

March 29, 2013

VIA ELECTRONIC MAIL

Ms. Eleanor W. Myers
Member, NCAA Division I Committee on Infractions
c/o Mr. Joel McGormley
National Collegiate Athletic Association
P.O. Box 6222
Indianapolis, IN 46206-6222

Re: *University of Miami – Case No. M362*

Dear Professor Myers:

Pursuant to Britton Banowsky's letters of February 27 and March 8, 2013, attached is the University of Miami's Motion to Immediately Conclude Case No. M362 as it Relates to the University of Miami (the "Motion").

The Motion is filed in response to numerous procedural issues that have arisen in this case due exclusively to improper conduct by the enforcement staff. Among the improper acts that we detail in the Motion are:

- Rewarding a convicted felon by vouching for his credibility before his federal sentencing judge, even though, at that point in time, no investigation had been undertaken to substantiate his outrageous claims.
- An immediate and unjust rush to judgment on the part of the NCAA as within days of the public disclosure of the investigation in 2011, a senior NCAA executive spoke out on the University of Miami and the "death penalty." Such comments were reprinted or replayed approximately 500 times in the weeks following their release.
- Throughout the approximate 2½-year investigation, the enforcement staff's impermissible conduct, constant turnover, inexperienced investigators and overall mismanagement caused multiple unconscionable delays in a process which could have been concluded in much less time.
- As already acknowledged by the NCAA, the intentional use of impermissible investigative tactics by members of the enforcement staff, with the approval of NCAA executives, including the compensation of an outside attorney to solicit information from witnesses, incredibly violated clear and defined policies and is further evidence of an all-out approach to prove the most salacious allegations rather than discover what actually transpired at the University.

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- The NCAA-sanctioned Cadwalader Report released in February is not only incomplete, but also incorrect in parts and the NCAA enforcement staff relied on the Report's faulty conclusions in drafting the Notice of Allegations.
- The NCAA enforcement staff created the concept of "self-corroboration" as an appropriate evidentiary standard, as many of the allegations leveled against the University are based on the testimony of one man (a convicted felon) and were never supported by any other witness or documentation.
- Perhaps most distressing and unconscionable, on multiple occasions, members of the enforcement staff intentionally misled the University by withholding key information, failing to inform the University of scheduled interviews and, most egregiously, lying to the University and its outside counsel.

Further, the University hereby reiterates the objection, initially made in my letter to Chairman Banowsky of March 19, 2013, to a single member of the Committee on Infractions being granted exclusive authority to rule on all motions submitted by the University of Miami (and by other involved parties). Please understand that this would be the University's position regardless of the committee member so designated and should not be interpreted as a challenge to the objectivity you bring to the matter. As I previously wrote, the University strongly believes that given the extraordinary circumstances of this investigation, participation of the full committee in the review of the numerous procedural issues raised is mandatory and that the University deserves nothing less.

The University continues to reserve all rights against the NCAA for the wrongs that have been committed against it. Neither the University's continued cooperation in this enforcement action nor the submission of the attached Motion shall constitute a relinquishment or waiver of any legal rights, all of which are hereby expressly reserved.

Sincerely,

BOND, SCHOENECK & KING, PLLC



Mike Glazier
Counsel to the University of Miami

MG/jyw

cc: President Donna Shalala
Aileen Ugalde
Judd Goldberg
Wally Bley
Michael Buckner
Steve Farese Sr.
Scott Tompsett
Jim Zeszutek
Scott Bearby
Naima Stevenson
Jon Duncan