

EXHIBIT F

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE NCAA STUDENT-ATHLETE) CASE NO.
NAME & LIKENESS LICENSING) 4:09-cv-1967 CW (NC)
LITIGATION)

The videotaped deposition upon oral examination of WALLACE RENFRO, a witness produced and sworn before me, Debbi S. Austin, RMR, CRR, Notary Public in and for the County of Hendricks, State of Indiana, taken on behalf of the Plaintiffs, at the offices of Faegre Baker & Daniels, 300 North Meridian Street, 27th Floor, Indianapolis, Marion County, Indiana, on the 26th day of June, 2012, commencing at 8:10 a.m., pursuant to the Federal Rules of Civil Procedure with written notice as to time and place thereof.

5 Please state your full name for the record.

6 A Wallace I. Renfro.

7 Q And do you sometimes go by the nickname Wally?

8 A I do.

25

Q

Are you currently employed?

1 A I am.

2 Q By whom?

3 A By the National Collegiate Athletic Association.

4 Q And what is your title?

5 A My title is vice president and chief policy

6 advisor. I work in the office of the president.

16 Q For how long have you worked for the NCAA?

17 A I'm in my 40th year.

18 Q Congratulations.

19 A Thank you.

20 Q Does that make you the longest tenured employee
21 at the NCAA?

22 A It makes me the second longest, I believe. I am
23 not the longest.

24 Q Who is the longest tenured employee at the NCAA?

25 A David Berst.

4 Q have you worked with or for
5 each of the NCAA's executive directors or
6 presidents?

9 A Yes, I have.

10 There was a brief period of time, I should
11 note, when I was not employed by the NCAA, from
12 about the last day of June of 2002 until the
13 first day of January 2003, when I left the
14 employment of the association. And then was
15 asked to come back and work with the new
16 president.

5 And let's talk for a moment about the break
6 in 2002 to 2003. Did you retire?

7 A Because I had completed more than 20 years, the
8 term of art is -- is "retirement." I left to
9 enter into a -- a private business in media
10 training and messaging and hopefully for clients
11 in higher education.

12 Q And what prompted you to return to the NCAA?

13 A I was prompted to return by a request from then
14 incoming NCAA President Myles Brand who asked if
15 I would come back and serve in the role as
16 senior communication advisor to him.

17 Q And looking at your professional history, is
18 your expertise in public relations, messaging,
19 and communications?

21 A My expertise is -- is generally in terms of
22 public relations. I'm not sure there is an
23 expertise in messaging. Generally speaking,
24 it's -- it's in public relations.

25 Q And what are your current responsibilities?

1 A I work in the office of the president. I give
2 advice and counsel to the president, to the
3 chief operating officer, and to others with
4 regard to policy considerations that might be
5 developed or might be considered by the
6 membership and give thought and sometimes
7 writing to such policy considerations.

8 So generally speaking, it is a -- it's a --
9 it's a role of a counselor, an advisor. I have
10 no managerial responsibilities. I'm certainly
11 not involved in the -- either the formulation,
12 the process of debate and discussion, and
13 certainly don't have a vote in any legislation,
14 nor do I have any role in the interpretation of
15 that legislation. I'm not an attorney, so I
16 have no role in any legal considerations
17 involving the association or intercollegiate
18 athletics.

19 Q You mentioned that you are not involved in the
20 process of debate and discussion around
21 legislation. I take that to mean that you do
22 not discuss legislation with anyone at the NCAA?

23 MR. WIERENGA: Object -- objection to the
24 extent --

25 Q Is that correct?

1 MR. WIERENGA: -- that it misstates the
2 testimony.

3 Go ahead.

4 A The debate and discussion of legislation is done
5 at the membership level, because it is at the
6 membership level that those decisions are made.
7 The staff may be involved in discussions of
8 proposed or potential legislation, but because
9 the NCAA staff officed in Indianapolis has no
10 vote, it is -- it is more of an intellectual
11 discussion.

12 Q And when you say "staff" there, you're referring
13 to NCAA staff?

14 A I am.

15 Q You mentioned among your responsibilities
16 providing counsel. To whom do you provide
17 counsel?

18 A To the president, to the chief operating
19 officer, to other vice presidents, or to other
20 staff on request regarding specific issues.

