EXHIBIT 108

Nelson, et al. v. Cuban, et al.
United States District Court, Northern District of California
Case No. 3:09-CV-682 PJH

*Exhibit **108** to Supplemental Declaration of John D. O'Connor in Opposition to Defendant's Special Motion to Strike*

ARBITRATION NO. 1310016794

DON NELSON, **Claimant/Counterrespondent,** **v.** **DALLAS BASKETBALL LIMITED d/b/a DALLAS MAVERICKS,** **Respondent/Counterclaimant.**	**CIVIL ARBITRATION** **PENDING BEFORE JAMS**

DALLAS BASKETBALL LIMITED'S RESPONSE TO STATEMENT OF CLAIM, AFFIRMATIVE DEFENSES, AND ORIGINAL COUNTERCLAIM

Dallas Basketball Limited d/b/a the Dallas Mavericks (the "Mavericks") files this Response and Affirmative Defenses to the Statement of Claims filed by Claimant Don Nelson, and files its Original Counterclaim, and, in support thereof, respectfully shows the Arbitrator as follows:

I.

INTRODUCTION

1. In a conscious effort to harm the Mavericks, Claimant intentionally and deliberately breached the terms of his employment contract while simultaneously violating his common-law obligations to his employer. Throughout his career with the Mavericks as a coach, general manager, and consultant, Claimant frequently asked for – and received – numerous contract extensions with significant compensation all conditioned on Claimant's contractual promises not to compete with the team nor disclose its confidential information. However, in the past year, Claimant has undisputedly done both and severely damages the Mavericks. Now, in the ultimate "have-his-cake-and-eat-it-too" position, Claimant comes before this tribunal asking for monies allegedly owed under his contract while simultaneously seeking to be free from all of his obligations under that same contract. The Arbitrator should reject that position. For

Claimant's actions, the Mavericks hereby ask the Arbitrator to deny Claimant's affirmative claims and to award the Mavericks their actual damages, punitive damages, injunctive relief, pre- and postjudgment interest, attorneys' fees, and costs.

II.

PARTIES

2. Claimant/counterrespondent Don Nelson is an individual resident of Haiku, Hawaii. He is the former coach, general manager, and consultant for the Mavericks, and currently works as the head coach of the professional basketball team known as the Golden State Warriors.

3. Respondent/counterclaimant Dallas Basketball Limited d/b/a Dallas Mavericks is a Texas limited partnership based in Dallas, Texas, that operates a National Basketball Association franchise in Dallas, Texas.

III.

BACKGROUND FACTS

4. The Mavericks basketball franchise was established in 1980. In the 16 years that followed – from the great Mark Aguirre and Rolando Blackman-led playoff teams in 1984-88, to the 1992-94 seasons where the team threatened to set a NBA futility record with the most regular season losses, to the hopeful but inconsistent team led by the "Three Js" (Jason Kidd, Jim Jackson, and Jamal Mashburn) – the Mavericks franchise saw numerous and dramatic ups and downs.

5. The 1996-97 season was a season of dramatic change for the Mavericks. Among the changes was the sale of the team from its original owner, Don Carter, to a group of investors

led by H. Ross Perot, Jr., the hiring of Jim Cleamons as the team's new head coach, the trade of the team's all-star point guard Jason Kidd, and, in mid-season, the hiring of Claimant.

A. **The Nelson Era Begins, and an Employment Contract is Signed.**

6. On February 7, 1997, Claimant was introduced as the new general manager of the Mavericks. Claimant's hiring was an important event in the history of the Mavericks franchise. As the team's performance had slid during the 1990s, there was concern about the public's – and the basketball players' – perception of the franchise. Additionally, the Mavericks' new ownership group was very public about their lack of knowledge of the rules of basketball. Thus, by hiring a figure with the reputation of Claimant, the Mavericks brought instant credibility to the team in the eyes of the public and the players.

7. Claimant's reputation was exactly what the Mavericks needed. As a player, Claimant was a five-time NBA champion who had his jersey retired by the Boston Celtics. After retiring from play, he coached and managed the Milwaukee Bucks, Golden State Warriors, and New York Knicks, winning the NBA's Coach of the Year Award on three occasions. He had also coached "Dream Team II" to a gold medal at the 1994 World Championships. During his career, he had earned a reputation as an innovative coach and as a general manager that made frequent and daring trades. Indeed, Claimant was later named one of the top-ten coaches in NBA history by a panel of former coaches, players, and media members during the NBA's 50th anniversary season.

8. When Claimant was hired, he was asked, in essence, to rebuild the Mavericks organization as he so desired and he was given extremely free hands to do so.

9. The terms of Claimant's employment were memorialized in a written employment contract, a copy of which is attached hereto as Exhibit 1. The initial contract was for five and

one-half seasons, and provided that Claimant would be paid a set annual salary. Additionally, if the Mavericks so decided, up to $200,000 of his salary earned during the 1998-2002 seasons could be deferred and paid four years later (*e.g.*, instead of paying Claimant $1.4 million during the 1998-99 season, the Mavericks could have elected to pay him $1.2 million during the 1998-99 season and $200,000 during the 2002-03 season). *See* Ex. 1, ¶ 2.[1] Claimant also received benefits such as a luxury car, premium game tickets, insurance, inclusion in a pension plan, a per diem for game travel, and expense reimbursement. *See* Ex. 1, ¶¶ 3, 4.

10. In exchange for his salary, the contract placed numerous obligations and restrictions on Claimant. By way of example:

- Claimant had to devote substantially all of his time to the business and affairs of the Mavericks. Ex. 1, ¶ 5(B).
- Claimant could not enter into any agreement that would prevent or hinder him from performing his obligations to the Mavericks. Ex. 1, ¶ 6(C).
- Claimant could not take any action or make any statement that would disparage or reflect negatively on the Mavericks or any of its owners, employees, or partners. Ex. 1, ¶ 6(D).
- Claimant could not perform any duties or provide any services for any other professional basketball organization or be involved with any company that competed with the Mavericks during the term of the contract. Ex. 1, ¶ 7.
- Claimant could not use or disclose any of the Mavericks' confidential information about the team and its strategies both during and after the term of the contract. Ex. 1, ¶ 10.
- Claimant could not write, or supply information to any authors or reporters that would write, any books or articles about any of the Mavericks' employees, officers, or owners. Ex. 1, ¶ 10.
- Claimant could not disclose the contents and terms of his contract. Ex. 1, ¶ 14.

[1] As Claimant correctly notes in his demand, if the Mavericks had elected to defer salary under this provision, the obligation to make such payments would have survived the termination of the contract. Ex. 1, ¶ 2. However, no salary under this provision was ever deferred, and, as noted *infra*, this term was specifically replaced/removed from the contract with the second, third, and fifth amendments.

11. Because of the importance of Claimant to the Mavericks (and the access he was going to have to the team and the knowledge he would obtain in the process), the parties also agreed that:

> [Claimant] ***has extraordinary and unique skill and ability with regard to the sport of professional basketball*** and his exclusive services rendered to the [Mavericks] hereunder cannot be replaced or the loss thereof adequately compensated in money damages. Any breach by [Claimant] of this Agreement will cause irreparable injury to the [Mavericks].

Ex. 1, ¶ 6(A).

12. The contract also stated that it could be terminated by the Mavericks either without cause (in which case Claimant would be paid all of the salary referred to in the contract), Ex. 1, ¶ 8(B), or for cause (in which case the Mavericks would have no obligation to make any salary or other payments to Claimant "accruing after such termination date"). Ex. 1, ¶ 8(A). "Cause," for purposes of termination, is defined in the contract, and includes circumstances such as Claimant's death, his breach of the contract, or conviction of a felony crime. *See* Ex. 1, ¶ 8(A)(i)-(ix).

13. After signing the contract, Claimant began to perform in his usual "wheeling and dealing" style and began to reshape the Mavericks in his own image. In his first week, he released two players and traded star Jamal Mashburn. Then, a few weeks later, he engineered what was then the largest two-team trade in NBA history, involving nine players (headlined by 7'6" center Shawn Bradley).

14. During his second season as general manager, Claimant made the decision to terminate head coach Cleamons. On December 4, 1997, seeing himself as the best-available replacement coach, Claimant took over as the interim head coach of the Mavericks (for the remainder of the 1997-98 season) while maintaining his general managing duties.

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B. The Employment Contract is Amended and Claimant Reshapes the Team.

15. Claimant's employment agreement with the Mavericks was quickly amended to reflect his new interim job duties. A true and correct copy of the first amendment is attached hereto as Exhibit 2. Claimant received no additional salary, but the amendment provided for additional benefits, such as a luxury automobile for Claimant's wife, memberships to two country clubs, and additional reimbursements for team-related expenses. *See* Ex. 2, ¶¶ 4-5. The Claimant also received other benefits that he wanted for performing his duties, and, therefore, the Mavericks agreed to pay for, and Claimant agreed to attend, a two-week weight loss program during the off-season, Ex. 2, ¶ 5(f), and the team agreed to purchase Claimant a term life insurance policy, Ex. 2, ¶ 5(i).

16. Other than the specific additions listed in the amendment, the terms of the original employment contract – including all of the restrictions on Claimant's conduct noted in paragraphs 10 and 11 to this Response, *supra* – remained in full force and effect. *See* Ex. 2, ¶ 6.

17. At the conclusion of the 1997-98 season, Claimant continued to overturn the Mavericks' roster. Among his more notable actions, he arranged for the Mavericks to trade for the draft right of forward Dirk Nowitzki and trade for point guard Steve Nash.

18. Soon thereafter, the Mavericks removed the "interim" designation from Claimant's head coaching duties. Claimant was to be employed as the head coach of the Mavericks for two seasons while his term as general manager of the club was extended an additional year (through 2003). To reflect this change, Claimant's employment agreement was amended again on July 1, 1998. A true and correct copy of the second amendment is attached hereto as Exhibit 3.

19. The second amendment entirely rewrote and replaced the compensation provisions of the original contract. Ex. 3, ¶ 4(h). In addition to a significant raise, the new amendment changes the way Claimant was to be paid. For example, during the 1998-2000 seasons, the Mavericks no longer had the right to defer $200,000 of Claimant's salary. Ex. 3, ¶ 4(a). Instead, Claimant would be paid a set salary during those seasons and, on top of the regular salary, Claimant would receive additional "deferred compensation" of up to $8 million that would be paid out at the end of the contract's term. Ex. 3, ¶ 4(d); Ex. 3, Attachment A. This new kind of deferred compensation served two purposes. For Claimant, he saw it as his "retirement fund," and an ability to have additional monies being paid to him long after he stepped down, and when he would possibly be in a lower tax bracket. For the Mavericks, it was another key way to enforce to enforce Claimant's restrictive covenants, as none of this deferred compensation would be paid to Claimant if the employment contract was ever terminated for cause, such as if Claimant breached the contract.

