | |
|--|---|
| <p>Other facts warranting a lower penalty range. NCAA Bylaw 19.9.3-(i)</p> | <p>A central figure in the SDNY trial and in the background of this case is professional basketball agent Andy Miller. Miller himself is referenced in the SDNY trial transcript more than 50 times and his sports agency, ASM, is referenced over 60 times. In 2012, NC State identified Miller and his associates as bad actors in collegiate men’s basketball, and NC State took the unprecedented step to disassociate Miller from having any contact with the University.²¹ This was one of the only steps the University could take to protect its student-athletes from this agent’s unethical actions.</p> |
|--|---|

Case Precedent Supports the University’s Positions on Aggravating and Mitigating Factors

The NCAA enforcement staff has alleged four aggravating factors and one mitigating factor in this case. The University disputes that three of the four aggravating factors should be cited. Specifically, the University does not believe that [Bylaw 19.9.3 - \(b\), \(h\) and \(k\)](#) should apply to the University, nor that case precedent supports such an application. Further, the University has identified additional mitigating factors that are supported by the facts of this case and have commonly been agreed upon by the NCAA enforcement staff and cited by a hearing panel of the Committee on Infractions in other cases with similar fact patterns. Specifically, the University asserts that mitigating factors [-\(c\) and -\(i\)](#) should be cited.

1. Aggravating Factors

With respect to aggravating factor (b) – a history of Level I, Level II or major violations by the institution or involved individuals. Due to the length of time and the type of violations in the University’s past cases, factor (b) should not apply in this case. See Utah (2018), p. 7. The last major infractions case at the University was more than 30 years ago in 1989. NC State’s three-

²¹ Miller was never identified by the University as a representative of the institution’s athletics interests or booster, but the disassociation was one related to Miller’s apparent willingness to act outside of the bounds of NCAA legislation and utilize a former student-athlete as a runner for his agency.

decade record of NCAA rules compliance and institutional control should be weighed by the hearing panel as a mitigating factor.

With respect to aggravating factor (h) – persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. In the past five years, there have been at least six cases where factor (h) was cited for an involved individual and not the University.²² Similar to the case before the hearing panel, the violations in those infractions' cases involved the actions of a single coach or University employee who engaged in the activity outside the scope of their employment. Here, with respect to Allegation 1-(c), it was solely the actions of assistant men's basketball coach Orlando Early that resulted in the agreed-upon unethical conduct violation. Early's actions should not be imputed to the University as an aggravating factor.

With respect to aggravating factor (k) – a pattern of noncompliance within the sports program involved. In the past five years, there have been nine cases out of approximately 90 total Level I or II cases where factor (k) was cited.²³ The distinguishing factor in each of those cases was the number of violations that occurred consistently over a period of multiple years. For example, the recent Connecticut case involved violations related to impermissible preseason practice and impermissible coaching activities, among other violations, in the men's basketball program over a four-year period. See [Connecticut \(2019\), pp. 3-9](#). Here, however, the acknowledged violations were limited in time and scope. All allegations relate to a single prospective and enrolled student-athlete and occurred within one year. This is not indicative of a pattern in a sports program that went undiscovered by the University which should result in additional institutional culpability.

²² [Missouri \(2019\)](#), [San Jose State \(2016\)](#), [Mississippi \(2016\)](#), [Georgia Southern \(2016\)](#), [Coastal Carolina \(2015\)](#), [Georgia \(2014\)](#).

²³ [Connecticut \(2019\)](#), [Oregon \(2018\)](#), [Sacramento \(2018\)](#), [Northern Colorado \(2017\)](#), [Mississippi \(2017\)](#), [Rutgers \(2017\)](#), [Mississippi \(2016\)](#), [Hawaii \(2015\)](#), [Syracuse \(2015\)](#).

2. Mitigating Factors

NC State and enforcement staff agrees that NC State's established history of self-reporting Level III violations is a mitigating factor for which it should receive credit.