21 Q And who is the current president of the NCAA?

22 A Dr. Mark Emmert.

23 Q And who is the current chief operating officer?

24 A James Isch.

4 Q How frequently do you communicate with
5 President Emmert?

6 A Weekly. Sometimes more often. Occasionally
7 less often.

8 Q And how frequently do you communicate with
9 Mr. Isch?

10 A Probably daily.

7 Q Can you provide me with examples of your --
8 the -- the type of written work product that you
9 work on at the NCAA?

10 MR. WIERENGA: Object to the form.

11 Go ahead.

12 A I find as a lifelong writer that one of the
13 easiest ways for me to work through a thought
14 process regarding issues is to write. It's the
15 way in which I can argue with myself and present
16 a rational argument to others for how an issue
17 might be considered from various perspectives.

18 So very often the kind of writing I do
19 is -- is an examination of arguments related to
20 a -- a specific issue.

1 Q Have you ever had any contact with
2 representatives from CLC?

3 A I have from time to time at various NCAA
4 functions that were both attended.

5 Q Who have you had contact with from CLC?

6 A With -- with Bill Battle and with his son, Pat
7 Battle.

8 Q What's your understanding of the term
9 "collegiate model"?

10 A The collegiate model is a way in which American
11 higher education differentiates the
12 participation in athletics by its students from
13 other models, most prominently from a
14 professional model. The collegiate model is
15 characterized by two very distinct pieces. One
16 is that those who are participants are students,
17 and that intercollegiate athletics conduct is
18 embedded in the values of higher education
19 itself right.

20 Q What do you mean when you say "intercollegiate
21 athletics conduct is embedded in the values of
22 higher education"?

23 A Well, American higher education is somewhat
24 different from education elsewhere in the world,
25 in that most colleges and universities are

1 comprehensive in nature. They provide a -- give
2 access to a variety of -- of disciplines. And
3 those disciplines are subsidized and often
4 cross-subsidized by -- by other disciplines
5 within the -- the university, within the
6 academy.

7 That same approach is used with regard to
8 intercollegiate athletics. There is educational
9 value in the conduct of -- of intercollegiate
10 athletics. That, in fact, is the justification
11 for athletics as part of the higher education
12 model. And so the desire is to maximize the
13 number of individuals, the number of students
14 who can be involved in -- in intercollegiate
15 athletics.

16 To do that, institutions sponsor sports
17 across a broad range for both men and women.
18 Some of those sports have the capacity for
19 generating more interest and, therefore, more
20 resources than others, and there's a
21 cross-subsidization relationship between and
22 among those sports, very similar to the way in
23 which it's done elsewhere in higher education.

15 Q What does the term "amateurism" mean to you?

16 A Amateurism is a -- is a definition of the
17 relationship between those who participate and
18 the institution that sponsors intercollegiate
19 athletics. It is one that understands that
20 there are certain educational, social, athletic
21 benefits to be derived from that participation.
22 And that those who participate, that is to say,
23 the students choose, make a choice to
24 participate in this model, and that sets those
25 individuals apart from athletes who participate

1 in, for example, the professional model.

2 Q I'm trying to understand, how does the
3 collegiate model differ from amateurism?

4 A Well, the --

8 A The collegiate model, in fact, doesn't differ
9 from amateurism. It embraces amateurism,
10 because it describes this relationship between
11 those who participate and the institution that
12 sponsors the -- the sport. And that -- that
13 relationship is one of being a student.

14 Those who participate in intercollegiate
15 athletics are not employees of the institution,
16 and participating in athletics is -- is not
17 their job. That's the -- that's -- so that's
18 the -- the understanding, the definition within
19 higher education in America of -- of amateurism.

20 That concept is certainly different than
21 the notion of amateurism as it -- as it migrated
22 to the United States in the -- in the 19th
23 century. The notion of amateurism as it was
24 practiced on the European continent was more a
25 class distinction and set apart those who could

1 afford to participate, who could pay all their
2 expenses, who did not require any sort of
3 financial resource- -- resources to -- to
4 participate from those who could not. And --
5 and, in fact, it was -- it was a -- it was a way
6 for -- for the more wealthy to participate only
7 with the wealthy.

8 The American culture was considerably more
9 egalitarian, and that concept simply didn't work
10 in America. But it -- but it -- but the notion
11 that there is educational value to the
12 participation in athletics is -- is what sets
13 the -- the American and the collegiate model in
14 America apart from other models around the
15 world.

21 Q I'm handing you what's been marked Exhibit 418.
22 And I can represent to you that it's an internet
23 download of an article from the Chronicle of
24 Higher Education's website. And again, you're
25 welcome to review the document in its entirety.

