

B. REVIEW OF INSTITUTIONAL INQUIRY

This section of the self-report will review the general chronology of the case and the various investigative and other activities undertaken by the institution. The information developed through these activities forms the basis of the conclusions drawn about the violations being reported as well as about the absence of violations. Some areas of inquiry reviewed here are developed in greater detail later in the report to allow for a more complete understanding of the facts and issues. Others, by their nature, are noted here, and need no further development.

1. Initial Knowledge and Actions

Newspaper Contact and Articles

On July 5, 2000, a reporter for the *Wisconsin State Journal* (“WSJ”), a Madison newspaper, contacted the institution with information related to an investigation that the newspaper had been conducting and sought to share some of that information with the institution because of the strong possibility that violations of NCAA legislation had occurred. A meeting with three WSJ reporters was immediately scheduled for 1:00 PM the next afternoon. In attendance on behalf of the institution were Melany Stinson Newby, Vice Chancellor for Legal & Executive Affairs; David McDonald, Chair of the Athletic Board; and Vince Sweeney, Associate Athletic Director. Based on the information that was shared with us, which included some invoices and account records and considerable information from interviews with current and former Shoe Box employees and the owner, the institution acknowledged its own concern that violations had occurred.

The initial article detailing the newspaper’s investigation and its results appeared on Sunday, July 9, 2000. A number of related articles appeared in the *Wisconsin State Journal* and numerous other newspapers in Wisconsin and elsewhere that day and thereafter. Copies of many of these articles have previously been provided to the NCAA. From and after the time of the meeting with reporters and the appearance of the articles, the institution began the process of planning and undertaking its own investigation.

NCAA and Big Ten Notice

On July 6, 2000, the day that institutional representatives first met with the reporters, the institution notified both the NCAA (Chris Strobel) and the Big Ten Conference (Jennifer Hepple). This notice, by telephone call, included information about the general nature of the issues, that the

A complete list of all individuals interviewed over the course of the investigation is included in Exhibit 1, attached and made a part of this report.

3. Continuation of Investigation

In order to begin the process of identifying student-athletes whose eligibility might be affected by a violation, Bald gathered information and prepared an all-sport list of student-student-athletes with eligibility remaining. This list was used to compare to The Shoe Box customer list to identify current student-athletes who were on that list. In addition, Bald prepared a list of former student-athletes and an initial review was undertaken to identify former student-athletes whose names were also on the customer list. Further, an attempt was made to see whether it appeared that non-athlete students were on the list and to what extent.

Once current and former student-athletes were identified, Newby, Dowling and Bald visited the store again on August 3, 2000 and talked further with the owner and accountant. During that visit, we learned more about the way sales are made and discounts received. Additional information was received about the computerized accounts and other records that the store kept. Based on that information, The Shoe Box, at our request, provided copies of the computerized account summaries for student-athletes we had identified, current as of July 31, 2000, and also provided a copy of the store's aging account summary, dated July 31, 2000, showing overdue accounts and amounts owed. Also during that visit, Dowling and Bald began to look at invoices generally and made copies of invoices for two periods of time (January through mid-March, 1999 and the first two weeks of November, 1999). This was to get a sense of who got discounts and had store accounts, the magnitude of the discounts for student-athletes and others, and to try and see if students generally were among them. The account summaries were subsequently used to develop a master list of invoices related to specific student-athletes, which lists were produced both alphabetically by student-athlete and in numeric order based on the number on the invoice.

On August 9, 2000, the institution also retained Charles Smrt of The Compliance Group to assist us in our investigation and evaluation of the case. He made his first visit to Madison August 9-11, 2000.

On August 9, 2000, Smrt, Newby and Bald visited The Shoe Box. Smrt spent time that day and the next talking with Schmitt, Jeff Lauersdorf, accountant, Emily Schlick, assistant manager, Jeff Sarbacker, manager of the athletic shoe department, and Jill Schmitt-Adler, assistant manager and another of Schmitt's daughters who works at The Shoe Box, and becoming familiar with the business and the discount and store accounts procedures. During the visit on August 9, Smrt, Newby and Bald personally went through all of the boxes of invoices maintained by the

store. Using the master list of invoices prepared from the summary account statements, their primary goal was to locate and copy all invoices for student-athletes' purchases. Approximately 500 invoices were identified and set aside. In addition, during this physical review, an attempt was made to identify and set aside invoices that were not on the list but might be non-athlete students or where there was a noted association with a UW athletic program.

