

INTRODUCTION

This is the Response of the University of Central Florida (hereinafter Central Florida, UCF or the University) to the NCAA enforcement staff's Notice of Allegations dated November 7, 2011. This Response has been prepared for the University by the Collegiate Sports Practice Group of Bond, Schoeneck & King, PLLC (the Bond firm), the University's outside counsel for NCAA compliance and infractions matters, under the supervision of the University Office of General Counsel. University President John C. Hitt has reviewed this document and has found that it reflects his charge to the Bond firm to conduct a complete, thorough and unbiased investigation into the allegations of NCAA rules violations in the University's athletics program; to draw factual conclusions based on the weight of the credible evidence; to acknowledge and report violations that are deemed to have occurred; and to cooperate fully with the NCAA staff throughout the investigation process.

This Response addresses allegations of violations of NCAA rules in the University's men's basketball and football programs. The allegations center on the activities of Ken Caldwell, and his associate Brandon Bender, both of whom are representatives of the University's athletics interests, but who gained that status in a nontraditional manner. The University has concluded that Caldwell and, to a lesser extent, Bender engaged in impermissible recruiting contacts with both football and men's basketball prospective student-athletes (Allegation 1); that Caldwell provided improper benefits to two men's basketball student-athletes and one football prospective student-athlete (Allegation 2);

and that Caldwell and former athletics director Keith Tribble inquired into a possible job transfer for the mother of another football prospective student-athlete (Allegation 3). This Response also addresses allegations that Tribble provided an extra benefit to a friend of a men's basketball student-athlete (Allegation 4); that Tribble and former assistant football coach David Kelly violated the principles of ethical conduct in connection with their testimony (Allegations 5 and 6); that head men's basketball coach Donnie Jones did not adequately promote an atmosphere of rules compliance within his program (Allegation 7), and that the University failed to exercise adequate institutional control and monitoring with respect to Caldwell (Allegation 8).

University of Central Florida

The University of Central Florida is a metropolitan public research university located in Orlando, Florida. UCF is a member institution of the State University System of Florida, and is the second-largest university in the United States by enrollment.

The University of Central Florida was authorized by the Florida State Legislature in 1963, and opened in 1968 as Florida Technological University, with the initial goal of providing highly trained personnel to support the Kennedy Space Center, located 35 miles to the east. As the University's academic scope had expanded to encompass other disciplines, along with concerns over potential confusion with the Florida Institute of Technology, also known as "Florida Tech," the school was renamed the University of Central Florida in 1978. Although initial enrollment in 1968 was only 1,948 students,

2011 enrollment consists of 58,587 students, representing over 140 countries, all 50 states and the District of Columbia. The majority of the student population is located on the University's 1,415-acre main campus – northeast of downtown Orlando. The University offers over 225 separate degree options through 12 colleges and 11 satellite campuses throughout Florida. Since its founding, UCF has awarded more than 200,000 degrees, including 35,000 graduate and professional degrees, to nearly 170,000 alumni worldwide.

Origin and Scope of the Case

This case began on April 28, 2011, when reporters for *The New York Times* and for ESPN.com contacted the University about stories they were working on regarding Caldwell and his alleged ties to the University and its recruitment of prospective student-athletes. Later that same day, the enforcement staff contacted the University about possible violations involving Caldwell and his relationship with prospective basketball and football student-athletes. *The New York Times* published the first article on Caldwell on April 29, 2011 and ESPN.com ran its story on May 2, 2011. See Exhibits IN-1 and IN-2.

Among the claims made in *The New York Times* and ESPN articles were:

- That Caldwell, who resides in Chicago, had ties to ASM Sports, an agency based in New Jersey that represents professional athletes, and to ASM's President and Founder Andy Miller, a well-known agent to professional athletes;
- That Caldwell had personal relationships with the University's then director of athletics Keith Tribble and head men's basketball coach Donnie Jones;
- That [REDACTED] (a UCF student) had prospective student-athletes stay in his apartment while on recruiting visits;
- That Caldwell and his "associate" Bender, a resident of Louisville, Kentucky, were instrumental in influencing football prospective student-athlete [REDACTED] [REDACTED] decision to sign a National Letter of Intent with the University; and
- That Caldwell was an active participant in the University's recruitment of men's basketball prospective student-athlete [REDACTED]

The claims about Caldwell were immediately brought to President Hitt's attention. President Hitt consulted with General Counsel Scott Cole and together they determined that outside counsel with experience in NCAA infractions matters should be retained to

investigate and to coordinate the University's response to the Notice of Allegations with the NCAA enforcement staff. By May 4, the University had identified the Bond firm and its Collegiate Sports Practice Group to serve as outside counsel for the matter. President Hitt charged the group as noted earlier in this section.