1 The focus of my questions will be the quote from
2 you in the middle of the second page.

8 A Are you referring to the quote that begins,
9 "Commercialism is here to stay"?

10 Q Correct.

11 A "Student-athletes are amateurs. Intercollegiate
12 athletics is not."

13 Yes, I see the quote.

14 Q What's the distinction that you're drawing here?

17 A Well, the distinction I'm drawing is exactly the
18 one that I made a few minutes ago. That the
19 concept of amateurism describes the relationship
20 between the students who participate in
21 athletics and their institutions. It is a
22 relationship of choice. It is a relationship
23 in -- that is described in terms of the benefits
24 received and the motivation to receive those
25 benefits. And that that is distinctive from the

1 rest of the entity, the rest of intercollegiate
2 athletics.

3 Intercollegiate athletics is not an amateur
4 entity. The -- those who participate are
5 amateurs. But -- but I've never seen a
6 definition, nor am I aware of anyone -- of any
7 definition that would describe intercollegiate
8 athletics in a way that would suggest that it is
9 amateur other than that those who participate
10 are amateurs. That's -- that's what I meant
11 about the -- that distinction. And I think that
12 that is a distinction that is profoundly
13 apparent in the way in which the NCAA membership
14 has -- has described amateurism for over a
15 century now.

16 Q Intercollegiate athletics is not an amateur
17 endeavor. Is it a professional endeavor?

18 A Those who are coaches, administrators, and
19 others, are professional by nature, by
20 definition, because they are paid to be that, to
21 be a coach, to be an administrator.

22 Intercollegiate athletics is, I think, in
23 the minds of most who would examine this, not
24 the same as a professional sports organization.
25 But that does not mean that it does not seek

1 revenue, for example, to cover the costs of a
2 particular sport, and in some cases, most cases,
3 to cover the costs of -- of the university
4 providing participation opportunities in other
5 sports and over a broad number of men and -- and
6 women students.

7 So, you know, in a -- in a commonly
8 understood definition, intercollegiate athletics
9 would -- would not, in the minds of most, in my
10 opinion, be seen as the same as a professional
11 sports organization. It has characteristics
12 that are similar.

18 I'm handing you Exhibit 419, which is Bates
19 stamped NCAAPROD00180245 to 248. Please take a
20 moment to review that document.

9 Q Can you identify this as an e-mail that you sent
10 a number of NCAA employees on August 31st, 2005?

11 A That's what it says at the top, so yes, I think
12 that's correct.

13 Q You have no reason to doubt this?

14 A I have no reason to doubt that.

15 Q And you write, "I know I have been such an
16 infrequent voice in this discussion, so I have
17 hesitated to comment now, but I'm not bothered
18 by the answer provided. I'm -- I'm also not
19 bothered that within the 25 percent space, the
20 images can change as the cursor passes over a
21 smaller image. There is nothing new being
22 added, just expanded. Basically I'm for
23 sponsors making money. I don't see why they
24 would associate with us or our schools if they
25 can't."

1 A Yes, I see that.

2 Q Are you still for sponsors making money?

3 A Sure, I am.

4 Q Has your position changed at all in the last
5 seven years?

6 A With regard to the sponsors making money?

7 Q Whether you're for sponsors making money.

8 A No, my -- my view on that has not changed. I --
9 I'm -- I am -- I'm a believer in the
10 capitalistic approach, and -- and I believe that
11 businesses are generally in business, including
12 not-for-profit businesses, to make money. Why
13 they do that can differ between for-profit and
14 not-for-profit.

4 Q Why didn't you identify here some of the
5 benefits that we've been discussing earlier
6 today?

7 A Well, I thought that's the question that you
8 would ask when you -- when you showed this to
9 me, because it would strike any reader on first
10 glance as being somewhat inconsistent with what
11 I just said. I don't think that it is. From
12 time to time, I, in writing, will make argument
13 for effect.

14 Generally speaking, I think that any
15 business, anywhere in the world, but certainly
16 American corporations, exist for the purpose of
17 selling a product or -- or a service. And so it
18 seems not only reasonable to me but what we
19 would expect from a capitalistic approach for --
20 for corporations to make decisions that they
21 believe would be beneficial financially.