With Schmitt's permission, the invoices that had been set aside were taken back to campus, copies made and the original invoices returned to the store at the end of the day. Sets of the copies were organized both chronologically by invoice number and alphabetically by customer. In addition, sets of invoices for current student-athletes were segregated from the rest and were used to create files for each current student-athlete.

Schmitt himself and all other store employees with whom the institution interacted were extremely cooperative at all times and provided extraordinary access to themselves and the store's records. Further, we discussed with Schmitt the student-athletes' obligation to cooperate in any NCAA investigation, particularly as it related to our access to their records.

In addition to the invoices set aside by Smrt, Bald and Newby, Schmitt volunteered some copies of invoices that he said he believed were non-athlete students. Those invoices, in addition to the random invoices copied by Dowling and Bald previously, were reviewed for the purpose of identifying or confirming whether any were in fact non-athlete students. This exercise did not yield substantial evidence of non-athlete student purchases or receipt of discounts. Instead, many of them either had an athletic connection noted on the invoice or were able to be identified as a student-athlete or someone associated with the athletic program such as a trainer, manager or cheerleader.

An additional source of documentation of store purchases were the records of reimbursements from the Special Assistance Fund. Initially, those records for the last three years were received from the athletic department and reviewed in August with the store records. Any evidence of Shoe Box purchases was then added to the student-athlete's file. These purchases where appropriate were included in the calculation of the student-athlete's extra benefit. In early November, records from three earlier years were also reviewed, and in a single instance evidence noted of additional purchases by a current student-athlete. His benefit was recalculated and dealt with again at that time.

In mid-August, the institution also began to gather relevant information regarding Schmitt's status as a representative of our athletics interest. At that time, it was learned that Schmitt or The Shoe Box had contributed \$11,800 to UW Athletics since 1988. A complete breakdown of those donations is in Exhibit 2, attached and made a part of this report and now

totals \$12,960 Schmitt would not be considered one of our “garden variety” boosters or representatives. He is not a member of any recognized booster organization, attends only one of our outings each year which is at the home of a colleague and friend of his, and he is not a season ticket holder. The preferential seating payments that he has made in men’s basketball are for tickets in the name of Ronald and Frances Johnson, and a prior payment for men’s hockey were for tickets in the name of Michael Mieritz. He is not a personal friend of members of our coaching staff. He appeared three times on the complimentary admission list for former men’s basketball player xxxxxxxxxxxxxxxx and once on the list for former player xxxx xxxxx. On one occasion, he had two players accompany him to a high school game. His motives appear to be completely personal and in keeping with his affinity for all athletics. There is no evidence whatsoever that he intended to give UW-Madison a recruiting or competitive advantage by his actions.

4. Consultation with NCAA Staff

At the conclusion of Smrt’s initial visit, it was determined that a violation of the extra benefit legislation had more than likely occurred and that it seemed unlikely that it would be possible to identify a comparative group of non-athlete students for whom there were any store records and who had been able to get similar discounts. It was also determined that it would be prudent to prepare an executive summary of what we knew and to request a meeting at the NCAA offices with representatives from enforcement, membership services and student-athlete reinstatement.

That meeting was scheduled and held August 22, 2000. Present at the meeting in addition to Newby, Bald and Smrt, were David Price, NCAA Vice President for Enforcement, Julie Roe, Director of Student-Athlete Reinstatement, Laura Wurtz, Student-Athlete Reinstatement Representative, and John Morris, Membership Services Representative.