The following day, May 5, the enforcement staff made its initial visit to campus and a joint investigation with the Bond firm on behalf of the University ensued. Beginning with that initial visit, the enforcement staff and the University worked together to investigate. Over the course of the collaborative investigation, which concluded in October 2011, more than 50 interviews were conducted with 41 individuals. Most of the interviews involved representatives of both the enforcement staff and the University. In a few instances, the enforcement staff requested that University representatives not participate but, to the best of the University's knowledge, the substance of those interviews has been shared with the University. The University's involvement in the investigation with the enforcement staff has been as an active and engaged partner. The University's representatives routinely strategized with the enforcement staff on how best to obtain the truth about the issues presented. The University has complied with every request made by the NCAA for records/documents to the extent allowed by law. In addition, the University has made every effort to assist the enforcement staff in the scheduling of witness interviews and has very often adjusted the schedules of its own employees and representatives to accommodate the requests of the enforcement staff. Thousands of pages of documents have been reviewed and shared.

Ken Caldwell

Despite multiple outreaches by the enforcement staff and the University, Caldwell repeatedly denied requests to be interviewed. On June 9, the University notified Caldwell of its decision to disassociate him from the University, including further involvement with the University's athletics programs. See Exhibit IN-3.

Regardless of Caldwell's lack of cooperation, the University believes it has been able to put together a relatively accurate assessment of his activities as they relate to the University's athletics programs. NCAA Bylaw 13.02.14 provides the definition for a representative of an institution's athletics interests (athletics rep or representative). The evidence is clear that Caldwell engaged in two activities, both of which when they became known to members of the coaching staff and athletics administration, made him UCF's athletics rep. He contacted prospects and encouraged them to consider UCF and he provided some benefits to student-athletes. His contacts with prospects were known as early as March 2009, and thus, from that point forward, UCF was responsible for his activities per NCAA Bylaw 6.4.2.

The initial news reports about Caldwell, in addition to raising issues about whether he was an athletics representative of the University, also asserted that he was a "recruiter for a professional sports agency (ASM)." The head of the agency, Andy Miller, reported that Caldwell had no affiliation with ASM. However, Caldwell, on a LinkedIn account that appears to be his, states that he is a "recruiter of potential National Basketball

Association players” for ASM Sports.¹ Further, Oliver Purnell, head men’s basketball coach at DePaul, is quoted in media reports as saying that Caldwell introduced himself as someone who “worked with Andy Miller” and that Purnell thought Caldwell was someone “you’d call a runner.” Also, former ASM associate Darryl Woods was quoted by *The New York Times* as stating that Caldwell “worked for us (ASM).” See Exhibit IN-1 at page 2. Finally, Caldwell referenced his “affiliation” with Andy Miller to men’s prospective student-athlete [REDACTED] and [REDACTED] mother during [REDACTED] “recruitment” to the University. See response to Allegation 1.a.(5).

As best the University can determine, Caldwell became involved with the University in the spring of 2008. Then assistant men’s basketball coach Mike Jasculski reported that he was “looking for a guard” that spring and had a conversation with Dennis Gates, a professional colleague and fellow college basketball coach. Gates, a native of Chicago and then an assistant men’s basketball coach at the University of California, Berkeley, told Jasculski that Caldwell, the coach of a nonscholastic team based in Chicago, had “a couple guards” who might be of interest to Jasculski. Subsequently, Jasculski spoke with Caldwell and Caldwell identified [REDACTED] as a prospect for the University. [REDACTED] was playing for Caldwell’s nonscholastic team at the time.