20. As with the first amendment, other than the specifically listed changes and additions in the second amendment, the terms of the original employment contract – including all of the restrictions on Claimant's conduct noted in paragraphs 10 and 11 of this Response, *supra* – remained in full force and effect. See Ex. 3, ¶ 6.

C. <u>The Mavericks are Sold to Mark Cuban, and Claimant Extends his Contract.</u>

21. The first two full seasons of Claimant's head coaching tenure saw continued personnel changes and the start of on-court success. As he selected and trained new players, Claimant began to build a winning franchise.

22. On January 14, 2000, a controlling interest in the Mavericks was sold by the Perot-led investment group to current-owner Mark Cuban. With new ownership and Claimant

coaching hard, the team won 16 of its last 21 contests and began to look like a contender. As a Mavericks' season-ticket holder and fan of the team, one of Mr. Cuban's first goals was to seek to extend Claimant's head coaching contract.

23. During the negotiations over the extension, Claimant repeatedly told the team that he wanted to end his career with the Mavericks and he expressed his desire for this to be his last contract. Claimant asked for this to be a long-term contract, with his compensation to be indicative of his long-term commitment to the team. Eventually, the Mavericks agreed and Claimant signed an 11-year contract that made him one of the highest paid coaches in league history. At his insistence, Claimant was now allowed to report directly to ownership rather than the Mavericks' president.

24. On July 1, 2000, Claimant signed another amendment to his employment contract. A true and correct copy of the third amendment is attached hereto as Exhibit 4. The term of the contract was extended until 2011, with Claimant to serve as both head coach and general manager through 2003, solely as general manager from 2003-06, and as a Mavericks' consultant from 2006-11. Ex. 4, ¶ 2. The amendment also rewrote and replaced the compensation provisions of the original contract and the second amendment. Ex. 4, ¶ 4(g). His compensation as head coach and general manager included a regular salary, a signing bonus, and additional "deferred compensation" that was to be paid out over four years from 2006-10. Ex. 4, ¶ 4(a); Ex. 4, Attachment A.[2]

25. With one exception, all of the restrictions on Claimant's conduct and the termination provisions from the original contract remained in full force and effect. See Ex. 4, ¶

[2] The agreement had similar deferred compensation provisions for the 2003-06 seasons where it was proposed Claimant would act solely as the team's general manager. Ex. 4, ¶ 4(b). However, those provisions were amended/replaced before any services were provided.

7. The sole exception was that, at Claimant's request, the Mavericks now agreed not to fine Claimant if he was criminally convicted of driving while intoxicated. Ex. 4, ¶ 5.

26. Although the 2000-01 NBA season started well for all parties, Claimant was diagnosed with prostate cancer in December of 2000, and took a short leave of absence for medical reasons. During that time (and in subsequent crises, including Claimant's wife's cancer battle), the Mavericks stood by Claimant, continued his salary, and made all of the resources of the team and ownership available to help. For example, the team owner provided Claimant access to his private plane to help Claimant receive his cancer treatments at an out-of-state facility. Later, Mr. Cuban made a $375,000 charitable donation in the name of Claimant's wife that was designated for cancer research.

27. Claimant returned and, under his stewardship, the Mavericks had several exceptional seasons and continued to make personnel moves. Claimant was granted a larger financial commitment for player acquisitions, and, during Claimant's time as coach, the Mavericks incurred approximately $150 million in player salary debt through trades and acquisitions that Claimant engineered. On the court, in his first season under the new contract, the Mavericks reached the NBA playoffs for the first time in 11 years. The next season saw more blockbuster trades, a 57-win season, and another NBA playoff appearance. As general manager and coach, Claimant was privy to all of the confidential information about the team, the players, plays, lineups, scouting, etc. He continued to put that information to good use, and the team flourished.

D. <u>As the Team Succeeds, Claimant's Contract is Amended Twice,</u>

28. At the start of the 2002-03 season, Claimant approached the team and asked it to modify the terms of his Contract. Specifically, Claimant wanted to change the team's

obligations to pay his deferred compensation. As the contract makes clear, and as the parties had agreed, Claimant was not entitled to any compensation that had been deferred if Claimant's employment was terminated for cause. Claimant wanted to change the contract's terms so that he would be paid the "earned deferred compensation" even after a "for cause" termination. Claimant's logic was that he had already earned the money for his past work, therefore its payment should not be conditional on any future actions.

29. The team rejected Claimant's request and stressed again that a key issue for the Mavericks was the way the deferred compensation operated as a "bad boy clause,"[3] and ensured that Claimant would honor his restrictive covenants, such as the noncompetition, nondisclosure, and nondisparagement clauses. Eventually, Claimant stated that even if it was fair to not pay him if he does something wrong in the future, Claimant argued that his deferred compensation should be treated differently if the contract was terminated "for cause" due to Claimant's death. Claimant noted, for example, his recent bout with cancer, and cited it as an example of how the contract could deprive his wife of money in a situation where Claimant had done nothing wrong.

30. The Mavericks agreed and, after several discussions, on August 1, 2002, the contract was amended for the fourth time. A true and correct copy of the fourth amendment is attached hereto as Exhibit 5. Again, with one exception, all of the restrictions on Claimant's conduct and the termination provisions from the original contract, as previously amended by the DWI clause, remained in full force and effect. *See* Ex. 5, ¶ 4. The sole change, was to provide that if the employment contract was terminated for cause due to Claimant's death, then any

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[3] "Bad boy" clauses – and other contractual provisions that operate in the same manner – are common in executive employment and benefit contracts. *See* STEVEN J. SACHER, ET AL., EMPLOYEE BENEFITS LAW 205 (2nd ed. 2000). The concept is to provide for the forfeiture of otherwise vested and earned benefits if the employee becomes a "bad boy" by engaging in certain prohibited conduct, such as pre- or "post-termination competitive activites." *Id.* When such provisions are included in a contract, the tax laws of the United States make it critical to determine when such benefits are "earned," even if the monies or benefits are later forfeited. *See* DENNIS R. LASSILA & BOB G. KILPATRICK, U.S. MASTER COMPENSATION TAX GUIDE ¶ 101 (4th ed. 2003).

deferred compensation that he had earned prior to his death would be paid pursuant to the schedule in the original contract. *See* Ex. 5, ¶ 2. The amendment was very narrow, and did not change the fact that no deferred compensation would be paid to Claimant if the contract was terminated for cause for any reason other than Claimant's death (a change which had been specifically rejected).

31. The 2002-03 season saw the Mavericks reach the NBA Western Conference Finals for the second time in team history (the first being 1988). The future looked promising.

32. With Claimant's contractual tenure as head coach expiring, the parties entered into negotiations to extend his coaching term. However, rather than asking to simply amend the provisions relevant to his position with the Mavericks, Claimant sought a complete rewriting of his employment contract and asked to change numerous terms in the existing agreement. For example, Claimant again asked that the contract be changed to allow him to receive his earned-but-deferred compensation if the contract was terminated for cause (for any reason). Claimant also asked that the requirement that he devote his full time to the business of the franchise be limited to his time as head coach, and that he not be asked to make such a commitment during his time as a team consultant. Claimant also sought a raise in his 2006-11 consultant salary.

33. The Mavericks declined to accept these new terms, and insisted that Claimant's entitlement to deferred compensation continue to depend on his future actions such that a breach of the contract would obviate the Mavericks' obligations to pay Claimant.

34. Eventually, the parties came to an agreement on a limited amendment, and on July 1, 2003, the employment contract was amended for the fifth time. A true and correct copy of the fifth amendment is attached hereto as Exhibit 6. The amendment kept Claimant as head coach and general manager through the 2006-07 season, and as a Mavericks' consultant from

2006-11. Ex. 6, ¶ 2. The amendment rewrote and replaced the compensation provisions of the original contract and the second and third amendments. Ex. 6, ¶ 4(g). Claimant's compensation as head coach and general manager again included a regular salary, a signing bonus, and additional "deferred compensation" that was to be paid out over four years from 2006-10. Ex. 6, ¶ 4(a); Ex. 6, Attachment A. The Mavericks also had the option to defer up to $200,000 of Claimant's 2003-06 salary to be paid from 2011-14. Ex. 6, ¶ 4(a). All of the restrictions on Claimant's conduct and the termination provisions from the original conduct, as previously amended, remained in full force and effect. See Ex. 6, ¶ 8.

35. In July of 2003, some of Claimant's deferred compensation was coming due and, beyond his regular salary, the Mavericks were obligated to pay Claimant $1 million of his deferred compensation spread out in his regular payroll checks from July 15, 2003 - June 30, 2004. Claimant approached the team and indicated that he has a pressing need for cash, and asked if the team would be willing to pay the entire $1 million as an immediate lump-sum payment. With Claimant under contract, the team's success, and full faith in the relationship, the Mavericks agreed to the request and paid Claimant his entire deferred $1 million on July 15, 2003.

36. Unfortunately, as the Mavericks soon discovered, Claimant's feelings were not reciprocal, and he had no intention of performing under this contract.

E. Claimant Begins to Disappear.

37. Soon after Claimant signed the fifth amendment, reports began to circulate that Claimant was unhappy with his salary. As the 2003-04 season progressed, Claimant began performing less and less of his general manager duties and began openly complaining about his coaching obligations. Claimant, perhaps understandably, transferred much of his management

duties to his son, Donnie Nelson, who was then serving as the President of Basketball Operations for the Mavericks. In violation of his contract, Claimant also began to disparage and denigrate Mavericks' employees and ownership to members of the media. However, on the court, the team performed well, making the playoffs again, before being eliminated in the first round.

38. Before the 2004-05 season started, Claimant, hired Avery Johnson[4] as an assistant coach for the team. Claimant publicly stated that he intended for Mr. Johnson to be his successor as head coach of the Mavericks. Although the team was successful on the court, as the season progressed, Claimant showed an increasing unwillingness to perform as coach of the team. Claimant had Mr. Johnson start running practices and performing other of his coaching obligations. Claimant also began to take leaves of absence for questionable reasons, such as for elective surgery that could easily have been postponed.

39. Claimant finally approached the Mavericks and stated what was becoming apparent: that his heart was no longer into coaching. He said that he could not give the job a full effort and stated that he thought the team was responding better to Mr. Johnson. Despite this confession, Claimant was adamant that he would not resign his position as head coach or general manager. Instead, Claimant asked the Mavericks to continue to pay his full coaching salary and benefits – paying him all salaries, benefits, and deferred compensation provided for under the contract through 2012 – and simply allow Claimant to step away from the team. In other words, he wanted all of the benefits of his contract, with no job responsibilities. If the Mavericks would not accede to this demand, Claimant was clear that he would not voluntarily step-aside and, instead, he would continue to act as the coach in his "half-hearted" manner. If the Mavericks agreed, Claimant promised to openly support Mr. Johnson as coach, and to step-aside gracefully.

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4 Mr. Johnson was actually signed as a Mavericks' player before the 2004-05 season and initially appeared in training camp for the team. Mr. Johnson retired before the regular season started, and was immediately signed as an assistant coach for the Mavericks.