22 Even as I describe what I described a
23 moment ago, with regard to what the returns are,
24 I think that even then there's an expectation
25 that the goodwill that they gain from an

1 association with a highly valued entity will, in
2 fact, mean an increase in revenue. That's --
3 that's certainly, I believe, their hope.

4 I believe that they are driven, as you
5 describe it, by a number of different factors to
6 this association. But without the values that
7 are associated with intercollegiate athletics, I
8 tend to believe that their interest would be
9 less based on goodwill and -- and more solely
10 based on simply a financial return on
11 investment.

12 And at the same time, as I said, you know,
13 I will from time to time make a provocative
14 argument for the sake of engendering discussion.
15 I don't remember whether this was successful in
16 that regard or -- or not. But I don't believe
17 that there is an incon- -- a philosophical
18 inconsistency -- inconsistency between what I
19 said a moment ago and what is written here. I
20 think that it is, you know, a -- a perfectly
21 reasonable correlation.

5 Q Do you stand by what you wrote here?

6 A I do.

24 Q In the third full paragraph under pay for play
25 point/counterpoint, it's written, "Most athletic

1 departments do not generate revenues over
2 expenses."

3 Do you agree with that statement?

4 A I do. And indeed, the number that is provided,
5 whatever the date of this writing, he describes
6 there are only 40 Division I-A institutions.
7 Today those would be what we identify as
8 football bowl subdivision or FBS institutions,
9 and -- and that number is lower by almost half.

10 Q So if I understand you correctly, approximately
11 20 Division I-A institutions and their current
12 equivalent operate in the black today; is that
13 correct?

14 A Operate with revenues that exceed expenses.

15 Q Do you know sitting here today on average the
16 percentage of Division I athletic department
17 revenue that goes to facilities' construction or
18 improvements?

19 A As we sit here today, I do not.

20 Q Do you recall stating in a speech at Washington
21 and Lee University in June 2009, "Today, nearly
22 20 percent of the average spending in Division I
23 athletics is tied to facility expansion and the
24 debt service that results"?

25 A I do recall those numbers in -- in that speech

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1 based on data that I had asked for and -- and
2 received. I cannot tell you that I was accurate
3 in saying today in that speech, because the data
4 probably was -- predated the giving of the
5 speech.

6 Q Do you have any reason to doubt that that --
7 that the nearly 20 percent figure was accurate
8 within six months of the date of your speech?

9 A I don't know.

10 Q Do you know sitting here today what the number
11 is?

12 A I do not.

13 Q Do you know on average the percentage of
14 department -- Division I athletic department
15 revenue that goes to coaching salaries?

18 A I do not.

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7 Q Sure. Do you agree that many Division I men's
8 football and basketball programs generate
9 revenues over expenses?

12 A Again, I'm -- I'm -- I'm not sure what you mean
13 by -- by "many." You mean -- you may mean
14 almost all. You may mean more than half.
15 That's a pretty significant difference.

16 Q Okay. More than ten?

18 A More than ten institutions or more than
19 10 percent?

20 Q More than -- do you agree that more than ten
21 Division I men's football and basketball
22 athletic programs generate revenue over
23 expenses?

24 A I wouldn't be surprised.

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1 Q But you have no knowledge one way or another of
2 how many Division I men's football and
3 basketball programs generate revenue over
4 expenses?

5 A Well, it's my general understanding that
6 approximately 70 percent of Division I FBS
7 institutions generate only in that sport
8 revenues that exceed the expenses of that sport.
9 And that number in men's basketball is
10 approximately 60 percent.

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4 Q Would -- to your knowledge, would remunerating
5 players for their participation in
6 intercollegiate athletics diminish public
7 interest in college sports?

11 A Well, based on 40 years of -- of observation and
12 examination of what makes intercollegiate
13 athletics popular, I hold the view that if you
14 change the collegiate model into one that
15 attaches the student-athlete as -- as a
16 professional to the model, joining those others
17 who are professional, that in -- that in -- in
18 my view, that would diminish the -- the way in
19 which intercollegiate athletics is viewed,
20 appreciated, admired, loved by -- by the public.

21 The relationship of the student, the sport,
22 and the institution constitutes a phenomenon
23 that is held valuable by those who attend and
24 those who help sponsor the -- the broadcast
25 or -- you know, or in other ways support

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intercollegiate athletics.

And, you know, again, based on my observation over a lengthy career, I think that turning intercollegiate athletics into second- or third-rate professional sports would -- would diminish the interest.