With respect to mitigating factor (c) – affirmative steps to expedite final resolution of the matter, factor (c) has been cited 41 times over the past five years and eight times alone in the past year.²⁴ In only four situations in the past five years has the hearing panel rejected factor (c). In each of those four scenarios, the hearing panel's rationale was that the institution did not identify specific steps that it took to assist the enforcement staff beyond the scope of the general cooperative principle.²⁵ Here, like the 41 previous cases where factor (c) was cited, the University contacted the enforcement staff when it was made aware of a potential NCAA issue, consistently communicated with the NCAA about the status of the SDNY case, promptly responded to NCAA document requests, produced thoughts of emails, documents and records, and worked collaboratively with the NCAA enforcement staff to conclude the investigation in a timely manner. Indeed, the fact that this is the first infractions case stemming from the SDNY case is evidence of the affirmative steps taken by the University in this case.

With respect to mitigating factor (i) – other factors warranting a lower penalty range, NC State's disassociation of professional basketball agent Andy Miller is a relevant additional factor that should be credited in this case. Factor (i) has been cited in eight cases.²⁶ In each of those cases, the panel acknowledged the University's efforts directly related to the underlying allegations. Here, NC State prohibited Miller from access to private spaces including the men's basketball office and the practice facility. Miller was identified in the SDNY case over 50 times by name and

²⁴ [Mississippi State \(2019\)](#), [UNC Greensboro \(2019\)](#), [Connecticut \(2019\)](#), [Maryland \(2019\)](#), [California Poly \(2019\)](#), [High Point \(2019\)](#), [Missouri \(2019\)](#) and [Arizona \(2019\)](#).

²⁵ [South Carolina \(2017\)](#), [Morgan State \(2017\)](#), [Florida A&M \(2015\)](#) and [Sacramento \(2015\)](#).

²⁶ [Oregon \(2018\)](#), [Sam Houston State \(2017\)](#), [Appalachian State \(2016\)](#), [San Jose State \(2016\)](#), [Campbell \(2016\)](#), [Stanford \(2016\)](#), [Hawaii \(2015\)](#) and [Wichita State \(2015\)](#).

his firm ASM was identified more than 60 times. NC State appears to be the only institution to proactively limit access to its student-athletes and basketball program to someone associated with potential NCAA violations discussed in the SDNY case.

University's Overall Position on Level of Case

[NCAA Bylaw 19.7.7.1](#) provides that if violations from multiple levels are identified in the notice of allegations, the case shall be processed pursuant to the procedures applicable to the most serious violation(s) alleged. However, case precedent indicates that [19.7.7.1](#) does not preclude the hearing panel from processing the case as Level I for an involved individual and Level II for an institution in circumstances that exist here – where it is the unethical conduct of an involved individual that resulted in a potential Level I violation. Here, Allegation 1-(c) is the only potential underlying Level I violation, and the violation is based on the alleged unethical conduct of former assistant men's basketball coach Early. Both the Committee on Infractions and the Infractions Appeals Committee have found that there are circumstances so untethered from institutional culpability that charging the institution at a Level I category for the actions of a former coach is inconsistent with fundamental fairness and the intent of the legislation. As detailed in the response to Allegation 1-(c), such circumstances are clearly present in this case.

In the [Alabama \(2017\) case](#), despite a Level I unethical conduct finding involving a former assistant football coach, the case was processed as a Level II – mitigated case for Alabama and a Level I – aggravated case for the involved assistant coach. While the panel was silent on its rationale for processing the institution and involved individual at different levels, it can be inferred that the strict application of processing the case pursuant to the procedures applicable to the most serious violation does not apply when the most serious violation is the result of a single rogue coach's unethical conduct.

Likewise, the Infractions Appeals Committee held in the [Hawaii \(2016\) case](#) that “when assigning weight to a violation in order to hold an institution accountable for coaches’ unethical conduct, there must be a nexus between the behavior of the coach and the institution.” See [Hawaii Infractions Appeal Decision \(2016\), p. 2](#). Here, as in [Hawaii](#), there is no evidence that the institution failed to monitor former assistant men’s basketball coach with respect to Allegation 1-(c); that the institution did not educate the former assistant coach and all coaches about impermissible involvement of third parties; or that the institution failed to warn coaches that such behavior would not be tolerated.