During that visit, NCAA staff agreed that, based on the information available, violations of the extra benefit legislation involving discounts and credit had occurred. They also shared the Division I Student-Athlete Reinstatement Subcommittee’s schedule of reinstatement conditions for extra benefits cases. In addition, it was determined that we would be permitted to use a 10% general public discount in the calculation of amounts of our student-athletes’ extra benefits, and that, in any instance where an actual discount could not be ascertained, an assumed discount of 40% would be used in the calculation of the extra benefit.

5. Overview of Eligibility Restoration Request for Fall Sport Student-Athletes

The next day, August 23, 2000, Newby and Bald began preparations to interview fall sport student-athletes whom we expected to be returning and about whom the

institution had evidence of Shoe Box purchases. Women's soccer was scheduled to compete Friday and Sunday, August 25 and 27, and football was scheduled to play its first game on Thursday, August 31, 2000.

Newby concentrated on the extra benefit calculations. Bald, with help from Smrt, Dowling and Griffiths finalized a questionnaire for those conducting the interviews to use, reserved space, notified the affected coaches, and enlisted legal and athletic department staff and current and former athletic board members to be interviewers. Individual interviews with sixty-eight (68) student-athletes were conducted August 24 and 25.

On Sunday, August 28, 2000, the institution declared eighty (80) fall sport student-athletes ineligible and had its restoration request taken to the NCAA offices by courier so that it could be reviewed the next morning. This request and other relevant documents are Exhibit 3, attached and made a part of this report. It is acknowledged that the institution elected not to declare the affected women's soccer student-athlete ineligible prior to her weekend competition and included her in this request. Details related to this student-athlete and allowing her to compete are included later in this report at Section E.5. Staff's decision, applying the Student-Athlete Reinstatement Subcommittee conditions, was issued on Monday, August 29, 2000, and a notice of appeal submitted immediately. This appeal related only to the 49 student-athletes whose extra benefits exceeded \$100 and who faced varying levels of suspension. It also included the woman's soccer student-athlete who had been allowed to compete the previous weekend. The other 24 student-athletes for whom only repayment was required were not affected and therefore not included in the appeal.

The Subcommittee heard the appeal during a telephone conference call at 8:00 AM on August 31, 2000, and issued a decision around midday. Their decision included a lessening of their normal conditions for suspensions for two categories of extra benefit. Student-athletes whose benefit was \$100-299 were not required to be suspended from any contest and were instead required to repay the amount of the discount received and to serve 24 hours of community service. Student-athletes whose benefit was \$300-500 were required to be suspended from 10% of competitions rather than 20%, to repay and to serve 12 hours of community service. Student-athletes whose benefit was >\$500 were required to be suspended from 30% of competitions, in accordance with the Subcommittee's normal conditions, and to repay. Although the women's soccer student-athlete would not have had a suspension as the result of her extra benefit, the Subcommittee determined that she should be suspended from two contests because she had been allowed to compete in two contests while ineligible.

This result was made public and the initial football suspensions served on the night of August 31, 2000.

6. Team Meetings

As student-athletes and other students began returning to school and practice at the end of August and beginning of September, Bald and the coaches began the process of scheduling and holding team meetings. These are generally for the purpose of completing required forms and reviewing certain basic information. This was used as an opportunity to inform student-athletes and coaches about The Shoe Box situation and to do some education about the extra benefit legislation, including that The Shoe Box was “off limits” to student-athletes.

7. Overview of Restoration Request for Winter and Spring Sport Student-Athletes

Once the fall sport restoration request was complete, the institution’s focus shifted to the winter sport student-athletes who were returning and about whom there was evidence of purchases made. Their store documentation was organized, files created and extra benefits calculated. Interviews with those student-athletes were conducted on September 19, 2000.

During the interviews with winter and spring sport student-athletes, several questioned the balances on their accounts and some of the purchases included in the calculation of their extra benefit. Based on the information they provided, Newby worked with the store accountant to see whether additional information could be secured, and upon receipt, appropriate adjustments were made. Of significance was that we learned that a “credit memo” notation on the account summary was not always an indication of a payment made, which was what we thought. Instead, in some cases, it was evidence of shoes being returned where no additional purchase was being made and the return noted on the new purchase invoice. In four cases, it was evidence that the account had been identified to be referred to collection.