40. Placed in this untenable situation and with severe concerns about how Claimant's attitude and new work "ethic" would impact the team, the parties began to negotiate a compromise. On March 19, 2005, Claimant voluntarily and publicly stepped down as coach and general manager of the Mavericks. Mr. Johnson succeeded him as head coach for the remainder of the season. Despite the fact that Claimant performed no coaching or managerial duties, the Mavericks paid him his full base salary and provided him all of his benefits for the rest of the season. As Claimant and the Mavericks predicted, the players responded much better to a coach that was engaged and willing to work.

41. The 2005-06 season continued in the same manner. Claimant was paid his full base salary as if he had been the Mavericks' head coach and general manger, the Mavericks paid for his luxury cars and club memberships, and Claimant performed no coaching or managing services. Instead, freed from his work obligations, Claimant traveled, opened a bar, and collected more than $5 million in compensation from the Mavericks.

42. On the court, the 2005-06 season was amazingly successful. The team that Claimant had built – and that he knew more about than any other person as a result of his work – reached the NBA finals for the first time in franchise history with Mr. Johnson as head coach.

F. **Claimant Seeks Out of his Consulting Contract.**

43. In February of 2006, media outlets began to report that Claimant was sending out feelers for a new head coaching job. The Mavericks were not concerned, however, as Claimant was under contract to the team for another five years as a consultant. Just as significantly – even if Claimant wished to be excused from his consulting obligations and cease performing services for the team – Claimant's contract had specific contractual provisions that prevented him from competing against the Mavericks until 2011.

44. Unfortunately for the Mavericks, with Claimant's multi-million dollar coaching salary ending and facing a contract for a smaller consulting salary, Claimant saw his legal obligations as no impediment to seeking a larger paycheck, and he prepared accordingly.

45. In June of 2006, Claimant received his last salary payment as "coach" and "general manager." The Mavericks e-mailed Claimant on June 26, 2006 to clarify that he would now receive a consulting salary, but that most of his benefits would be terminated. His cars, country club memberships, health insurance, and other benefits ceased on June 30, 2006 as the contract specified. However, the team agreed that Claimant could keep his four premium season tickets as long as Claimant would pay for them.

46. On or about July 27, 2006, the Mavericks asked Claimant if he would be willing to accept a reduced consultant salary in light of his "overpayments" the previous year. Claimant declined to take a pay cut. The Mavericks, therefore, told Claimant that they would honor his contract and he would be paid his full $200,000 salary in regular paychecks for the next five years.

47. In response, Claimant told the Mavericks that he would be interested in a lump-sum buyout of his consulting contract. Specifically, Claimant asked that, rather than receive payroll checks for the next five years, he be paid a flat $500,000 immediately. The Mavericks indicated that they were willing to do this, and a proposed sixth amendment to the contract memorializing this change was sent to Claimant on July 31, 2006.

48. In early-August of 2006, Claimant's attorney, John O'Connor, contacted the Mavericks about the proposed sixth amendment. Mr. O'Connor proposed reducing the Mavericks' payment to $400,000 in exchange for the Mavericks' agreement to immediately terminate the contract and its restrictions. In a subsequent phone call with Mr. O'Connor, the

Mavericks declined his proposal and stressed that even if the consulting payments were bought out in full, Claimant's ability to receive the previously earned deferred compensation was dependent on his honoring the contract. Thus, the team would not forgo the restrictive covenants and would insist that Claimant honor his agreement and not accept work in competition against the Mavericks.

49. On August 4, 2006, Mr. O'Connor sent a letter to the Mavericks suggesting that the team was in breach of the contract for failure to pay the consulting fee and asking that the team negotiate a settlement. Considering that the parties were negotiating a lump sum buy-out of the salary, the Mavericks were understandably confused by the allegations of breach. Nonetheless, the parties continued to negotiate a possible buyout and the discussions between the team and Mr. O'Connor went through approximately August 24, 2006. The Mavericks always made clear to Mr. O'Connor the team's willingness to pay the consulting salary.

50. On August 29, 2006, feeling that negotiations had stalled (and well-within the 30-day cure-period if Mr. O'Connor's letter was indeed an announcement of a breach), the Mavericks had a payroll check prepared for Claimant representing his consultant salary owed to date. The team called Claimant's financial representative and informed him that the check was being sent.

51. When informed that a payroll check – as opposed to a buyout – was coming, Claimant's representative asked the Mavericks to hold off and not send the money. He informed them that an announcement was forthcoming in a few days.

G. **Claimant Breaches his Contract and Starts to Compete Against the Team he Built.**

52. On August 30, 2006, Claimant was introduced as the new head coach of the Golden State Warriors, a NBA Western Conference team operating in direct competition with

the Mavericks. On information and belief. Claimant's contract provided for a base annual salary of approximately $3.1 million, with many opportunities for bonuses (such as the reported $2 million he has already earned this year). The total value of the contract has been reported to exceed $18 million.

53. The Mavericks immediately informed Claimant in writing that he was in breach of his contract, and, as required, gave Claimant 30 days to cure his breach. *See* Ex. 1, ¶ 8(A)(i). The result was a flurry of letters from Claimant's attorney, but a flat refusal to comply with the terms of his contract.

54. Instead, Claimant, still having the same "extraordinary and unique skill and ability with regard to the sport of professional basketball," Ex. 1, ¶ 6(A), that he had previously provided to the Mavericks, now was going to compete against the team he built. Using information he had obtained as the Mavericks' coach and general manager, he quickly hired away Mavericks' assistant coach Larry Riley.

55. Not surprisingly, Golden State had a remarkable year under Claimant and his new franchise made the playoffs for the first time in 13 years. As one of the Golden State players said to the Associate Press, "[Claimant's] the reason why we made the playoffs, and he's the reason a lot of guys are excited and happy about basketball."

56. Unfortunately (and also not surprisingly), Claimant had phenomenal success against the Mavericks. As the coach and manager who built and trained the team, Claimant had confidential information about every aspect of the Mavericks (such as its players, plays, lineups, weaknesses, etc.). He used all of it, and the results were devastating.

57. In the 2006-07 season, the Mavericks had one of the most successful regular seasons in NBA history. The team won 67 regular season games against 15 losses, the fifth-best

winning percentage (.812) in league history. However, the Mavericks went 0-3 in the regular season against Claimant, suffering more losses to Golden State than any other team. Indeed, while Claimant's team managed a 1.000 winning percentage against the Mavericks, against the rest of the league, where Claimant had no confidential information, Claimant's team had a losing record and compiled a winning percentage of only .475.

58. When the teams were set against each other in the first round of the 2007 playoffs, Claimant openly commented to the press and others about his superior knowledge of the Mavericks, its players, plays, and coaches. For example, as the playoff series started, Claimant bragged to a reporter that, even though he thought that his Golden State team was less talented than the Mavericks, Claimant hoped that his superior knowledge of the Mavericks playbook and players would allow his new team to emerge victorious: "I can pretty well predict what [the Mavericks' players] want to do, and if we can take some of that stuff away from them, that's the only real advantage."

59. The result, which several media outlets have referred to as the biggest upset in the history of the NBA playoffs, was the elimination of the Mavericks in the first round. This represented the first time in NBA history that a number one seed lost a seven game series to the eighth seeded team. Including regular and post-season games, the Mavericks ended up with 19 total losses, more than a third of which came at the hands of Claimant. In the next round of the playoffs against the Utah Jazz, Claimant was not able to coach against a team for which he had the playbook, and the Golden State Warriors were eliminated after losing four of five games.

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IV.

RESPONSE TO CLAIMANT'S AFFIRMATIVE CLAIM FOR DAMAGES

60. As discussed in greater detail above, the Mavericks refute Claimant's version of events. At no time did the Mavericks breach the contract with Claimant and, until he sought to work for a competitor and avoid his obligations, Claimant never suggested otherwise. The Mavericks fully complied with the contract at all times.

61. Claimant's claim for damages is misplaced. Claimant is owed no additional compensation under his employment contract by its own terms. By its express terms, the "deferred compensation" that Claimant seeks is not owed or payable when, as here, Claimant breaches the contract and fails to cure such breach after being give notice and a chance to cure.

62. Moreover, even if the deferred compensation would normally be owed, the Mavericks' performance under the contract is excused due to the breaches of Claimant.

63. Additionally, even if the Mavericks had an obligation to pay the deferred compensation (which they do not), Claimant has miscalculated the amount of the deferred compensation under the contract.

V.

AFFIRMATIVE DEFENSES TO CLAIMANT'S AFFIRMATIVE CLAIMS FOR DAMAGES

64. In addition to the factual defenses raised above, the Mavericks note that the following affirmative defenses bar Claimant's recovery in whole or in part.

- The claims are barred in whole or in part due to Claimant's breach of the contract.
- The claims are barred in whole or in part due to Claimant's unclean hands.
- The Mavericks are entitled to a set-off from any potential recovery of Claimant due to the Mavericks' damages specified in the counterclaim.

- Claimant is estopped from any recovery because of his representations and actions.

VI.

THE MAVERICKS' COUNTERCLAIMS AGAINST CLAIMANT

65. Based on the factual allegations listed above, the Mavericks assert the following counterclaims against Claimant and seek damages and injunctive relief as indicated below:

A. First Claim For Relief - Breach Of Contract.

66. The Mavericks reallege the allegations in the preceding paragraphs as if fully set forth herein.

67. The Mavericks and Claimant are parties to an employment contract as amended, and the Mavericks have performed under the contracts.

68. Claimant has repeatedly and intentionally breached that contract in numerous ways, including but not limited to:

- Claimant violated Paragraph 5(B) of the contract by failing to devote substantially all of his time to the business and affairs of the Mavericks during his employment as the team's coach and general manager.
- Claimant further violated Paragraph 5(B) of the contract since at least August 30, 2006, by devoting his time and energy to the business and affairs of the Golden State Warriors rather than devoting substantially all of his time to the business and affairs of the Mavericks as a consultant for the team.
- Claimant has repeatedly and continuously breached Paragraph 5(D) of the contract since August 30, 2006, by making public appearances to the detriment of, and in competition with, the Mavericks.
- Claimant has further repeatedly breached Paragraph 5(D) of the contract since August 30, 2006, by participating in radio and television interviews, permitting photographs to be taken of him, and authoring to the detriment of, and in competition with, the Mavericks.
- Claimant has also repeatedly breached Paragraph 5(D) of the contract since August 30, 2006, by sponsoring commercial products and services to the detriment of, and in competition with, the Mavericks.

- Additionally, Claimant has repeatedly breached Paragraph 5(D) of the contract since August 30, 2006, by promoting products and services that compete with products and services of sponsors of the Mavericks.

- By entering into a contract to act as the head coach of Golden State, Claimant violated Paragraph 6(C) of the contract would excludes Claimant from entering into any contract that would prevent or hinder him from performing his obligations to the Mavericks.