Therefore, the University should not be held accountable for a Level I case based solely on the actions of its former employee or that former employee’s unethical conduct. Similar to the circumstances in [Alabama](#) and [Hawaii](#), the hearing panel has the authority to categorize this case at different levels for the involved former assistant men’s basketball coach and the University.

Conclusion

For the foregoing reasons, one aggravating factor and three mitigating factors should be cited for the University. In addition, case precedent permits the Panel to process this case at different levels for the University and the involved individual, where the involved individual is the sole basis for a Level I category. That is exactly the situation with NC State and former assistant men’s basketball coach Early. Based on the evidence and the agreed upon violations in the case, the case may be appropriately categorized as a Level I – mitigated, or Level II – standard case for the University.

G. Requests for Supplemental Information

1. Provide mailing and email addresses for all necessary parties to receive communications from the hearing panel of the NCAA Division I Committee on Infractions related to this matter.

Please direct all communications from the hearing panel to the University's outside counsel for this matter:

Mike Glazier
mglazier@bsk.com

Jason Montgomery
jmontgomery@bsk.com

Bond, Schoeneck & King, PLLC
7500 College Boulevard, Suite 910
Overland Park, Kansas 66210

University Representatives

Dr. Randy Woodson
Chancellor
randy_woodson@ncsu.edu

Allison Newhart
Vice Chancellor and General Counsel
anewhar@ncsu.edu

Dr. Joel Pawlak
Faculty Athletics Representative
jjpawlak@ncsu.edu

Boo Corrigan
Athletics Director
wolfpackad@ncsu.edu

Carrie A. Doyle
Senior Associate Athletic Director – Compliance
cadoyle3@ncsu.edu

2. Indicate how the violations were discovered.

See Introduction to this Response.

3. Provide a detailed description of any corrective or punitive actions implemented by the institution as a result of the violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any corrective or punitive actions were implemented.

The University has imposed the following penalties and corrective actions based on the acknowledged violations related to impermissible complimentary admissions:

- Financial Penalty: \$5,000 fine.
- Scholarship reduction: Reduce the total number of athletics awards in the sport of men's basketball for the incoming class of the 2021-22 academic year by one (the first available opportunity) from the permissible total of 13, or if a scholarship becomes available, at the time of such availability if prior to the 2021-22 academic year.
- Recruiting restriction: Reduce the number of official visits by one during the 2019-20 and 2020-21 academic year and prohibit unofficial visits during a two-week period during the 2019-20 academic year.
- The University has implemented new complimentary admissions policies and procedures that include but is not limited to a stricter adherence to individuals identified as business contacts and on-site monitoring of all complimentary tickets by athletics compliance.

4. Provide a detailed description of all disciplinary actions taken against any current or former athletics department staff members as a result of violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any disciplinary actions were taken and submit copies of all correspondence from the institution to each individual describing these disciplinary actions.

The athletics department staff members named in the allegations are no longer employed by the University.

5. Provide a short summary of every past Level I, Level II or major infractions case involving the institution or individuals named in this notice. In this summary, provide the date of the infractions report(s), a description of the violations found by the Committee on Infractions/hearing panel, the individuals involved, and the penalties and corrective actions. Additionally, provide a copy of any major infractions' reports involving the institution or individuals named in this notice that were issued by the Committee on Infractions/hearing panel within the last 10 years.

Date

[December 12, 1989](#)

Description

Findings of a lack of institutional control and a failure to monitor as a result of the improper use of complimentary admissions and student-athletes receiving cash and other items of value in exchange for complimentary admissions. Excessive pairs of shoes were provided to men's basketball student-athletes, which were sold or traded for other items of value. This case also included secondary violations of boosters providing lodging, meals, and local transportation, as well as an assistant men's basketball coach transporting a prospective student-athlete off-campus to meet with a former men's basketball student-athlete.