The recruitment of [REDACTED] led to an official visit to campus, which took place during the spring of 2008. Caldwell accompanied [REDACTED] on that visit. It was during [REDACTED]

¹ This document is in the possession of the enforcement staff and has been placed on the custodial website for the University’s review. The staff has declined the University’s request for a copy. Accordingly, the University is unable to satisfy the staff’s request in the Notice of Allegations.

visit that Caldwell first met former director of athletics Keith Tribble. [REDACTED] subsequently enrolled at the University for the fall term of the 2008-09 academic year. From that point forward, Caldwell became a frequent presence on the University's campus and a person with whom Tribble and coaches on both the football and men's basketball staffs had contact via email and telephone. In fact, Caldwell became so enamored with the University that he elected to enroll [REDACTED] as a UCF student the following fall (2009).

Through the joint inquiry, the University learned that in addition to his relationship with [REDACTED] Caldwell also established relationships with [REDACTED] men's basketball prospective student-athletes [REDACTED] and [REDACTED], both of whom enrolled at the University in the fall of 2009. [REDACTED] as described in greater detail in the University's response to Allegation 1, was recruited in the spring of 2009 after Caldwell told Jasculski that [REDACTED] was close to [REDACTED] (who was already being recruited by the University). Caldwell told Jasculski that [REDACTED] and [REDACTED] might desire to "go to school together." Caldwell then became engaged in [REDACTED] recruitment and was present in [REDACTED] home when Jasculski made an in-person, off-campus contact.

When [REDACTED] enrolled at the University (fall of 2009), he was considered an "academic risk." Tribble and then head men's basketball coach Kirk Speraw recognized the risk and concluded that additional attention needed to be given to [REDACTED] to ensure that he got off to a good start in the college environment and stayed on track. It is not clear as to how the idea originated, but it does appear that someone within the men's basketball

staff program proposed that [REDACTED] (who was enrolling at UCF as a student that same term), serve as a "mentor" to [REDACTED] and be responsible for ensuring that [REDACTED] went to class and managed his time well. Tribble agreed and arranged for [REDACTED] to receive an out-of-state fee waiver in exchange for serving as what Tribble called a "class checker/getter-upper" for [REDACTED]. This arrangement is the subject of Allegation 4 and the University's response to that allegation includes additional details.

[REDACTED] in the summer of 2008 for his senior year in high school (2008-09 academic year) and early in that transition, he met Caldwell. [REDACTED] reported that his father and Caldwell had a relationship that was established through a [REDACTED] basketball coach, and that Caldwell was involved with his high school choice for his senior year. He explained that he initially began practicing with [REDACTED] during the summer of 2008, but subsequently was informed by his father and Caldwell that he would be attending [REDACTED]

Subsequent to graduation from [REDACTED] and his family made an unofficial visit to UCF. Caldwell accompanied them and participated in meetings with the men's basketball staff and Tribble. [REDACTED] was not offered a scholarship, but was allowed to join the men's basketball team as a walk-on.

Caldwell is listed as [REDACTED] on official University paperwork. See Exhibit IN-4. [REDACTED] remained at the University through the spring 2011 semester,

but received minimal playing time. He then transferred to [REDACTED] in

[REDACTED] He never received athletics aid at UCF.

With [REDACTED] enrolled at UCF beginning with the 2009-10 academic year, and having established relationships with Tribble and the men's basketball staff, Caldwell attached himself to UCF. As suggested by the various scenarios set forth in Allegation 1, Caldwell then began to have impermissible recruiting contact on behalf of and, in some cases, with the knowledge of the University with prospective student-athletes from areas other than Chicago. Further, Caldwell involved his "associate" Brandon Bender of Louisville, Kentucky, in some of those contacts.

Brandon Bender

Bender is a former basketball player who attended the University of Louisville, Cincinnati State Technical and Community College and Robert Morris College (Illinois) during his collegiate career. Bender played professionally in the United States (National Basketball Development League), Iran, Croatia and Puerto Rico from 2004 through 2008. Since that time, Bender has been affiliated with nonscholastic amateur basketball teams in Louisville and New York City.