- During his tenure as head coach and general manager, Claimant violated Paragraph 6(D) of the contract by taking actions and making public and private statements that were designed to reflect negatively on the Mavericks and its owners, employees, and partners

- Since taking over as head coach at Golden State, Claimants further violated Paragraph 6(D) of the contract by making repeated public and private statements that are intentionally designed to disparage and reflect negatively on the Mavericks and its owners, employees, and partners.

- Since at least August 30, 2006, Claimant has violated Paragraph 7 of the contract by performing duties and providing services to another professional basketball organization (the Golden State Warriors) that competes with the Mavericks.

- Claimant has violated Paragraph 10 of the contract by using and disclosing the Mavericks' confidential information about the team and its strategies. This information has been used both to profit Claimant and to harm the Mavericks while acting directly in competition against the team.

- Claimant has further violated Paragraph 10, by continuously and repeatedly speaking to writers and reporters about the Mavericks' owners, employees, and players, with the express knowledge and intention that such writers and reports would author articles using the information provided by Claimant.

- Claimant breached Paragraph 14 of this contract by speaking with numerous reporters and other persons about the contents and terms of his contract, including his allegations of the Mavericks' breach regarding same.

69. As a result of Claimants' actions, the Mavericks has suffered millions of dollars in damages while Claimant has personally profited.

B. **Second Claim For Relief – Attorneys' Fees.**

70. The Mavericks reallege the allegations in the preceding paragraphs as if fully set forth herein.

71. Due to the repeated breach of the employment contract as described above, it has been necessary for the Mavericks to obtain legal counsel to prosecute and defend against this action. As a result, under both Texas statutory law and the specific terms of the contract, the Mavericks are entitled to recover their reasonable and necessary fees and costs for prosecuting this action.

C. **Third Claim for Relief –Breach of Fiduciary Duty.**

72. The Mavericks reallege the allegations in the preceding paragraphs as if fully set forth herein.

73. Pursuant to his role with the team and the express provisions of the contract, Claimant owed the Mavericks one of the highest fiduciary duties known under the law, including the duties of fidelity and trust. *See* Ex. 1, ¶ 10.

74. As described above, Claimant breached their fiduciary obligations by, among other things, misrepresenting facts to the Mavericks and using and disclosing the Mavericks' confidential and proprietary information.

75. In the contract, Claimant specifically agreed that the disclosure of confidential information and the use of such information against the team would both be devastating and a breach of his fiduciary duties. Specifically:

> [Claimant] hereby agrees that Confidential Information ***greatly affects the successful conduct of the business*** of the [Mavericks] and of such other person or entities. [Claimant] acknowledges and agrees that ***all items of Confidential Information are valuable, special, and unique assets of the [Mavericks]*** or such other person or entities, which are extremely important in a highly competitive business like that of the [Mavericks] or such other person or entities. [Claimant]

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> acknowledges that ***disclosure of any such Confidential Information may cause irreparable harm and loss of profits to the [Mavericks]*** . . . [Claimant] acknowledges that preservation and protection of Confidential Information is an essential part of [Claimant's] relationship with the [Mavericks], and that ***he has a duty of fidelity and trust to the [Mavericks]*** in handling Confidential Information.

Ex. 1, ¶ 10.

76. As a result of Claimant's actions, the Mavericks have suffered damages and Claimant has greatly benefited.

77. Claimant's actions were taken intentionally, willfully, and wantonly and with malice such that the imposition of punitive damages is warranted.

78. Additionally, because of the oppressive conduct and self-dealing nature of his actions, the Mavericks seek to impose a constructive trust upon the monies earned by Claimant in violation of his contract and representations.

D. Fourth Claim for Relief – Unjust Enrichment.

79. The Mavericks reallege the allegations in the preceding paragraphs as if fully set forth herein.

80. Claimant received a significant salary for years with the Mavericks, conditioned upon his agreement to not compete against the team and not to use or disclose the team's confidential information.

81. By working for Golden State in violation of his contract and during a time when he is obligated to consult for the Mavericks, Claimant is receiving a substantial monetary benefit that he is not entitled to receive.

82. Claimant will be unjustly enriched if allowed to retain the monies he received in violation of his contract and representations.

E. **Fifth Claim for Relief – Monies Had and Received.**

83. The Mavericks reallege the allegations in the preceding paragraphs as if fully set forth herein.

84. Through the actions described above, Claimant holds and has received money that in equity and good conscience belongs to the Mavericks.

F. **Sixth Claim for Relief – Permanent Injunction.**

85. The Mavericks reallege the allegations in the preceding paragraphs as if fully set forth herein.

86. Claimant executed a contractual agreement preventing them from competing against the Mavericks or disclosing its confidential information.

87. Claimant has breached his contractual obligations by using and disclosing the Mavericks' confidential information and by competing against the team. These breached promises have caused and, unless enjoined, will continue to cause the Mavericks irreparable harm for which there exists no adequate remedy at law.

88. The Mavericks, therefore, request that a permanent injunction be granted enjoining and restraining Claimant and, as applicable, his collective and respective agents, servants, employees, attorneys, and those persons in active concert or participation with any of them, from:

A. Using, disclosing or transferring any of the Mavericks' confidential or proprietary information; and

B. Until the 2011-12 basketball season, performing any duties or providing any services for any other professional or amateur basketball organization or being involved with any company that competed with the Mavericks.

VII.

PRAYER

WHEREFORE, the Mavericks request that on final hearing, the Arbitrator enter judgment as follows:

1. A denial of all of Claimant's affirmative claims for damages;

2. An award of actual damages caused by Claimant's actions and exemplary damages in an amount to be determined by the Arbitrator;

3. The imposition of a constructive trust upon the monies earned by Claimant in violation of his contract and representations;

4. A permanent injunction;

5. The Mavericks' reasonable and necessary attorneys' fees;

6. Pre- and post-judgment interest at the highest lawful rate;

7. Costs of suit; and

8. Such other and further relief to which the Mavericks may be justly entitled.

Dated: May 13, 2007

Respectfully submitted,

FISH & RICHARDSON P.C.

By: _____

Thomas M. Melsheimer
Texas Bar No. 13922550
Geoffrey S. Harper
Texas Bar No. 00795408

1717 Main Street, Suite 5000
Dallas, Texas 75201
Telephone: 214-747-5070
Telecopy: 214-747-2091

COUNSEL FOR CLAIMANT,
DALLAS BASKETBALL LIMITED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served, *via facsimile and certified mail*, upon all counsel of record.

Geoffrey S. Harper

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EMPLOYMENT AGREEMENT

This Employment Agreement is made and entered into as of this 7th day of February, 1997 (the "Effective Date") between Dallas Basketball Limited, a Texas limited partnership (the "Club"), and Don Nelson ("Employee"), upon the following terms and conditions:

1. Employment. For the period commencing on the Effective Date and terminating on June 30, 2002 (the "Term"), the Club shall retain the services of Employee as General Manager of the Club's National Basketball Association (the "NBA") team (the "Team"), to perform such duties and services as may be assigned to him by senior management or ownership of the Club, including, without limitation, those duties set forth in Paragraph 5 hereof.

2. Compensation. As full and complete compensation for Employee's services to the Club to be rendered hereunder, the Club shall pay to Employee a salary as follows:

For the Period:	Annual (except for the first designated period) Salary Amount
Effective Date through June 30, 1997	$ 300,000
July 1, 1997 through June 30, 1998	$1,000,000
July 1, 1998 through June 30, 1999	$1,400,000
July 1, 1999 through June 30, 2000	$1,500,000
July 1, 2000 through June 30, 2001	$1,500,000
July 1, 2001 through June 30, 2002	$1,600,000

At the Club's election, the Club may defer payment of $200,000 in each of the last four 12-month periods of the Term as specified above (thereby reducing the salary amount in each of such periods to $1,200,000, $1,300,000, $1,300,000 and $1,400,000, respectively) to be paid, instead, in each of the four successive 12-month periods following the end of the Term, as follows:

For the Period:	Deferred Amount
July 1, 2002 through June 30, 2003	$200,000
July 1, 2003 through June 30, 2004	$200,000
July 1, 2004 through June 30, 2005	$200,000
July 1, 2005 through June 30, 2006	$200,000

Such salary (and any such deferred payments, if so elected by the Club) shall be remitted to Employee in accordance with the regular payroll practices of the Club. The obligation of the Club to make any of such deferred payments that it elects shall survive the termination of this Agreement.

3. Benefits. During the Term, Employee and his family shall be included by the Club in all medical, dental and group insurance benefit plans which are made available to the Club's highest-tenure executive employees subject to the limitations, restrictions and terms of said policies. In addition, Employee shall be entitled to a physical examination in the same means or manner given to the Team's players. In addition, Employee shall be included in the pension plan which is customarily made available to the Club's highest-tenure executive employees, subject to the limitations, restrictions and terms of such plan.

4. General Expenses and Other Benefits.

A. The Club shall reimburse Employee during the Term for all appropriately documented expenses reasonably incurred by him in the performance of his duties for the Club hereunder which are approved in advance by the Club, except that, for out-of-town travel days, Employee shall be paid a flat sum of $100 per diem (exclusive of lodging and air/ground transportation) in lieu of making specific expense reimbursements;

B. Employee shall be entitled to vacation time as is customarily made available to the Club's highest-tenure executive employees. Employee's vacation shall be determined at such times as shall be reasonably agreed upon by Employee and the Club;

C. The Club shall, at its option, either provide Employee with a luxury automobile and shall pay all reasonable insurance and maintenance thereof, or pay to Employee a reasonable car allowance sufficient for a luxury automobile. In the event the Club obtains such automobile through a "trade deal", Employee agrees to cooperate in permitting the use of his name and likeness in connection with the endorsement of such automobile; and

D. The Club shall provide Employee four premium location seats for each home game of the Dallas Mavericks and shall use reasonable good faith efforts to accommodate Employee's reasonable requests for additional complimentary seats at such games if such additional seats are needed by Employee primarily for purposes of Employee performing his duties under this Agreement.

5. Responsibilities and Duties; Promotional Activities.

A. Employee shall be responsible for all basketball operations of the Club, including hiring, retention and ultimate supervision of all coaches, scouts, player personnel, player development and/or education personnel, trainers and training staff, exercise/strength specialists, equipment personnel and clerical staff related to the above; for scouting and personnel evaluation and supervision of same; for trading, drafting and other player personnel actions; and for otherwise directing the basketball operations of the Club; subject, however, to prior approval by representatives of the general partner of the Club of any action or matter that has a financial consequence to the Club or its operations. Employee shall have authority within the bounds of reasonable discretion and latitude for these basketball operations, subject to prior approval of the Club's general partner as provided above. Employee shall report directly to representatives of the Club's general partner.

B. During the Term, Employee shall devote substantially all of his time, attention, skills and energy (vacation time and absence for sickness or similar disability

excepted) to the business and affairs of the Club. He shall function in such capacity to which he is assigned pursuant to Paragraph 1 hereof, and shall, on a first priority basis, perform any and all Club-related duties as may be assigned to him from time to time by the senior management or ownership of the Club..