Individuals Involved

Athletics director/Head men's basketball coach

Sport Involved

Men's basketball

Penalties and Corrective Actions

- Public reprimand and censure;
- Two years of probation;
- One-year ban on official visits;
- One-year ban on off-campus recruiting;
- Grant-in-aid limitations in men's basketball;
- One-year post-season ban for men's basketball;
- One-year television ban for men's basketball;
- Recertification requirement;
- Reorganization of the athletics department to create a position for a full-time compliance officer;
- Reassignment of responsibilities of some existing personnel, and separation of the position of athletics director and men's head basketball coach;
- Revision of complimentary admissions procedures and procedures related to issuance of basketball shoes;
- Increased rules education;
- Adoption of institutional requirements related to academic performance by student-athletes;
- Adoption of a drug-testing policy with mandatory testing and sanctions; and
- Reduction in the men's basketball coaching staff size.

Date

[March 21, 1983](#)

Description

A booster provided impermissible transportation, lodging and meals to a football prospective student-athlete. The football prospective student-athlete also received an excessive number of official visits. Impermissible recruiting contacts in football by coaching staff members and a booster occurred.

Individuals Involved

An assistant football coach
Two representatives of athletics interests

Sport Involved

Football

Penalties and Corrective Actions

- Public reprimand;
- One-year probation; and
- Disassociation of involved boosters.

Date

[October 24, 1972](#)

Description

Recruiting inducements were provided to prospective student-athletes in the form of cost-free housing, transportation, and impermissible financial assistance to attend summer school. The impermissible employment of prospective student-athletes and impermissible tryouts also occurred.

Individuals Involved

Head men's basketball coach
Assistant men's basketball coach
Representatives of athletics interests

Sport Involved

Men's basketball

Penalties and Corrective Actions

- Public reprimand and censure;
 - One-year probation; and
 - One-year post-season ban in men's basketball.
-

Date

[January 11, 1957](#)

Description

Representatives of the institution offered a prospective student-athlete annual cash gifts and an impermissible five-year "unrestricted" scholarship, as well as a seven-year college medical education for a friend of the prospective student-athlete. A staff member and a booster also offered and subsequently provided \$80 to the prospective student-athlete to pay for his transportation costs to enroll at the institution.

Individuals Involved

Representatives of the institution and an institutional staff member

Sports Involved

Football
Men's basketball

Penalties and Corrective Actions

- Four-year probation;
 - Four-year postseason ban;
 - Four-year television ban for football
 - Four-year committee ban and revocation of right to vote on Association matters; and
 - Public reprimand and censure.
-

6. Provide a chart depicting the institution's reporting history of Level III and secondary violations for the past five years. In this chart, please indicate for each academic year the number of total Level III and secondary violations reported involving the institution or individuals named in this notice. Also include the applicable bylaws for each violation, and then indicate the number of Level III and secondary violations involving just the sports team(s) named in this notice for the same five-year time period.

See [Exhibit 17](#).

7. Provide the institution's overall conference affiliation, as well as the total enrollment on campus and the number of men's and women's sports sponsored.

North Carolina State University is a member of the Atlantic Coast Conference. North Carolina State sponsors 11 men sport programs, 11 women sport programs, and one co-ed sport program.

North Carolina State's total enrollment for the 2018-19 academic year was 35,479 (25,891 Undergraduate and 9,588 Graduate).

8. Provide a statement describing the general organization and structure of the institution's intercollegiate athletics department, including the identities of those individuals in the athletics department who were responsible for the supervision of all sport programs during the previous four years.

North Carolina State University's organizational charts for the athletics department are attached as [Exhibit 18](#).

9. State when the institution has conducted systematic reviews of NCAA and institutional regulations for its athletics department employees. Also, identify the agencies, individuals or committees responsible for these reviews and describe their responsibilities and functions.

2019 – Once-in-Four-Year Compliance Review – Conducted by The Compliance Group.

2016 – NC State Compliance Office requested a review from the Office of Internal Audit related to Camps and Clinics (which was a recommendation from the 2015 compliance review).

2015 – Once-in-Four-Year Compliance Review – Conducted by The Compliance Group.

2011 – Once-in-Four-Year Compliance Review – Conducted by the ACC Conference compliance office.

10. Provide the following information concerning the sports program(s) identified in this inquiry:

- The average number of initial and total grants-in-aid awarded during the past four academic years.