The level at which those who participate in athletics in terms of their skills and their purpose is not on par with what you would expect from professional athletes. For professional athletes, playing sports is their job. For student-athletes, it is not.

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17 **To your knowledge, would paying former**
18 **student-athletes for their previous**
19 **participation in intercollegiate athletics**
20 **diminish public interest in college sports?**

22 **A I have no way of -- of knowing the answer to**
23 **that. It's not one that I've even given much**
24 **thought to.**

25 **Q Has the NCAA studied that question to your**

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1

knowledge?

2

A Not to my knowledge.

3

Q And you're not aware of any surveys concerning

4

that question, are you?

5

A I personally am not.

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16 To your knowledge, would paying former
17 college athletes after their eligibility expires
18 for the use of their likeness while they were
19 student-athletes diminish public interest in
20 college sports?

23 A I have no way of -- of knowing the answer to
24 that question.

25 Q And this, too, is not something that the NCAA

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1 has studied to your knowledge?

2 A Not that I'm aware of.

3 Q Similarly, you're not aware of any surveys

4 addressing this question, are you?

5 A I am not.

19 Q Let's talk for a moment about President Byers.

20 You worked for Mr. Byers; correct?

21 A I worked for the NCAA when Mr. Byers was the
22 executive director, but I did not work for him
23 in the same way that I have worked for the last
24 two presidents of the NCAA. I was not a member
25 of the office of the president.

1 Q Did you have any contact with President Byers
2 while he was executive director?

3 A Yes.

4 Q And what was the nature of that contact?

5 A Generally informal in the hall conversations. I
6 did work with him on a couple publishing
7 projects for public consumption.

8 Q And President Byers coined the term
9 "student-athlete"; correct?

10 A I don't -- I don't know with certainty that --
11 that he did. I think it is generally attributed
12 to him. I probably have even attributed it to
13 him myself, but I can't tell you with absolute
14 certainty that that's the case. It certainly
15 was during his period of time as executive
16 director that the -- that the term sort of came
17 to the forefront.

18 Q Do you recall stating in a speech at Washington
19 and Lee University in 2009, "To be honest, the
20 term 'student-athlete' was the invention of the
21 first president of the NCAA, Walter Byers, who
22 used the term to mollify the media and others
23 when some college athletes began to receive
24 grants-in-aid to participate in sports"?

25 A Yes, that's -- that's exactly the kind of

1 attribution that I was alluding to in my
2 previous question -- or answer.

3 Q So you have no reason to recant this earlier
4 statement?

5 A I do not.

6 Q And are you aware that President Byers has
7 stated that the term was created because of
8 concerns that the grant-in-aid might create an
9 employee-employer relationship?

12 A I don't know what -- I don't know that with --
13 with certainty. I have -- as you read in that
14 speech, I have described it as I did there.

12 Q What were your impressions of President Byers
13 during the period of overlap between the two of
14 you at the NCAA?

16 A My impression of him in what regard?

17 Q Do you -- did you respect him?

18 A I did.

19 Q Did you respect his accomplishments at the NCAA?

21 A Yes.

13 Do the NCAA and its member institutions
14 have -- share commonly held principles outside
15 of those enumerated in the manual?

17 A I don't -- I don't know. If they -- if they
18 share commonly held values beyond those, they've
19 not been memorialized to -- that -- that I'm
20 aware of.

21 Q Is the prohibition against pay for play a
22 commonly held principle, a rule, or both?

23 A Both.

1

17 Q And can you remind me when President Emmert
18 began in his current position?

19 A He -- he was hired by, confirmed by the ex- --
20 the executive committee in April of 2010, but
21 did not become an actual employee and assume the
22 position until early October of -- of that year.
23 I don't recall the date precisely.

24 Q And did you begin working with President Emmert
25 right away, or was there a delay?

1 A Well, I -- I was -- I had been a member of the
2 office of the president prior to his coming in,
3 both with Dr. Brand and then with interim
4 president Jim Isch. And my role did not change.
5 I continued throughout to be a member of the
6 office of the president. And so the degree to
7 which there were opportunities for the office of
8 the president to interact with the president
9 elect, I -- I did. I was part of that.

7

Q I'm handing you what's been marked Exhibit 424,

8

Bates stamped NCAAPROD00148806 to 810.