C. Employee shall, as part of his duties, participate in those promotional activities of the Club and television and radio programs assigned to him by the Club's senior management, including, but not limited to, personal appearances on behalf of the Club whenever so requested. Employee agrees to permit the Club or the NBA to take pictures of him, alone or together with others, for still photographs, motion pictures or television, at such times as the Club or the NBA may designate, which pictures, no matter by whom taken, may be used in any reasonable manner desired by either of them for Club publicity or promotional purposes during the term of this Agreement. The rights in any such pictures taken by the Club or by the Association shall belong to the Club. Employee hereby grants to the Club and to the NBA the privilege and authority to use his name and/or likeness for publicity and advertising purposes in promoting the Club or the NBA, provided that such publicity and/or advertising does not in itself constitute an endorsement by Employee of any commercial product or service.

D. Employee shall not, to the detriment of the Club or in conflict or in competition with the Club or its personnel, make public appearances, participate in radio or television programs, permit his picture to be taken, write or sponsor newspaper or magazine articles, or sponsor commercial products or services without the prior consent of the Club, and such consent shall not be unreasonably withheld. The Club and Employee shall mutually cooperate in attempts to increase the exposure of and to promote (through media, radio and television, public relations and personal appearances) the Club. Employee will not promote products or services that compete with products or services of the Club's sponsors.

6. Representations and Warranties. Employee hereby represents, warrants and agrees that:

A. Employee has extraordinary and unique skill and ability with regard to the sport of professional basketball and his exclusive services rendered to the Club hereunder cannot be replaced or the loss thereof adequately compensated in money damages. Any breach by Employee of this Agreement will cause irreparable injury to the Club. Therefore, it is agreed that in the event Employee in any manner breaches or allegedly breaches this Agreement, the Club, in addition to any other remedies that may be available to it, shall have the right to obtain, from any court having jurisdiction, such equitable relief as may be appropriate, including, without limitation, a decree enjoining Employee from any further such breach of this Agreement.

B. Employee has the full right, title and authority to enter into this Agreement and perform his obligations hereunder.

C. Employee has not granted, nor will he grant, any right, do any act or enter into any agreement or understanding whatsoever which may or will prevent, impair or hinder Employee's full performance of his obligations hereunder; and

D. Employee shall not conduct himself in any manner whatsoever nor do any act, fail to do any act nor make any statement which may or will impair, impugn, denigrate, disparage, or reflect negatively upon the name, reputation or business interests of the Club or the Team, the owners of the Club or any officers, directors, employees, partners or affiliates of the Club or of direct or indirect owners of the Club.

7. Competition. During the Term, Employee shall not perform, directly or indirectly, any duties or provide any consultative or related services for any professional or amateur basketball organization or related entity, nor directly or indirectly, control or otherwise be involved in any business which is competitive with the Club or the Team.

8. Termination.

A. The Club shall have the right to terminate the employment of Employee under this Agreement for cause immediately upon written notice to Employee. For purposes of this Agreement, "cause" shall mean the occurrence of any of the following:

(i) Employee's failure to perform any of the material duties, obligations or responsibilities provided for in this Agreement, and such failure continues for 30 days after the Club gives written notice thereof to Employee; provided, however, no more than two such notices shall be required to be given for same or similar failures to perform during any 24-month period, so that any further same or similar failures to perform during any such 24-month period shall constitute "cause" without the availability to Employee of any further such notice and cure opportunities;

(ii) Employee's failure to comply with the Standards provision set forth in Paragraph 11 below;

(iii) Employee's material failure to comply with the Constitution, By-Laws, rules and regulations of the NBA or with the decisions of the Commissioner thereof as set forth in Paragraph 12 below;

(iv) Employee's material failure to comply with the confidentiality provisions of Paragraphs 10 and 14 below;

(v) Any other material breach of this Agreement by Employee, and such breach continues for 30 days after the Club gives written notice thereof to Employee; provided, however, no more than two such notices shall be required to be given for same or similar breaches during any 24-month period so, that any

further same or similar breaches during any such 24-month period shall constitute "cause" without the availability to Employee of any further such notice and cure opportunities;

(vi) The death of Employee;

(vii) The permanent disability of Employee (meaning the inability of Employee to perform the essential functions of his position, with or without reasonable accommodation, for a period of 90 consecutive days, as determined by a physician selected by the Club);

(viii) Employee intentionally and knowingly uses or possesses illegal drugs at any time, or intentionally and knowingly abuses alcohol while in the course and scope of his employment with the Club or is impaired by alcohol while driving any vehicle provided by the Club pursuant to this Agreement (except that the Club's remedy for the first conviction of Employee for a DWI/DUI offense shall be limited to assessing a fine against Employee not to exceed $250,000, which Employee shall pay to the Club within ten days after any such assessment); or

(ix) Employee's conviction or pleading nolo contendere to a felony or misdemeanor involving a crime of moral turpitude.

Upon termination of Employee's employment with the Club under this Paragraph 8A, the Term shall end, and the Club will have no obligation to provide or pay any compensation or other payments to Employee hereunder accruing after such termination date.

B. The Club may also terminate this Agreement upon written notice to Employee on account of any reason other than as provided in Paragraph 8A. Upon such termination of Employee's employment with the Club under this Paragraph 8B, the Term

shall end, and the Club will have no obligation to provide or pay any compensation or other payments to Employee hereunder accruing after such termination date, except that such termination shall in no way affect Employee's right to receive the sums payable pursuant to Paragraph 2 for the entire term of this Agreement in the amounts and at the times called for by such paragraph, subject to the offset provisions of Paragraph 9 below.

This provision shall survive such termination.

9. Right of Offset. In the event Club shall terminate this Agreement other than for cause as defined by this Agreement, the Club shall be entitled to offset any remaining salary due to Employee pursuant to Paragraph 2 hereof against 50% of any basketball-related compensation received by Employee during the period the Club is required to continue payments to Employee hereunder. In the event the Club shall determine that the compensation received by Employee for such subsequent employment shall be below a rate reasonable for such employment, the Club shall instead be entitled to offset compensation still owing to Employee against 50% of such reasonable rate. This provision shall survive such termination.

10. Proprietary and Confidential Information. Upon termination of Employee's services with the Club, he shall promptly deliver to the Club all books, memoranda, plans, records and written data of every kind relating to the business of the Club which are in his possession. Further, the parties agree that all information pertaining to the Club obtained while Employee is employed by the Club and all records of the Club are the property of the Club.

"Confidential Information" includes ideas, data, information, marketing methods, marketing strategies, recruiting methods, recruiting strategies, business strategies, statistics, salary and/or compensation information developed, used, or employed by the Club or by any partner or direct or indirect owner of the Club or their family members that are disclosed to the Employee as a consequence of the employment, or through disclosures made by the Club or such other persons or entities and not generally known to the public. Employee hereby agrees that Confidential Information greatly affects the successful conduct of the business of the Club and of

such other persons or entities. Employee acknowledges and agrees that all items of Confidential Information are valuable, special, and unique assets of the Club or such other persons or entities, which are extremely important in a highly competitive business like that of the Club or such other persons or entities. Employee acknowledges that disclosure of any such Confidential Information may cause irreparable harm and loss of profits to the Club or the partners or direct or indirect owners of the Club or their family members. Employee acknowledges that preservation and protection of Confidential Information is an essential part of Employee's relationship with the Club, and that he has a duty of fidelity and trust to the Club in handling Confidential Information.

Employee agrees that Employee shall not during or following Employee's employment pursuant to this Agreement, use or disclose to any third party any Confidential Information. The fact that Employee had prior knowledge of a particular item of Confidential Information shall not permit the disclosure or use thereof by Employee. Further, Employee shall not write, or supply information to others for the purpose of writing, any books, periodicals or other publications (including fictional accounts) concerning any current or former employer, partner or indirect or direct owner of the Club or communicate with reporters or other members of the media concerning any such persons or any such Confidential Information. Employee acknowledges and agrees that any and all information and reports obtained or produced by Employee in the performance of his duties and responsibilities hereunder shall at all times remain the confidential property of the Club. This provision shall survive the termination or expiration of this Agreement.

11. Standards. Employee shall comply with the Club's policies for its employees as adopted from time to time and shall act at all times with due regard to public convention and morals, and shall refrain from engaging in conduct, committing any act or becoming involved in any situation or occurrence which will bring Employee into public disrepute, scandal, contempt or ridicule or which prejudices or is detrimental to the Club, its owners or employees, the NBA and/or professional basketball.

12. Compliance with NBA Rules, Etc. Employee agrees to abide by and be legally bound by the Constitution (including without limitation, Section 35A of such Constitution), By-Laws, and rules and regulations of the NBA, as well as by the decisions of the Commissioner thereof, which decisions shall be final, conclusive and binding.

13. Attorneys' Fees. If either party hereto commences any action or proceeding in connection with or to enforce or interpret any term or provision of this Agreement, the prevailing party shall be entitled to receive from the losing party such prevailing party's actual attorneys' fees and costs incurred in connection therewith.

14. Confidentiality. Employee and the Club agree and promise that none of the contents of this Agreement shall be published, displayed, discussed, disclosed, revealed or characterized (directly or indirectly by innuendo or other means) in any way to anyone under any circumstances other than those required by law and by the Constitution, By-Laws, rules or regulations of the NBA, except that, if asked, the Club and Employee may state that Employee has signed a contract with the Club to serve as General Manager. This provision shall survive the termination or expiration of this Agreement.

15. Limit of Liability. No liability or obligation of any sort to Employee shall exist until Employee gives the Club written notice of his claim and the Club fails to cure or remedy the claim within 30 days of Employee's written notice. Any such liability or obligation shall come solely from the assets of the Club and no owner, partner, shareholder, officer, employee or director of the Club shall be individually or personally liable for any claim, liability or obligations arising under this Agreement or arising out of Employee's employment. This provision shall survive the termination or expiration of this Agreement.

16. Headings. Paragraph headings in this Agreement shall not affect in any way the meaning or interpretation of any provisions of this Agreement.

17. Severability. The illegality, invalidity or unenforceability of a provision herein shall not affect the legality, validity or enforceability of any other provision herein.

18. Notices. All notices or communications to either party hereunder shall be in writing and shall be deemed given when personally delivered, or when mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Club:	Frank Zaccanelli Dallas Basketball Limited 12377 Merit Drive, Suite 1700 Dallas, Texas 75251
with a copy to:	David Newsom Hughes & Luce, L.L.P. 1717 Main Street, Suite 2800 Dallas, Texas 75201
If to Employee:	Don Nelson c/o John D. O'Connor Tarkington, O'Connor & O'Neill Three Embarcadero Center, 28th Floor San Francisco, California 94111

19. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas relating to Agreements executed and entirely performed in such state, and Employee hereby consents to the jurisdiction of the courts of such state. In the event that any judicial proceedings are instituted concerning the interpretation or enforcement of this Agreement, exclusive venue over such proceedings shall be vested in courts sitting in Dallas County, Texas.