Average Initial Men's Basketball Grants-in-Aid:

Initial Counters: 5.25

Average Total Men's Basketball Grants-in-Aid:

Average Total Counters: 12.75

- The number of initial and total grants-in-aid in effect for the current academic year (or upcoming academic year if the regular academic year is not in session) and the number anticipated for the following academic year.

North Carolina State's Response

Initial Men's Basketball Grants-in-Aid (2019-20): 5

Total Men's Basketball Grants-in-Aid (2019-20): 13

- The average number of official paid visits provided by the institution to prospective student-athletes during the past four years.

Average Official Paid Visits in the sport of men's basketball:

2015-16: 14

2016-17: 16

2017-18: 11

2018-19: 11

Total 52

Average: 13

- Copies of the institution's squad lists for the past four academic years.

See [Exhibit 19](#).

- Copies of the institution's media guides, either in hard copy or through electronic links, for the past four academic years.

[2018-19 Men's Basketball Media Guide](#)

[2017-18 Men's Basketball Media Guide](#)

[2016-17 Men's Basketball Roster](#)

[2015-16 Men's Basketball Media Guide](#)

- A statement indicating whether the provisions of NCAA Bylaws 31.2.2.3 and 31.2.2.4 apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.

The provisions of NCAA Bylaws 31.2.2.3 and 31.2.2.4 are not applicable in this case.

- A statement indicating whether the provisions of Bylaw 19.9.7-(g) apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.

The provisions of NCAA Bylaw 19.9.7-(g) may be applicable in this case.

11. Consistent with the Committee on Infractions IOP 4-16-2-1 (Total Budget for Sport Program) and 4-16-2-2 (Submission of Total Budget for Sport Program), please submit the three previous fiscal years' total budgets for all involved sport programs. At a minimum, a sport program's total budget shall include: (a) all contractual compensation including salaries, benefits and bonuses paid by the institution or related entities for coaching, operations, administrative and support staff tied to the sport program; (b) all recruiting expenses; (c) all team travel, entertainment and meals; (d) all expenses associated with equipment, uniforms and supplies; (e) game expenses and (f) any guarantees paid associated with the sport program.

| Three years of actual expenditures in the sport of men's basketball: | |
|--|--------------|
| 2016-17 | \$ 8,084,423 |
| 2017-18 | \$ 8,854,014 |
| 2018-19 | \$ 7,794,605 |

EXHIBITS LIST

- Exhibit 1 [Timeline 2012 to March 2018 produced to NCAA enforcement staff](#)
- Exhibit 2 [USA Today Article re Dennis Smith, Jr. Torn ACL](#)
- Exhibit 3 [ESPN Article re Dennis Smith, Jr. NBA Prospects](#)
- Exhibit 4 [U.S. v. James Gatto, et. al. Unsealed Complaint](#)
- Exhibit 5 [NC State Disassociation of Agent Andy Miller – 2012](#)
- Exhibit 6 [Gatto Trial – Verdict Sheet](#)
- Exhibit 7 [Gassnola Judgement](#)
- Exhibit 8 [ESPN Article, May 22, 2019, Notices of allegations coming after hoops scandal](#)
- Exhibit 9 [CBS Sports Article, June 12, 2019, At least six college basketball programs will be notified of major NCAA violations by this summer](#)
- Exhibit 10 [Gatto Trial – Jury Charge](#)
- Exhibit 11 [Memorandum Opinion and Order on NCAA Motion to Intervene](#)
- Exhibit 12 [ESPN Article, September 10, 2015, Dennis Smith, Jr. commits to attend NC State](#)
- Exhibit 13 [U.S. v. James Gatto, et. al Trial Transcript – October 3, 2018](#)
- Exhibit 14 [Boston Globe Article, July 23, 2006, Ethical questions raised as amateur basketball recruiters engage in high stakes battle for blue chip recruits](#)
- Exhibit 15 [ESPN Articles, July 5, 2012, updated July 10, 2012, NCAA bans 4 summer league teams](#)
- Exhibit 16 [Complimentary Admissions Analysis 2015-16 and 2016-17](#)
- Exhibit 17 [Level III Violations Chart](#)
- Exhibit 18 [Organizational Charts](#)
- Exhibit 19 [Squad Lists](#)