1 Q First, can you identify everything below the
2 first e-mail header as an e-mail that you sent
3 to President Emmert -- maybe it's easiest if we
4 do this, from the -- I guess what's the third
5 e-mail below. Can you identify from the middle
6 of the page downward as an e-mail that you sent
7 on October 17th, 2010, at 12:12 p.m. to Mark
8 Emmert and Jim Isch?

9 A Yes.

10 Q And when was the last time that you saw this
11 document?

12 A In all likelihood on October 17th.

13 Q If you look at the -- does -- does the first
14 paragraph refresh your recollection of why you
15 sent this e-mail with the subject line "Looking
16 Forward"?

17 A Yes.

18 Q Why did you send this e-mail?

19 A This was an effort by me to give some advice,
20 some counsel, some thought to a fairly
21 significant range of -- of topics, some of which
22 I had probably already heard Dr. Emmert speak
23 about, some of which I anticipated would
24 likely -- likely come up. Some of them were
25 certainly in the -- you know, the result of

1 issues du jour, things that were right out in
2 front of us and very obviously so.

3 Q And -- and did you intend this to be a full and
4 frank discussion?

5 A It is nothing more than my observations on -- on
6 these topics and, within certain parameters,
7 some -- some -- some advice. It was -- you
8 know, my -- my recollection is that, in fact, I
9 don't believe we ever really had a -- a full
10 discussion on this document.

11 Q That was going to be my next question before we
12 start looking at various portions. You never
13 received a written response from
14 President Emmert; is that correct?

15 A I don't believe so.

3 Q And if you look under "Stu-" -- the second page,
4 there's a header, "Student-Athlete Well-Being."

5 A Yes.

6 Q In the middle of that paragraph, you write,
7 "Maybe we don't call them student-athletes any
8 longer and just refer to them as students.
9 (It's a term that Walter Byers created to
10 counter the criticism that we are paying college
11 athletes when we began providing
12 grants-in-aid.)"

13 Have you made this particular proposal to
14 anyone else at the NCAA?

16 A I don't recall whether I -- whether I have or --
17 or not. Let me just go back and -- and remind
18 that -- that in the very first paragraph, in the
19 last sentence of that paragraph, I said that
20 "I've given thought to all this and have tried
21 below to begin teasing out some thoughts that
22 might be further developed. Some of this is
23 provocative, some probably not provocative
24 enough."

25 So -- so almost always -- you know, this

1 was simply to inform Dr. Emmert of some of my
2 views, some of them that were mature, some of
3 them that probably weren't very mature. I can
4 tell you that this is one that I would certainly
5 characterize as not very mature. I had -- it --
6 it was a thought. It was sort of intriguing,
7 but I'm not sure that -- I -- I hadn't given a
8 lot of -- of thought to it, and -- and I don't
9 believe -- I don't recall that we ever discussed
10 it again.

14 Q If you look farther down the page, under the
15 header "Time Requirements."

16 A Yes.

17 Q And I'll read from it briefly. "We know from a
18 couple of surveys we have done (one with current
19 student-athletes, which was first done about
20 four or five years ago that I think has been
21 updated), and one with students ten years out of
22 high school that student-ath-" --

7 -- "and one with students ten years out of
8 high school), that student-athletes spend as
9 much as 45 hours a week on their sport, more
10 they say in some cases than their academics."

11 Do you recall sitting here today which
12 surveys you're referring to here?

13 A The two that I were referring to are -- I --
14 I -- I can only identify by -- by acronym. One
15 is called SCORE, or SCORES. And the other is
16 called GOALS. One has -- one was a survey of
17 student-ath- -- well, as this says,
18 student-athletes who had been out of high school
19 for ten years, and the other was a current
20 student-athlete. The larger sampling, as I
21 recall, was with current student-athletes.

22 Q Do you know if those materials are publicly
23 available?

24 A I do not know. I don't know the answer to that.

25 Q And do you know who conducted these surveys?

1 A Well, I believe they were under -- they were
2 conducted under the auspices of our research
3 staff. I do not know who conducted the surveys.
4 The ones for current student-athletes, I can
5 only imagine, were conducted on campus by
6 individuals on campus.

16 Q You write further down in this paragraph, "We
17 have a wink and a nod approach to voluntary
18 activity."

19 What is a wink and a nod approach?

21 A I think that that's a -- a -- a term of art that
22 most everyone when they read it understands that
23 it is imprecise, that it -- it does not
24 necessarily -- that there is not necessarily
25 100 percent compliance. Most everyone knows

1 there's not 100 percent compliance. But it --
2 it -- it, like some other circumstances in
3 various other areas, is not viewed as being one
4 that you know how to achieve full enforcement.