20. Assignment. This Agreement, and the rights, benefits and interests hereunder, may not be assigned, transferred or pledged by Employee in any way. The rights of the Club hereunder may be assigned to any entity which succeeds to substantially all of the professional basketball operations of the Club through asset, stock or other transfer, provided that any assignee agrees, in writing, to perform all of the Club's obligations hereunder.

21. Entire Agreement. This Agreement sets forth the entire understanding betwe the parties with respect to its matter and supersedes and replaces all prior and contemporaneo warranties, representations and agreement, whether written or oral. This Agreement may not l amended or modified except by written agreement executed by Employee and the Club.

22. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so extended and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

23. Certain Payments. In the event that Employee is obligated, under contractual arrangements in effect on the Effective Date, to make payments to the New York Knickerbockers ("New York") due to compensation paid by the Club to Employee under this Agreement, the Club shall make such payments on behalf of Employee directly to New York up to, but not exceeding, the amount of $150,000 for the period of the Effective Date to June 30, 1997, and $500,000 for the period of July 1, 1997 to June 30, 1998.

EMPLOYEE:

Don Nelson

THE CLUB:

DALLAS BASKETBALL LIMITED

By: Hillwood DBL, Ltd., General Partner

By: Hillwood DBL Management, Inc., General Partner

By: _____
Frank Zaccanelli, Vice President

FIRST AMENDMENT TO EMPLOYMENT AGREEMENT

This First Amendment to Employment Agreement (this "Amendment") is entered into to be effective December 4, 1997 (the "Amendment Date") by Dallas Basketball Limited, a Texas limited partnership (the "Club"), and Don Nelson ("Employee").

The Club and Employee entered into an Employment Agreement dated February 7, 1997 (the "Agreement") pursuant to which the Club employed Employee as General Manager of the Club's National Basketball Association (the "NBA") team known as the Dallas Mavericks (the "Team"). The Club and Employee desire to amend the Agreement as set forth in this Amendment.

THEREFORE, in consideration of the covenants set forth in this Agreement, the Club and Employee agree as follows:

1. The Agreement is amended as set forth in this Amendment and, as so amended, remains in full force and effect. Terms used in this Amendment shall have the meanings set forth in the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control.

2. For the portion of the Term from the Amendment Date through June 30, 1998, Employee is engaged to be the interim Head Coach of the Team in addition to being the General Manager of the Team. As the interim Head Coach of the Team, in addition to the performance of the services required of Employee in his position of General Manager of the Team, Employee also shall perform such duties and services as may be assigned to him from time to time by senior management or ownership of the Club consistent with the position of head coach of an NBA team. During the period that Employee is serving as both Head Coach and General Manager of the Team, Employee also shall be responsible for all coaching aspects of the Team.

3. Employee accepts his engagement by the Club to serve as interim Head Coach of the Team, in addition to his responsibilities as General Manager of the Team, as provided in Paragraph 2 above, and agrees to perform the duties of such position in accordance with the terms of the Agreement as amended by this Amendment.

4. The salary for Employee shall not change from that provided in the Agreement.

5. As additional benefits related to Employee's additional duties set forth in this Amendment, the Club shall provide the following from the Amendment Date through June 30, 1998:

(a) a second car for Employee's spouse, Joy Nelson, on the same basis as Employee's automobile is provided to him under the Agreement;

(b) reimbursement of long distance telephone charges for Team-related calls;

(c) reimbursement of cellular phone charges for Team-related calls;

EXHIBIT
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(d) continued membership in two clubs consistent with that which is provided to Employee by the Club as of the Amendment Date;

(e) reimbursement of Employee's spouse's travel costs to the NBA All-Star Games and other NBA League meetings at which Employee's attendance is required;

(f) payment of cost for Employee and his spouse to attend a two-week session at the Pritikin Institute or equivalent facility reasonably acceptable to the Club (and Employee agrees to attend such session);

(g) payment of NBA dues and fees and fines levied by the NBA against Employee for technical fouls in and ejections from Team games;

(h) continued payment for satellite and video services used for Team purposes;

(i) term life insurance (to the extent same can be obtained for standard non-rated premiums) in the amount of $3,000,000; and

(j) other reasonable and necessary expenses relating to the performance of Employee's duties under the Agreement and this Amendment.

Employee shall be permitted to charge travel and other expenses to the Club master account for out-of-town trips for Team games, with Employee promptly to reimburse the Club for personal charges to that account.

6. All provisions of the Agreement not amended by this Amendment remain in force and are applicable also to the new duties and responsibilities of Employee under this Amendment.

Executed as of the date first above written.

DALLAS BASKETBALL LIMITED,
a Texas limited partnership

By: Hillwood DBL, Ltd.,
a Texas limited partnership, General Partner

By: Hillwood DBL Management, Inc.,
a Texas corporation, General Partner

Don Nelson

DON NELSON

By: Teddy Ussery
Name: Teddy Ussery
Title: President & CEO

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SECOND AMENDMENT TO EMPLOYMENT AGREEMENT

This Second Amendment to Employment Agreement (this "Amendment") is entered into to be effective July 1, 1998 (the "Amendment Effective Date") by Dallas Basketball Limited, a Texas limited partnership (the "Club"), and Don Nelson ("Employee").

The Club and Employee entered into an Employment Agreement dated February 7, 1997 (the "Agreement") pursuant to which the Club employed Employee as General Manager of the Club's National Basketball Association (the "NBA") team known as the Dallas Mavericks (the "Team"). The Agreement previously was amended, effective December 4, 1997, to reflect Employee's assumption of the duties of interim Head Coach of the Team through the remainder of the 1997-1998 NBA season (the "First Amendment"). The term "Agreement" as hereinafter used in this Amendment means the above-referenced Employment Agreement dated February 7, 1997 and the First Amendment. The Club and Employee desire again to amend the Agreement as set forth in this Amendment.

THEREFORE, in consideration of the covenants set forth in this Agreement, the Club and Employee agree as follows:

1. The Agreement is amended as set forth in this Amendment and, as so amended, remains in full force and effect. Terms used in this Amendment shall have the meanings set forth in the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control.

2. (a) The Term is extended to end on June 30, 2003.

(b) For the period of the Term from the Amendment Effective Date through June 30, 2000, Employee is engaged to be the Head Coach of the Team in addition to being the General Manager of the Team. As the Head Coach of the Team, in addition to the performance of the services required of Employee in his position of General Manager of the Team, Employee also shall perform such duties and services as may be assigned to him from time to time by senior management or ownership of the Club consistent with the position of head coach of an NBA team. During the period that Employee is serving as both Head Coach and General Manager of the Team, Employee also shall be responsible for all coaching aspects of the Team.

(c) During the remainder of the Term (July 1, 2000 through June 30, 2003), Employee shall be employed by the Club in the sole capacity as General Manager.

(d) The Club, at its election and by written notice delivered to Employee by no later than June 30, 2000, may extend the Term for one additional year from July 1, 2003 through June 30, 2004, during which Employee shall continue to be the General Manager of the Team (the "Extension"), and, if the Extension election is made, the word "Term" as used in the Agreement as amended by this Amendment shall include such one-year extension.

3. Employee accepts his engagement by the Club to serve as Head Coach of the Team, in addition to his responsibilities as General Manager of the Team, as provided in Paragraph 2 above, and agrees to perform the duties of such position in accordance with the terms of the Agreement as amended by this Amendment.

4. (a) For the two full 12-month periods in the Term during which Employee serves as both Head Coach and General Manager of the Team (July 1, 1998 through June 30, 2000), the annual salary of Employee shall be $3,500,000 per year payable by the Club on a current basis as services are rendered in accordance with regular payroll practices of the Club.

(b) For the three full 12-month periods thereafter in the Term (July 1, 2000 through June 30, 2003) during which Employee serves solely as General Manager of the Team (and for the next following 12-month period thereafter, July 1, 2003 through June 30, 2004, if the Club makes the Extension election), the annual salary of Employee shall be $1,600,000 per year payable by the Club on a current basis as services are rendered in accordance with regular payroll practices of the Club; provided, however, at the Club's election, the Club may defer payment of $200,000 of the $1,600,000 due to Employee for each such 12-month period during which Employee serves only as General Manager of the Team, to be paid instead in each of the three (or four if the Club makes the Extension election) 12-month periods following the end of the Term in accordance with regular payroll practices of the Club.

(c) As deferred compensation to Employee for the services rendered to the Club under the Agreement following the Amendment Effective Date, Employee shall earn the aggregate amount of $8,000,000 (earned $1,600,000 per year if the Extension election is not made, or earned $1,333,333 per year if the Extension election is made) payable $1,000,000 in each of the eight consecutive 12-month periods following the end of the Term, payable by the Club in accordance with regular payroll practices of the Club.

(d) If the Club does not make the Extension election, as further additional deferred compensation to Employee for his services rendered to the Club under the Agreement following the Amendment Effective Date, Employee shall earn the aggregate amount of $1,000,000 (earned $200,000 per year), payable by the Club in full during the ninth 12-month period following the end of the Term (i.e., the next 12-month period following payment of the last $1,000,000 annual deferred compensation amount referenced in Paragraph 4(c) above) in accordance with regular payroll practices of the Club. This additional deferred compensation shall not be due if the Club makes the Extension election.

(e) The deferred compensation earned by Employee for each 12-month period as referenced in Paragraphs 4(b) and 4(c) above and, if applicable Paragraph 4(d) above, shall be earned pro rata over such 12-month period (i.e., if Employee is terminated for cause halfway through a 12-month period for which deferred compensation is payable as provided above, half of such deferred compensation amount for that period will have been earned).

(f) The attached Exhibit A is a table summarizing the compensation payable under this Paragraph 4, assuming the Agreement is in effect for a continuous Term through

June 30, 2004 (in Scenario No. 1 on Exhibit A) or through June 30, 2003 (in Scenario No. 2 on Exhibit A).

(g) The obligation of the Club to pay Employee the compensation set forth above shall not be affected by any NBA-directed lock-out or other work stoppage relating to the National Basketball Players Association.

(h) The provisions in this Paragraph 4 replace the compensation provisions in the Agreement.

5. As additional benefits related to Employee's additional duties set forth in this Amendment, the Club shall provide, during the Term, those benefits listed in Paragraph 5 of the First Amendment (meaning, with respect to the benefit described in Paragraph 5(f) of the First Amendment, that such sessions shall be on an annual basis).

6. All provisions of the Agreement not amended by this Amendment remain in force and are applicable also to the new duties and responsibilities of Employee under this Amendment.

Executed on the 5th day of January, 1998, to be effective as of the Amendment Effective Date.

