

The University of Southern California (“USC”) submits this supplement to its appeal of the June 10, 2010, Report of the Committee on Infractions (“COI”). USC respectfully requests that the Infractions Appeals Committee (“IAC”) read and consider its original appeal brief in its entirety, and then read and consider this supplement to its appeal.

After USC submitted its original appeal brief on August 10, 2010, USC was informed that the Legislative Review and Interpretation Committee (“LRIC”) had determined that USC lacked standing to appeal the COI’s findings against the former USC assistant football coach. The Legislative Council affirmed that decision. As established in USC’s original appeal brief, the sanctions imposed on USC’s football program are unprecedented for the violations at issue in USC’s case, even when the assistant football coach violations are taken into account. The COI’s abuse of discretion in imposing these penalties becomes even clearer when the assistant football coach violations are removed from consideration.

Since the Legislative Council has determined that USC lacks standing to appeal the assistant football coach findings, the Legislative Council must have concluded that those findings were not made against USC, and thus should not be taken into account by the COI in assessing penalties against USC. Therefore, the assistant football coach findings likewise cannot fairly be taken into account in evaluating whether the COI abused its discretion in assessing penalties against USC. When the COI’s findings against the assistant football coach are stripped away, the remaining findings against USC are not remotely sufficient to justify the severity of the penalties levied against USC’s football program.

The majority and most serious of the allegations regarding USC’s football program relate to impermissible benefits allegedly provided to former USC student-athlete 1 by two would-be

agents, agency partner A and agency partner B.¹ Allegation 1 alleged that, on at least three occasions, the assistant football coach knew or should have known that student-athlete 1, agency partner A and agency partner B were engaged in possible violations. Allegation 3 alleged that the assistant football coach engaged in unethical conduct by providing false and misleading information to USC and the enforcement staff regarding his knowledge of agency partner A and the benefits he provided to student-athlete 1.

In its finding regarding the assistant football coach (section B-1-b), the COI declined to find that the assistant football coach knew or should have known of the violations on two of the three occasions supporting Allegation 1; instead, the COI could only impute knowledge based on **one** occasion. Specifically, the COI found that, “at least” by January 8, 2006 -- after student-athlete 1 last competed for USC -- the assistant football coach had knowledge that student-athlete 1, agency partner A and agency partner B “likely” had engaged in NCAA violations, based upon a single two-minute, twenty-three second phone call from agency partner A to the assistant football coach. The COI further found that the assistant football coach engaged in unethical conduct during his September 19, 2006, and February 15, 2008, interviews with the enforcement staff “by providing false and misleading information regarding his knowledge of this telephone call and the NCAA violations associated with it.”

The COI found that the **sole institutional link** to the benefits agency partner A and agency partner B provided to student-athlete 1 was through the assistant football coach’s alleged knowledge of those benefits. Absent the finding that the assistant football coach had knowledge

¹ These amateurism violations are indicative of the continuing and well-documented problems involving improper agent activity in college sports. Recently, joint discussions have been held among key representatives from the NCAA, its member schools, the Collegiate Commissioners Association, the NFL, the NFL Players Association, the American Football Coaches Association, state governments and the agent community regarding this pervasive problem.

that student-athlete 1, agency partner A and agency partner B “likely were engaged in NCAA violations,” there is no basis on which to assign institutional knowledge of student-athlete 1’s amateurism violations arising from his receipt of impermissible benefits from agency partner A and agency partner B. The LRIC and the Legislative Council have determined that USC does not have standing to appeal the assistant football coach findings. If the COI penalized USC based on the findings against the assistant football coach, then clearly USC should have standing to appeal those findings. Surely, neither the IAC nor the Legislative Council would contend that an institution may be punished by the COI for findings and then be precluded from appealing those findings. It is difficult to imagine a more unfair process. Since the LRIC and the Legislative Council have determined that USC does **not** have standing to appeal the assistant football coach findings, it follows that the COI should not have considered these findings in assessing penalties against USC. Thus, on appeal, the IAC should not consider, much less rely upon, the assistant football coach’s conduct in its assessment of whether the COI abused its discretion in imposing penalties against USC.

The penalties the COI assessed against USC’s football program are among the most severe ever imposed on an institution in the history of the NCAA. Inconsistent with case precedent, these penalties were imposed despite the absence of **any** deliberate or intentional involvement in the violations by any institutional staff member or coach.

With the exclusion of the findings against the assistant football coach, the remaining ties to the institution with respect to football are as follows: (1) failure to monitor student-athlete 1’s car ownership, summer employment, and relationship with his summer employer (the sports marketing agency, operated by sports marketer B and sports marketer A); (2) failure to monitor contact between prospects and a football booster, representative A, that the COI described as

“relatively innocuous,” resulting in a secondary violation; (3) failure to monitor the use of a consultant during the 2008 football season; and (4) a finding that the sports marketing agency, sports marketer B and sports marketer A became representatives of USC’s athletics interests by providing otherwise permissible summer employment to three USC student-athletes. For these violations, the COI imposed the most severe penalties on a Division I athletic program since the Southern Methodist University “death penalty” case in 1987.

The USC football sanctions present a radical departure from case precedent. If the IAC affirms the penalties, then in future cases involving substantial, direct institutional staff involvement with agents, runners, the provision of extra benefits, academic fraud violations or other serious violations, the COI is left with no real practical choice but to impose the death penalty if any sense of proportionality applies. The IAC, therefore, should reduce the post-season ban and scholarship penalties to reflect the level of institutional culpability. With the continuing public reports of agents and their runners providing impermissible benefits to student-athletes, it is only a matter of when, not if, the COI is presented with such a case involving direct institutional involvement with agents and runners.

In its original appeal brief, USC established, through a thorough review of case precedent, that the COI abused its discretion in assessing such severe penalties against USC. This abuse of discretion is clear even if the assistant football coach violations are included as a basis for the penalties. When the assistant football coach violations are removed from consideration, the COI’s abuse of discretion is beyond dispute.