The restoration request for forty (40) winter and spring sport student-athletes was submitted September 29, 2000. A copy of this request and other relevant documents are Exhibit 4, attached and made a part of this report. In addition to acknowledging violations involving discounts and credit, the institution also reported one instance of improper transportation. In its decision dated October 6, 2000, Staff agreed with the institution’s application of the variation of conditions for reinstatement that had been permitted by the Subcommittee in the institution’s previous appeal. This affected sixteen (16) student-athletes who had benefits of \$100-299 who would have faced 10% suspensions but instead were required to perform twenty-four (24) hours of community service in addition to their repayment. Twenty-one (21) student-athletes whose benefit was <\$100 had only to repay. Three (3) basketball student-athletes who had benefits of >\$500 were required to serve eight (8) game (30%)

suspensions in addition to repayment. Staff determined that these suspensions should be served during the first 13 contests. The institution appealed this aspect of the restoration as it applied to the two men's basketball student-athletes. The appeal was submitted on the written record and a decision issued in support of staff's decision on October 13, 2000.

8. Identification of Other Current Student-Athletes who had Shoe Box Purchases

At the point that the winter and spring sport restoration requests were completed, the institution had resolved the eligibility issues for all student-athletes who had been identified initially from The Shoe Box or the Special Assistance Fund records as receiving discounts or credit and turned its attention to identifying any other student-athletes who also may have received discounts or credit. On October 16, 2000, the institution distributed questionnaires to all coaches to be completed by all remaining current student-athletes. It was intended to identify all additional current student-athletes who may have made purchases and received discounts. The total number of student-athletes asked to complete this questionnaire was 625. Of those, 96 indicated that they had shopped at The Shoe Box and were interviewed, for the most part, by Bald. Most of those interviews were conducted between November 1, 2000 and December 22, 2000. A few spring sport student-athletes were interviewed after the first of the year, as were a small number of student-athletes who had not been enrolled or competed at UW in the fall but who indicated they intended to return to school and/or competition. As a general rule, the interviews were scheduled to ensure that decisions about any violations and any resultant restoration requests would occur prior to any upcoming competitions.

As a result of those interviews and based on the information provided, it was determined that another 38 current student-athletes had received extra benefits in violation of NCAA legislation and appropriate requests for restoration made. Of those, all except one, received benefits of <\$100. The exception was the receipt of benefits of \$100-299, and allowing the application of the conditions of reinstatement as varied by the Subcommittee, no suspension was required, but community service required instead.

9. Recalculations

Based on what we learned from the winter and spring sport student-athletes about "credit memo" notations on the account statements, the accounts and calculations of the fall sport student-athletes were reviewed again. This resulted in changed amounts for twenty-three (23) student-athletes and a request made to staff, dated November 7, 2000, to approve those changes. Additional information was requested and submitted

November 17, 2000, and the changes were approved as of December 5, 2000.

With respect to nineteen (19) student-athletes, the change resulted only in a decrease or increase in the amount of repayment. In two (2) instances, the student-athlete moved from <\$100 to \$100-299, and the requirement for community service was added. In one instance, the student-athlete moved from \$100-299 to <\$100, and the requirement for community service was removed. In the final instance, the student-athlete moved from \$300-500 to \$100-299. Because that student-athlete had served a suspension, no requirement for any community service was added. In no instance did the "change" result in a student-athlete receiving an addition of any suspension.

In addition, while working on organizing the account and purchase records of former student-athletes during the week of November 14, 2000, the institution discovered evidence of two purchases, in early 1996 and in early 1997, for a current football student-athlete. The addition of these two purchases caused the benefit total to move from \$100-299 to \$300-500. A restoration request, specific to this student-athlete and based on this new information, was submitted to NCAA staff on November 17, 2000. Applying the reinstatement conditions applicable to our case, this change required a one-game suspension, which was served during the next regular competition.