DALLAS BASKETBALL LIMITED,
a Texas limited partnership

By: Hillwood DBL, Ltd.,
a Texas limited partnership, General Partner

By: Hillwood DBL Management, Inc.,
a Texas corporation, General Partner

Don Nelson
DON NELSON

By: Terdema Ussery II
Name: Terdema Ussery II
Title: President & CEO

EXHIBIT A

1. Scenario No. 1. The Club makes the Extension election:

Year	Current Compensation
7/01/98 -- 6/30/99	$3,500,000
7/01/99 -- 6/30/00	$3,500,000
7/01/00 -- 6/30/01	$1,600,000*
7/01/01 -- 6/30/02	$1,600,000*
7/01/02 -- 6/30/03	$1,600,000*
7/01/03 -- 6/30/04	$1,600,000*
	Deferred Compensation
7/01/04 -- 6/03/05	$1,000,000*
7/01/05 -- 6/30/06	$1,000,000*
7/01/06 -- 6/30/07	$1,000,000*
7/01/07 -- 6/30/08	$1,000,000*
7/01/08 -- 6/30/09	$1,000,000
7/01/09 -- 6/30/10	$1,000,000
7/01/10 -- 6/30/11	$1,000,000
7/01/11 -- 6/30/12	$1,000,000

* If the Club elects to defer $200,000 of annual current compensation as provided in Paragraph 4(b) of this Amendment, the last four years of current compensation (7/1/00 -- 6/30/04) will be $1,400,000 each, and the first four years of deferred compensation (7/1/04 -- 6/30/08) will be $1,200,000 each.

2. Scenario No. 2. The Club does not make the Extension election:

Year	Current Compensation
7/1/98 -- 6/30/99	$3,500,000
7/1/99 -- 6/30/00	$3,500,000
7/1/00 -- 6/30/01	$1,600,000*
7/1/01 -- 6/30/02	$1,600,000*
7/1/02 -- 6/30/03	$1,600,000*
	Deferred Compensation
7/1/03 -- 6/30/04	$1,000,000*
7/1/04 -- 6/03/05	$1,000,000*
7/1/05 -- 6/30/06	$1,000,000*
7/1/06 -- 6/30/07	$1,000,000
7/1/07 -- 6/30/08	$1,000,000
7/1/08 -- 6/30/09	$1,000,000
7/1/09 -- 6/30/10	$1,000,000
7/1/10 -- 6/30/11	$1,000,000
7/1/11 -- 6/30/12	$1,000,000

* If the Club elects to defer $200,000 of annual current compensation as provided in Paragraph 4(b) of this Amendment, the last three years of current compensation (7/1/00 -- 6/30/03) will be $1,400,000 each, and the first three years of deferred compensation (7/1/03 -- 6/30/06) will be $1,200,000 each.

THIRD AMENDMENT TO EMPLOYMENT AGREEMENT

This Third Amendment to Employment Agreement (this "Amendment") is entered into to be effective July 1, 2000 (the "Amendment Effective Date") by Dallas Basketball Limited, a Texas limited partnership (the "Club"), and Don Nelson ("Employee").

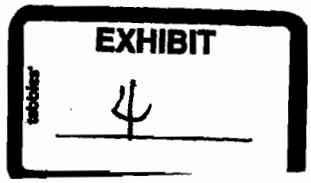
The Club and Employee entered into an Employment Agreement dated February 7, 1997 (the "Agreement") pursuant to which the Club employed Employee as General Manager of the Club's National Basketball Association (the "NBA") team known as the Dallas Mavericks (the "Team"). The Agreement previously was amended, effective December 4, 1997, to reflect Employee's assumption of the duties of interim Head Coach of the Team through the remainder of the 1997-1998 NBA season (the "First Amendment") and effective July 1, 1998, to reflect Employee's assumption of the duties of Head Coach and General Manager of the Team for the 1998-1999 and 1999-2000 NBA seasons (the "Second Amendment"). The term "Agreement" as hereinafter used in this Amendment means the above-referenced Employment Agreement dated February 7, 1997 , the First Amendment and the Second Amendment collectively.

THEREFORE, in consideration of the covenants set forth in this Agreement, the Club and Employee agree as follows:

1. The Agreement is amended as set forth in this Amendment and, as so amended, remains in full force and effect. Terms used in this Amendment shall have the meanings set forth in the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control.

2. (a) The Term is extended to end on June 30, 2011

(b) For the period of the Term from the Amendment Effective Date through June 30, 2003, Employee is engaged to be the Head Coach of the Team in addition to being the



General Manager of the Team. As the Head Coach of the Team, in addition to the performance of the services required of Employee in his position of General Manager of the Team, Employee also shall perform such duties and services as may be assigned to him from time to time by senior management or ownership of the Club consistent with the position of Head Coach of an NBA team. During the period that Employee is serving as both Head Coach and General Manager of the Team, Employee also shall be responsible for all coaching aspects of the Team.

(c) For the period of the Term from July 1, 2003 through June 30, 2006, Employee shall be employed by the Club in the sole capacity as General Manager.

(d) During the remainder of the Term (July 1, 2006 through June 30, 2011), Employee shall be employed by the Club as a consultant.

3. Employee accepts his engagement by the Club to serve as Head Coach of the Team, in addition to his responsibilities as General Manager of the Team, as provided in Paragraph 2 above, and agrees to perform the duties of such position in accordance with the terms of the Agreement as amended by this Amendment.

4. (a) For the three full 12-month periods in the Term during which Employee serves as both Head Coach and General Manager of the Team (July 1, 2000 through June 30, 2003), the annual salary of Employee shall be $3,500,000 per year as Head Coach and $1,500,000 per year as General Manager both payable by the Club on a current basis as services are rendered in accordance with regular payroll practice of the Club. In addition, Employee will receive a signing bonus of $50,000 payable on July 1, 2000. In addition, as deferred compensation to Employee for the services rendered to the Club during the three 12-month periods (July 1, 2000 to June 30, 2003) for services as General Manager of the Team, Employee shall earn $900,000 per year of deferred compensation as services are rendered (aggregate amount of $2,700,000 over the three full 12-month periods). The deferred compensation is

payable by the Club in accordance with regular payroll practices of the Club in the full 12-month periods as follows:

July 1, 2006 – to – June 30 2007	$ 400,000
July 1, 2007 – to – June 30, 2008	$1,000,000
July 1, 2008 – to – June 30, 2009	$1,000,000
July 1, 2009 – to – June 30, 2010	$ 300,000

In the event that Employee can not continue in his duties as Head Coach , the annual salary will be $1,500,000 per year as General Manager.

(b) For the three full 12-month periods thereafter in the Term (July 1, 2003 to June 30, 2006) during which Employee serves solely as General Manager of the Team, the annual salary of Employee shall be $1,600,000 per year payable by the Club on a current basis as services are rendered in accordance with regular payroll practices of the Club; provided, however, at the Club's election, the Club may defer payment of $200,000 of the $1,600,000 due to Employee for each such 12-month period during which Employee serves only as General Manager of the Team, to be paid instead in each of the three 12-month periods following the end of the Term in accordance with regular payroll practices of the Club. In addition, as deferred compensation to Employee for the services rendered to the Club during the three 12-month periods (July 1, 2003 to June 30, 2006) during which Employee serves solely as General Manager of the Team, Employee shall earn $900,000 per year of deferred compensation as services are rendered (aggregate amount of $2,700,000 over the three full 12-month periods). The deferred compensation is payable by the Club in accordance with regular payroll practices of the Club in the full 12-month periods as follows:

July 1, 2009 – to – June 30, 2010	$ 700,000
July 1, 2010 – to – June 30, 2011	$1,000,000
July 1, 2011 – to – June 30, 2012	$1,000,000

(c) For the five full 12-month periods thereafter in the Term (July 1, 2006 through June 30, 2011), during which Employee serves as a Consultant of the Team, the annual salary of Employee shall be $200,000 per year payable by the Club on a current basis as services are rendered in accordance with regular payroll practices of the Club.

(d) The deferred compensation earned by Employee for each 12-month period as referenced in Paragraphs 4(a) and 4(b) above shall be earned pro rata over such 12-month period (i.e., if Employee is terminated for cause halfway through a 12-month period for which deferred compensation is earned as provided above, half of such deferred compensation amount for that period will have been earned).

(e) The attached Exhibit A is a table summarizing the compensation payable under this Paragraph 4, assuming the Agreement is in effect for a continuous Term through June 30, 2011 and taking into consideration the deferred compensation previously earned by Employee for the two 12-month periods from July 1, 1998 through June 30, 2000 in the aggregate amount of $3,600,000.

(f) In addition to the base compensation payable under this Paragraph 4 (See Exhibit A), for the three full 12-month periods in the Term (July 1, 2000 to June 30, 2003) during which Employee serves as both Head Coach and General Manager of the Team, Employee will be entitled to receive from Club the sum of $250,000 for each NBA Playoff Round Club advances to in each NBA post-season provided Employee actually performs personal services for the Club as Head Coach during all of each of such NBA Playoff Rounds. For example if Club advances to NBA Western Conference Final, Employee would be entitled to $750,000 (3 Rounds times $250,000) provided Employee actually performs personal services for the Club as Head Coach during all three NBA Playoff Rounds.

(g) The provisions in this Paragraph 4 replace the compensation provisions in the Agreement.

5. The fine of $250,000 as Club's remedy for the first conviction of Employee for a DWI/DUI offense is hereafter reduced to $0 (no dollars).

6. (a) This Agreement shall be governed and construed in accordance with the laws of the State of Texas relating to Agreements executed and entirely performed in such state, and Employee hereby consents to the jurisdiction of the courts of such state. In the event that any judicial proceedings are instituted concerning the interpretation or enforcement of this Agreement, exclusive venue over such proceedings shall be vested in courts sitting in Dallas County, Texas.

(b) The parties further agree that any and all disputes between the parties concerning this Amendment and/or the Agreement, the performance under this Amendment and/or Agreement, or otherwise related to the parties' relationship, shall be submitted to arbitration with JAMS/Endispute under short form submission or as otherwise agreed to between the parties, in Dallas County, Texas. The seeking of equitable relief from a court of law pending the institution of arbitration by either party, shall not be deemed or considered to be a waiver of the parties' agreement to arbitrate their disputes.

7. All provisions of the Agreement not amended by this Amendment remain in force and are applicable also to the new duties and responsibilities of Employee under this Amendment.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 15th day of June, 2000, to be effective as of July 1, 2000.