5 I -- I can expand on that, if you wish, to
6 say, if I am a student-athlete or if I am a
7 musician or if am in theater, you know, a
8 thespian, or any number of other areas, my
9 voluntary commitment to that activity is
10 difficult to ever govern.

11 So we have a 20-hour rule for organized
12 activity, and that we ask the in- -- is my
13 understanding, we ask institutions to confirm
14 that that's -- that they comply with that. But
15 in terms of voluntary activity, it's far more
16 difficult to ever know and, therefore, enforce
17 what -- what time students are putting into any
18 number of different activities.

19 Q And you mentioned a few examples. Does the NCAA
20 govern theater, music -- music or theater
21 activities?

23 A It does not govern those activities, but those
24 activities are similar to -- are part of the way
25 in which activities in the collegiate model

1 function. So activities in intercollegiate
2 athletics often, I would say even generally,
3 have some relationship to the way things are
4 conducted elsewhere on campus.

5 Q Do you recall whether the two surveys that
6 you've identified today provided statistics
7 about the compliance rate, the time requirement
8 compliance rate of the students surveyed?

9 A I do not recall.

10 Q Look at the bottom paragraph on that page. You
11 wrote under "Commercial Exploitation," and you
12 skip ahead one sentence. "There is a general
13 sense that intercollegiate athletics is as
14 thoroughly commercialized as professional
15 sports."

16 Whose general sense are you referring to
17 there?

18 A The -- the world, the public, that -- and -- and
19 I don't even state it as -- I don't intend to
20 state it as a matter of fact or a provable fact.
21 Only that if one reads the media and relies on
22 that to be some sort of metric for public
23 opinion, one might draw from that that there is
24 this general sense.

25 Q Are you suggesting that the media has somehow

1 incorrectly reported that the public views
2 intercollegiate athletics as thoroughly
3 commercialized?

7 A Actually, what I am suggesting is that the
8 media -- media has incorrectly suggested that
9 intercollegiate athletics is thoroughly
10 commercialized as professional sports.

11 Q Let's continue on. You write, "Some believe
12 that athletic departments study how to emulate
13 the pros on marketing their sports, primarily
14 football and basketball, and sometimes lead the
15 way."

16 To your knowledge, do any college athletic
17 departments study how to emulate the pros on
18 marketing their sports?

19 A Well, that was not the point of the sentence.
20 The point of the sentence was that there are
21 some who believe that that -- that that occurs.
22 I would not know the answer to the question that
23 you asked.

24 Q So you haven't discussed this with any athletic
25 directors?

1 A No.

2 Q And I'm continuing on. "And the public would
3 generally," I -- I believe --

6 -- "generally agree that all -- that has
7 all taken place at the expense of the
8 student-athlete whose participation is excluded
9 to make another buck for another stadium, the
10 coaches, the administrators, or for other teams
11 who can't pay their own way. It is" --
12 continuing on to the next page -- "a fairness
13 issue and along with the notion that
14 student-athletes are students is the great
15 hypocrisy of intercollegiate athletics."

16 What do you mean by "the great hypocrisy of
17 intercollegiate athletics"?

19 A Again, remember that I am talking about the
20 opinion of some. So this is all based upon some
21 believe that athletics departments and -- and so
22 on and so forth. So this is a continuation of
23 thought in a provocatively stated way that some
24 believe this is the state of -- of
25 intercollegiate athletics. I don't -- I don't

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1 try to -- to des- -- to describe in this nor
2 would I know how to describe how many are
3 "some." But I certainly have encountered the
4 writings some of in the media who -- who, in
5 fact, use terms much like or exactly like the
6 terms that I have used -- used here. This was a
7 way to, as bluntly and as provocatively as I
8 could, sort of state the view of those who are
9 the most critical and cynical of intercollegiate
10 athletics.

11 Q And so if I understand you correctly, you're
12 channeling the media, in a sense, when you
13 write, "The great hypocrisy of intercollegiate
14 athletics"?

16 A Yeah. I wouldn't agree with the term of art
17 that you used. I don't -- certainly don't think
18 it's in my power to channel anyone. But I'm
19 representing what it's my understanding through
20 media readings is the opinion of some.