At some point in December 2010 or January 2011, the University became involved in the recruitment of football student-athletes [REDACTED], primarily through Bender. Then assistant football coach David Kelly reported that he received an unsolicited call from

Bender and that Bender informed him there were a number of prospects [REDACTED] that he (Kelly) "may want to look at." At the time, Bender had [REDACTED] playing for [REDACTED] and Bender specifically informed Kelly of a receiver at [REDACTED] recruitment by UCF is described in greater detail in the University's response to Allegation 1. While watching film of [REDACTED] Kelly and head football coach George O'Leary became interested in [REDACTED] [REDACTED] and prospective student-athlete [REDACTED] all made visits to the University's campus during the spring of 2011. As the University's response to Allegation 1 notes, Caldwell and Bender were involved in their recruitment.

Coaches' View of Caldwell and Bender

According to University coaching staff members and administrators interviewed in this case, Caldwell and Bender's involvement in the recruitment of prospective student-athletes was not initiated by the University. It is clear that Jasculski served as the initial entry point for Caldwell to become affiliated with the University through its recruitment of [REDACTED] however, the members of the football staff and the current men's basketball staff had no knowledge of Caldwell and Bender and their relationships with prospects until Caldwell and Bender contacted them about the prospects.

Donnie Jones had no relationship with Caldwell prior to assuming the position of head men's basketball coach in the spring of 2010, and Tribble was the catalyst for Jones' introduction to Caldwell shortly after he arrived at UCF. Tribble told Jones that Caldwell had "relationships" with current men's basketball student-athletes [REDACTED], and that Jones might consider reaching out to Caldwell as part of Jones' effort to become familiar with his new team.

Jones, Kelly, head football coach George O'Leary and assistant men's basketball coach Darren Tillis all described their interactions with Caldwell and Bender as not being "atypical" in the recruiting world where they routinely are contacted by a variety of individuals, some of whom they know and some they do not, who try to push them to recruit certain prospects.

Further, the investigation revealed that UCF was not the only institution Caldwell and Bender promoted to prospects. Prospective men's basketball student-athlete [REDACTED] and his uncle both described Caldwell and Bender "pushing" [REDACTED] as the school they thought [REDACTED] should attend. [REDACTED] uncle, [REDACTED] described Caldwell and Bender's interactions with he and his nephew this way:

"It got to the point where I stopped talking to him because he was always [REDACTED] and I told him we weren't going to mess with [REDACTED]"

Additionally, prospective men's basketball student-athlete [REDACTED] also reported that Caldwell and Bender originally were talking to him about attending [REDACTED]

What has become clear from the interviews is that at no point did anyone within the UCF athletics department ask questions about Caldwell and Bender, including how or why they were involved in recruiting activities with prospects with whom they appeared to have no natural nexus (e.g., did not coach or teach the prospects). This failure is addressed in the response to Allegation 8.

Institutional Actions

The University has taken swift and strong action in response to the violations that have been discovered. These actions are as follows:

- Self-imposition of a three-year period of probation;
- Vacation of all wins for the 2008-09 and 2009-10 academic years in men's basketball;
- Reduction in the athletics financial aid awards for the sport of men's basketball;
- Reduction in the number of permissible recruiters allowed off the institution's campus "at any one time" in the sports of men's basketball and football;

- Reduction in the available number of recruiting person days in the sport of men's basketball and in the available number of recruiting evaluation days in football;
- Reduction in official paid visits in the sports of football and men's basketball for each of the 2012-13 and 2013-14 academic years.
- Letters of reprimand issued to involved parties and suspension of two members of the men's basketball staff for three contests and two contests, respectively (one without pay);
- Precluded two men's basketball staff members from being eligible for salary increases and/or bonuses for two years;
- Accepted the resignation of the former director of athletics and former assistant football coach; and
- Instituted several corrective actions.

Conclusion

With this Response, the University fully reports the facts that were uncovered during the course of its investigation, and shares its conclusions and self-imposed punitive and corrective measures with the Committee. The University believes, and urges the Committee to conclude, that its corrective measures and self-imposed punitive actions should be recognized and accepted as appropriate and sufficient.