10. Review of Eligibility Requests involving The Shoe Box

Exhibit 5, attached and made a part of this report, lists all of the current student-athletes who were found to have violated NCAA legislation related to the receipt of extra benefits. The total number of student-athletes included is 157. 89 are in the <\$100 category, 41 in the \$100-299 category, 15 in the \$300-500 category and 12 in the >\$500 category. Where applicable, we have noted that a particular student-athlete's violation was when the student-athlete was still considered a prospect. Every instance of that involved student-athletes who had signed National Letters of Intent to attend UW and occurred when the student-athlete was in Madison during the summer prior to enrollment in the fall, not during the period that the student-athlete was being recruited.

A chart that shows the number of all involved current student-athletes by category/level of extra benefit with appropriate totals is included as Exhibit 6, attached and made part of this report. Additional information includes totals by sport and by category/level within each sport.

11. Continuing Investigative Activities

December 20, 2000, the university requested restoration for approximately 63 current student-athletes who had received these arrangements. On that same day, the NCAA Student-Athlete Reinstatement Staff reinstated the student-athletes without loss of eligibility under the provisions of NCAA Bylaw 13.2.2.1, which indicates that for a violation of Bylaw 13.2.2, in which the value of the inducement is \$100 or less, the eligibility of the student-athlete shall not be affected, conditioned on the individuals' repayment of the value of the benefit. The Student-Athlete Reinstatement Staff did not believe that there was any monetary value obtained from this arrangement. This is reviewed in more detail in Section D.4. of the report.

13. Unique Factors in the Investigation

Timing of Initial Eligibility Request

The university faced an incredible logistical challenge given the date that the institution was able to meet with NCAA staff, the dates of the institution's first women's soccer and football contests and the number of involved student-athletes. Except for some concern over the handling of eligibility for an affected women's soccer player, the institution managed to complete all needed interviews and prepare and submit a restoration request without compromising the university's integrity and protecting the rights of the student-athletes. The NCAA Staff were cooperative, as was the Student-Athlete Reinstatement Subcommittee, in working with us to decide our appeal prior to the first football contest. Clearly, it would have been preferable to have known the extent of football suspensions prior to the date of the game. However, the institution and football program staff dealt with the decision responsibly and moved on.

Number of Current Student-Athletes Affected

This case and the restoration requests that have preceded this report also have been made extremely challenging because of the large number of student-athletes involved and the care that needed to be exercised to ensure that any and all who were involved were identified and each of their cases handled as needed. Over 200 student-athletes were interviewed and 157 found to have received an extra benefit. Student-athletes were identified by their presence on the customer list, the aging account summary and by having invoices among the thousands reviewed and the 500 or so identified and copied. Others were identified by the completion of a questionnaire.

In addition, some student-athletes were re-interviewed, identified and interviewed for the first time or asked to complete questionnaires related to the other issues that surfaced during the investigation.

Although most (89) received extra benefits of <\$100 and another 41 received benefits of \$100-299, 27 served suspensions: 15 with benefits of \$300-500 had 10% suspensions and 12 with benefits >\$500 had 30% suspensions. 57 also received some requirement for community service.

Volume, Variety and Nature of Documents

Another particular challenge was the voluminous documentation. It was not always maintained in easily retrievable or understandable format and varied in type and relevance. It was also not universally available. As examples: If a student-athlete was both purchasing and returning shoes, the account summary reflected the net of the purchases and returns. A retail price and a discounted price did not always appear on the invoice. Some might state only "2 pairs, per Steve \$120". Some back-up invoices noted in the account statement could not be located for review.

14. Additional Areas of Investigation Where Violations Occurred

Reebok Returns

It was alleged by the newspaper and confirmed by store employees that on some occasions, student-athletes returned institutionally issued Reebok merchandise for credit or exchange. As a result, the institution attempted to highlight any instance of a Reebok return on a student-athlete's invoice. These highlighted invoices were part of the student-athlete's file when interviewed and a notation made on the file to ask about that return. An attempt was made to identify a corresponding prior purchase for each Reebok return, which was possible in some cases but not others. Because some purchases appeared on an invoice only as "2 pairs," the absence of a specific Reebok purchase was not conclusive of a return of an institutional shoe, despite the later indication of a Reebok return. Further, because in some cases, all previous invoices were not available, all prior purchases could not be reviewed. None of the student-athletes interviewed and questioned could recall returning school issued Reebok merchandise.