21 Q Okay. And if we go down the page to the next
22 bullet point, "Professional Exploitation
23 (Agents)," you write, "We have always had a
24 cradle-to-grave approach to amateurism. You are
25 born an amateur, but like innocence once lost,

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1 it cannot be regained. But our commitment to
2 amateurism and the commitment of our public's
3 has often been based on something other than how
4 we define amateurism in our own constitution.
5 In the most romantic sense, we think of
6 amateurism as playing sports for the love of the
7 game, for the camaraderie among competitors, for
8 the pride of victory for school or colors, and
9 then we use this romanticized sense of
10 amateurism to define the entire enterprise of
11 collegiate athletics."

12 Do you see that?

13 A Yes, I do.

14 Q Now, you wrote this in 2010.

15 A Yes.

15 Q And if I understand you correctly, this excerpt
16 that we've read here is another -- is another
17 attempt, for lack of a better term -- I'm
18 certainly open to others -- to channel others
19 who may be critical of the NCAA; is that
20 correct?

21 A It's an ability to articulate the opinion as I
22 understand it of -- of others. I simply -- I
23 don't know what you mean by "channel."

24 Q Well --

25 A But it is -- it is an effort to -- to try to --

1 in a very provocative, blunt way, to -- you
2 know, to -- to sort of establish the -- the view
3 of -- of -- of some without any determination of
4 how many those are who are critics, who are
5 cynics, and who have a platform to express their
6 criticism or cynicism.

7 Q And do you, Mr. Renfro, as Mr. Renfro, agree
8 with the statement that begins, "You are born an
9 amateur" and ends with, "to define the entire
10 enterprise of intercollegiate athletics"?

12 A Do you mean is this my personally held view? It
13 is not.

14 Q Okay. You write at the bottom of that
15 paragraph, "We, and you will have to lead the
16 charge, must do a better job of helping put
17 these concepts into perspective, and we are
18 best-served in that effort by doing so within
19 the context of higher education. It may be okay
20 for student-athletes to have agents. The
21 avocational nature of student-athletics
22 participation prohibits the gathering of
23 monetary benefits in such a relationship."

24 Is this a suggestion by you as Mr. Renfro
25 that it may be okay for student-athletes to have

1 agents?

2 A It wasn't a suggestion. It was an observation.

3 But the observation, if it were to be

4 considered, offers a codicil.

5 Q And how would this arrangement work such that

6 there are no -- there is no gathering of

7 monetary benefits?

11 A And it -- and it really doesn't fall to me to

12 figure that out.

13 Q And you don't recall ever receiving any feedback

14 from President Emmert about this --

15 A I do not.

16 Q -- observation?

17 If we continue on to the next page. Under

18 "Financial Underpinning of Athletics" --

19 A Uh-huh.

20 Q -- in the middle of that paragraph, you write,

21 "The top 25 percent of Division I is setting the

22 spending pace for the rest of the division,

23 although the bottom 25 has largely stopped

24 trying to compete and is content with the

25 prestige that comes with being in the same

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1 neighborhood. The real issue appears to be in
2 the middle 50 percent. So what we really see
3 are the haves, the have-nots, and the
4 forget-about-its."

5 Do you see that comment?

6 A Yes.

7 Q Now, when you write, "the top 25 percent," are
8 you referring to the top 25 percent in terms of
9 revenue over expenses?

11 A I'm probably -- no, I'm definitely not. I'm
12 probably referring to the top 25 percent in
13 terms of athletics budget.

14 Q And that's overall --

15 A A budget is an estimation or a -- a goal for
16 what you will spend.

17 Q And are those annual budgets?

18 A Yes, that was the thought I had in mind. I'm
19 sorry.

22 Q So if I have this correctly, you're -- you're
23 referring to the top 25 percent as the haves,
24 the middle 50 percent as the have-nots, and the
25 bottom 25 percent as the forget-about-its. Can

1 you give me examples of -- of universities that
2 fall into each of those categories?

5 A The intent of this was not, in fact, to identify
6 specific institutions. I don't know what the
7 budgets are of -- of institutions. I only look
8 at aggregated numbers and at the median or
9 average of -- of those aggregated numbers.

14 Q And in your experience, the -- are the
15 forget-about-its able to compete effectively
16 with the haves?

18 A I think that, in fact, the sentence above that
19 says that "The bottom 25 has largely stopped
20 trying to compete and is content with the
21 prestige that comes with being in the same
22 neighborhood."

23 So I -- so I think I had -- I had already
24 said in this paragraph that they likely were not
25 competing with the top 25.