DON NELSON

By: _____
Don Nelson

DALLAS BASKETBALL LIMITED

By: Radical Mavericks Management LLC
General Partner

By: _____
Mark Cuban

Exhibit A

Compensation Schedule (EARNED)

			Current			Deferred
			Head Coach	General Manager	Consultant	General Manager
7/01/1998	to	6/30/1999	PAID	PAID	N/A	earned $ 1,800,000
7/01/1999	to	6/30/2000	PAID	PAID	N/A	earned $ 1,800,000
7/01/2000	to	6/30/2001	$ 3,500,000	$ 1,500,000	N/A	$ 900,000
7/01/2001	to	6/30/2002	$ 3,500,000	$ 1,500,000	N/A	$ 900,000
7/01/2002	to	6/30/2003	$ 3,500,000	$ 1,500,000	N/A	$ 900,000
70/1/2003	to	6/30/2004	N/A	(1) $ 1,600,000	N/A	$ 900,000
7/01/2004	to	6/30/2005	N/A	(1) $ 1,600,000	N/A	$ 900,000
7/01/2005	to	6/30/2006	N/A	(1) $ 1,600,000	N/A	$ 900,000
7/01/2006	to	6/30/2007	N/A	N/A	$ 200,000	N/A
7/01/2007	to	6/30/2008	N/A	N/A	$ 200,000	N/A
7/01/2008	to	6/30/2009	N/A	N/A	$ 200,000	N/A
7/01/2009	to	6/30/2010	N/A	N/A	$ 200,000	N/A
7/01/2010	to	6/30/2011	N/A	N/A	$ 200,000	N/A
			$ 10,500,000	$ 9,300,000	$ 1,000,000	$ 9,000,000

Compensation Schedule (PAID)

			Current			Deferred
			Head Coach	General Manager	Consultant	General Manager
7/01/2000	to	6/30/2001	$ 3,500,000	$ 1,500,000	$ -	$ -
7/01/2001	to	6/30/2002	$ 3,500,000	$ 1,500,000	$ -	$ -
7/01/2002	to	6/30/2003	$ 3,500,000	$ 1,500,000	$ -	$ -
70/1/2003	to	6/30/2004	N/A	(1) $ 1,600,000	$ -	$ 1,000,000
7/01/2004	to	6/30/2005	N/A	(1) $ 1,600,000	$ -	$ 1,000,000
7/01/2005	to	6/30/2006	N/A	(1) $ 1,600,000	$ -	$ 1,000,000
7/01/2006	to	6/30/2007	N/A	N/A	$ 200,000	(1) $ 1,000,000
7/01/2007	to	6/30/2008	N/A	N/A	$ 200,000	(1) $ 1,000,000
7/01/2008	to	6/30/2009	N/A	N/A	$ 200,000	(1) $ 1,000,000
7/01/2009	to	6/30/2010	N/A	N/A	$ 200,000	$ 1,000,000
7/01/2010	to	6/30/2011	N/A	N/A	$ 200,000	$ 1,000,000
7/01/2011	to	6/30/2012	N/A	N/A	$ -	$ 1,000,000
			$ 10,500,000	$ 9,300,000	$ 1,000,000	$ 9,000,000

(1) If Club elects to defer $200,000 of annual current compensation as provided in Paragraph 3(b) of this Amendment, the last three years of General Manager current compensation (7/1/2003 -- to -- 6/30/2006) will be $1,400,000 each, and the three years of deferred compensation (7/1/2006 -- to -- 6/30/2009) will be $1,200,000 each.

FOURTH AMENDMENT TO EMPLOYMENT AGREEMENT

This Fourth Amendment to Employment Agreement (this "Amendment") is entered into to be effective August 1, 2002 (the "Amendment Effective Date") by Dallas Basketball Limited, a Texas limited partnership (the "Club"), and Don Nelson ("Employee").

The Club and Employee entered into an Employment Agreement dated February 7, 1997 (the "Agreement") pursuant to which the Club employed Employee as General Manager of the Club's National Basketball Association (the "NBA") team known as the Dallas Mavericks (the "Team"). The Agreement previously was amended, effective December 4, 1997, to reflect Employee's assumption of the duties of interim Head Coach of the Team through the remainder of the 1997-1998 NBA season (the "First Amendment"), effective July 1, 1998, to reflect Employee's assumption of the duties of Head Coach and General Manager of the Team for the 1998-1999 and 1999-2000 NBA seasons (the "Second Amendment") and effective July 1, 2000, to reflect Employee's assumption of the duties of Head Coach and General Manager of the Team through the 2002-2003 NBA season (the "Third Amendment") The term "Agreement" as hereinafter used in this Amendment means the above-referenced Employment Agreement dated February 7, 1997 , the First Amendment, the Second Amendment and the Third Amendment collectively.

THEREFORE, in consideration of the covenants set forth in this Agreement, the Club and Employee agree as follows:

1. The Agreement is amended as set forth in this Amendment and, as so amended, remains in full force and effect. Terms used in this Amendment shall have the meanings set forth in the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control.

2. If the Club terminates the Employee for cause under paragraph 8(A)(vi) of the Employment Agreement due to death of the employee, all deferred compensation that has been earned prior to death of the employee will be paid in accordance with the payment schedule set out in the Third Amendment.

3. (a) This Agreement shall be governed and construed in accordance with the laws of the State of Texas relating to Agreements executed and entirely performed in such state, and Employee hereby consents to the jurisdiction of the courts of such state. In the event that any judicial proceedings are instituted concerning the interpretation or enforcement of this Agreement, exclusive venue over such proceedings shall be vested in courts sitting in Dallas County, Texas.

(b) The parties further agree that any and all disputes between the parties concerning this Amendment and/or the Agreement, the performance under this Amendment and/or Agreement, or otherwise related to the parties' relationship, shall be submitted to arbitration with JAMS/Endispute under short form submission or as otherwise agreed to between the parties, in Dallas County, Texas. The seeking of equitable relief from a court of law pending the institution of arbitration by either party, shall not be deemed or considered to be a waiver of the parties' agreement to arbitrate their disputes.

4. All provisions of the Agreement not amended by this Amendment remain in force and are applicable also to the new duties and responsibilities of Employee under this Amendment.

IN WITNESS WHEREOF, the parties have executed this Agreement on the ____ day of August, 2002, to be effective as of August 1, 2002.

DON NELSON

By: _____
Don Nelson

DALLAS BASKETBALL LIMITED

By: Radical Mavericks Management LLC
General Partner

By: _____
Mark Cuban

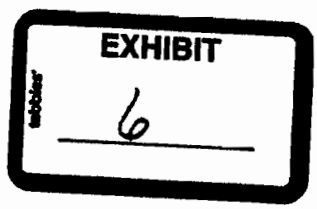
FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT

This Fifth Amendment to Employment Agreement (this "Amendment") is entered into to be effective July 1, 2003 (the "Amendment Effective Date") by Dallas Basketball Limited, a Texas limited partnership (the "Club"), and Don Nelson ("Employee").

The Club and Employee entered into an Employment Agreement dated February 7, 1997 (the "Employment Agreement") pursuant to which the Club employed Employee as General Manager of the Club's National Basketball Association (the "NBA") team known as the Dallas Mavericks (the "Team"). The Employment Agreement previously was amended, effective December 4, 1997, to reflect Employee's assumption of the duties of interim Head Coach of the Team through the remainder of the 1997-1998 NBA season (the "First Amendment"), effective July 1, 1998, to reflect Employee's assumption of the duties of Head Coach through June 30, 2000 as well as General Manager through June 30, 2003 (the "Second Amendment"), effective July 1, 2000, to reflect Employee's assumption of the duties of Head Coach through June 30, 2003, General Manager through June 30, 2006, and Consultant from July 1, 2006 through June 30, 2011 (the "Third Amendment"), and effective August 1, 2002, to reflect scheduled payment of deferred compensation if Employee is terminated for cause due to death of Employee (the "Fourth Amendment"). The term the "Agreement" as hereinafter used in this Amendment means the Employment Agreement as amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment.

THEREFORE, in consideration of the covenants set forth in this Amendment, the Club and Employee agree as follows:

1. The Agreement is amended as set forth in this Amendment and, as so amended, remains in full force and effect. Terms used in this Amendment shall have the meanings set forth in the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control.



2. (a) For the period of the Term from the Amendment Effective Date through June 30, 2006, Employee is engaged to be the Head Coach in addition to being the General Manager of the Team. As the Head Coach of the Team, in addition to the performance of the services required of Employee in his position of General Manager of the Team, Employee also shall perform such duties and services as may be assigned to him from time to time by senior management or ownership of the Club consistent with the position of Head Coach of an NBA team. During the period that Employee is serving as both Head Coach and General Manager of the Team, Employee also shall be responsible for all coaching aspects of the Team.

(b) During the remainder of the Term (July 1, 2006 through June 30, 2011), Employee shall be employed by the Club as a Consultant of the Team.

3. Employee accepts his engagement by the Club to serve as Head Coach of the Team, in addition to his responsibilities as General Manager of the Team, as provided in Paragraph 2 above, and agrees to perform the duties of such position in accordance with the terms of the Agreement as amended by this Amendment.

4. (a) For the three full 12-month periods in the Term during which Employee serves as both Head Coach and General Manager of the Team (July 1, 2003 through June 30, 2006), the annual salary of Employee shall be $3,500,000 per year as Head Coach, and $1,600,000 per year as General Manager, both payable by the Club on a current basis as services are rendered in accordance with regular payroll practices of the Club. Notwithstanding the above, at the Club's election, the Club may defer payment of $200,000 of the $1,600,000 due to Employee for each such 12-month period during which Employee serves as General Manager of the Team, to be paid instead in each of the three 12-month periods following the end of the Term in accordance with regular payroll practices of the Club. In addition, as deferred compensation to Employee for services rendered to the Club during the three 12-month periods (July 1, 2003 to June 30, 2006) during which Employee serves as General Manager of the Team, Employee shall

earn $900,000 per year of deferred compensation as services are rendered (aggregate amount of $2,700,000 over the three full 12-month periods). This deferred compensation is in addition to the deferred compensation already earned and accrued by Employee during the period beginning July 1, 1998 through June 30, 2003. The aggregate deferred compensation is payable by the Club in accordance with regular payroll practices of the Club in the full 12-month periods as follows:

July 1, 2009 to June 30, 2010	$700,000
July 1, 2010 to June 30, 2011	$1,000,000
July 1, 2011 to June 30, 2012	$1,000,000

In the event that Employee cannot continue in his duties as Head Coach during the Term, his annual salary as General Manager will continue to be $1,600,000 per year through June 30, 2006.

(b) For the five full 12-month periods thereafter in the Term (July 1, 2006 through June 30, 2011), during which Employee serves as a Consultant of the Team, the annual salary of Employee shall be $200,000 per year payable by the Club on a current basis as services are rendered in accordance with regular payroll practices of the Club. In the event the Team wins a NBA Championship from July 1, 2006 through June 30, 2011, Employee shall be awarded the same championship ring as that awarded to the Team's players and coaches. While serving in the capacity of Consultant of the Team, Employee shall not be entitled to any monetary compensation, including sharing of playoff bonuses, resulting from the Team's appearances in any playoff games.

(c) The deferred compensation earned by Employee for each 12-month period as referenced in Paragraph 4(a) above shall be earned pro rata over such 12-month period (i.e., if Employee is terminated for cause halfway through a 12-month period for which deferred compensation is earned as provided above, half of such deferred compensation amount for that period will have been earned).