Also present on a number of invoices were notations such as "returned 2 pair" with an amount of credit given. In each of these cases, there had been at least 2 pairs purchased previously and usually in an amount comparable to the credit.

The invoices with a specific Reebok return were reviewed again after information was received from our equipment managers about the types of shoes issued and, of those shoes, which shoes would not have had to be returned at the end of the year. Among current and former student-athletes, we found two student-athletes who returned shoes of the type we issued. When interviewed about this, the one current student-athlete stated that he had purchased those shoes at The Shoe Box. He reconfirmed this during two subsequent interviews. Three invoices were

missing from that student-athlete's file so they could not be compared. A request of The Shoe Box to look again to locate those invoices was unsuccessful, but it was clear that there were numerous non-specific prior purchases that could have been these Reeboks.

Upon receipt of information from a former store employee who provided several names, each of those student-athletes' files was reviewed again. In all cases, any Reebok returns had prior corresponding purchases or some match could be made between generic purchases and returns. Nevertheless, the university believes a few student-athletes may have returned university-issued merchandise.

Summer Issues: Housing and Work

When reviewing whether certain prospects may have received improper discounts at The Shoe Box prior to enrolling as students, the circumstances of the prospects' presence in Madison during the summer prior to enrollment were reviewed. Specifically, the university reviewed the process by which football and men's basketball prospects were informed about summer living arrangements and the possibility of working to pay summer housing expenses. The practice of prospects coming to Madison in the summer prior to enrollment in order to live and work was primarily a practice of the football program, and, to a lesser degree, the men's basketball program. Thus, the term "prospect" as used in this section pertains to football and men's basketball prospects who had signed National Letters of Intent who were living in Madison prior to fall enrollment.

Most prospects who came to Madison in the summer prior to enrollment lived in one or the other of the two private residence halls owned by College Park Apartments: "The Towers" or "The Regent." Most stayed at The Regent. Of the prospects who lived at one of the College Park Apartments residence halls, most (about 56%) paid rent for their summer housing; the remainder worked for The Towers or The Regent in various capacities during their stay, in lieu of rent. The prospects also participated in summer conditioning activities, under the auspices of the athletic department.

The Towers and The Regent house numerous summer programs, such as some university athletic camps, Drum and Bugle Corps camps, high school camps, and senior citizen camps. The Towers and The Regent are perennially in need of part-time employees to staff their summer programs.

The university interviewed staff at The Towers and The Regent, as well as student-athletes who had been football or men's basketball prospects during the summers of 1998, 1999 and 2000, and who had lived at and worked for The Towers or The Regent during the summer prior to initial

enrollment, and who had participated in a conditioning program. The university believes football housing arrangements and very infrequent situations where prospects did not pay rent but worked few or no hours are violations. The university is in the process of making a request for restoration of eligibility for the student-athletes who reported doing little or no work in violation of NCAA legislation.

Former Student-Athletes

Because it appeared that the practice of offering discounts and credit dated to at least 1993, attempts were made to identify and make a note of former student-athletes whose names appeared among the various documents. At all times when new sets of relevant documents were identified and reviewed, the names of former student-athletes were noted. In addition, these were compared to the database maintained by the athletic department of all former student-athletes. The institution also attempted to secure specific purchase or account information for any former student-athlete whose name was on the customer list or surfaced otherwise. This was possible in some cases, but not all, because some former student-athletes' purchases may all have pre-dated the time for which this information was available. In this regard, we have created a list of all former student-athletes whom we believe were involved. This is Exhibit 7, attached and made a part of this report and contains the names of 156 former student-athletes. It also contains purchase totals and unpaid account balances to the extent that this information was available. The university will acknowledge that some other former student-athletes received impermissible discounts for which there is no specific documentation.