

EXHIBIT H

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

in re NCAA Student-Athlete Name and
Likeness Licensing Litigation

Case No.
09-cv-1967-CW

* MAY CONTAIN CONFIDENTIAL INFORMATION *

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VIDEOTAPED DEPOSITION OF
SAM JACOBSON
NOVEMBER 7, 2011
9:00 A.M.

KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTHREE STREET, SUITE 2800
ATLANTA, GEORGIA

REPORTED BY:

STEVEN S. HUSEBY, RPR
CCR-B-1372

Designation Color Key
Blue = NCAA Affirm Desigs.
Orange = Pls' Counter Desigs.
Fuchsia = NCAA Rebuttal Desigs

1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: Good morning.

4 This is the beginning of tape number one in
5 the deposition of Sam Jacobson in the matter
6 of in re: NCAA Student-Athlete Name and
7 Likeness Licensing Litigation, Case
8 09-CV-1967-CW. Today's date is November the

9 7th, 2011. The time on the monitor is 9:07
10 a.m. My name is Michael McElroy and I'm the
11 videographer. The court reporter is Steve
12 Huseby. We're with Huseby Incorporated.

13 Counsel, please introduce yourselves after
14 which the court reporter will swear in the
15 witness.

16 MR. SLAUGHTER: This is James
17 Slaughter from Keker & Van Nest on behalf of
18 Electronic Arts.

19 MR. BOYLE: Peter Boyle with
20 Kilpatrick Townsend & Stockton on behalf of
21 the Collegiate Licensing Company.

22 MS. KEFALAS: Kimberly Kefalas
23 from Miller, Canfield, Paddock and Stone on
24 behalf of the National Collegiate Athletic
25 Association.

1 Cottage Grove, correct?

2 A. Yes.

3 Q. You were Minnesota's Mr. Basketball
4 your senior year of high school; is that
5 right?

6 A. Yes.

7 Q. And you went to the University of
8 Minnesota?

9 A. Yes.

10 Q. Which -- were you highly recruited out
11 of high school?

12 A. Yes, we got several letters from
13 colleges.

14 Q. How many colleges did you make
15 official visits to?

16 A. One.

17 Q. Just the University of Minnesota?

18 A. Yes.

19 Q. Did you want to go to the University
20 of Minnesota since -- as you were growing up?

21 A. No.

22 Q. So why is it that you only made one
23 college visit, official visit?

24 A. I wanted to be close to home so my
25 parents could see me play. I think I

1 developed more of a liking for the U as I got
2 older in high school so it was -- and we only
3 have one Division One College.

4 Q. In Minnesota?

5 A. In Minnesota, so that was the most
6 likely choice.

7 Q. Now, I'm not -- forgive me, I'm not
8 familiar with Minnesota. How far is the
9 University of Minnesota from Cottage Grove?

10 A. I would say 30 miles, give or take
11 five, maybe five.

12 Q. So hometown school?

13 A. Yeah, it's the only major school in
14 Minnesota.

15 Q. But more than just the only major
16 school in Minnesota, it's near where you grew
17 up?

18 A. Yes.

19 Q. And it was your first choice?

20 A. Yes.

21 Q. And you guys had a pretty
22 successful -- you had a pretty successful
23 collegiate basketball career?

24 A. Yeah, we did well our junior year.

25 Q. Went to the Final Four that year?

1 A. Yes.

2 Q. And your senior year you did pretty
3 well too, won the NIT?

4 A. Yes, we did, we won the NIT. But we
5 would have liked to get to the NCAA games of
6 course.

7 Q. And you were drafted out of college
8 into the NBA?

9 A. Yes.

10 Q. What round were you drafted in?

11 A. First round.

12 Q. Were you drafted by the Lakers?

13 A. That's correct.

14 Q. Did you live in the dorms when you
15 went to the University of Minnesota?

16 A. Yes.

17 Q. Did you have roommates or did you have
18 a single room?

19 A. I had -- I've -- let me think. I had
20 roommates, and one year I had a small single
21 room.

22 Q. Did you guys -- did anybody in your
23 dorm have video game consoles?

24 A. Yes.

25 Q. Did you guys regularly play video

1 A. It would be current athletes when they
2 become former athletes, but yes, I'd like to
3 see current athletes also have a voice after
4 they are done playing, how their name is used.

5 Q. Now, why not -- why doesn't that
6 principle apply to current athletes? Why
7 shouldn't they have a say in how their name
8 is -- according to you why shouldn't they have
9 a say in how their name or image is used while
10 they are in college?

11 A. I think I said that they should have a
12 say on both before, for when they are done
13 with college, whether -- how their name was
14 being used.

15 Q. My question was a little different.
16 Why shouldn't they have a say about how their
17 name or image is used while they are in
18 college? What's the difference?

19 A. Well, I think when they are in
20 college, that they have -- that their name --
21 you know, they have been under the institution
22 and under a -- you know, that they are part of
23 that college at that time and they are also
24 providing a service at that time. But after
25 that time they have -- you know, when they

1 step out of college, I feel it's a difference,
2 because they are not currently in that
3 college.

4 Q. Okay. So let's break that down a
5 little bit, Mr. Jacobson. Let's take TV as an
6 example. You testified that you knew your
7 games were on television when you played them,
8 correct?

9 A. Which one -- I knew --

10 Q. Your college games?

11 A. Some games were, yes.

12 Q. You knew that some of your college
13 games were on television at the time you were
14 there, you don't claim that you are owed any
15 money for the broadcast of those games when
16 they appeared while you were in college,
17 correct?

18 A. I don't know if they should be -- can
19 you restate the question?

20 Q. Sure.

21 A. If they are allowed money, you said?

22 Q. Yes. Well, strike that. I'll take it
23 even a step further back.

24 Do you claim that you should be compensated
25 for rebroadcasts of television games, so --

1 A. Yes.

2 Q. You played with the Lakers for two
3 seasons, season and a half?

4 A. For the first year, which was a
5 lockout year, and then the beginning of the
6 second year. I don't recall if we played a
7 game. I think I was just a part of a few
8 pre-season games.

9 Q. Then you got traded?

10 A. Then I was waived.

11 Q. And signed with the Warriors?

12 A. Correct.

13 Q. And what year did you play with the
14 Warriors?

15 A. I don't recall the exact date of
16 signing because it was close to '99/2000.

17 Q. Okay.

18 A. So it would have been the '99/2000
19 year, but I don't recall if I actually signed
20 before the new year or after. I believe it
21 was after but I don't recall.

22 Q. Okay. I'm sorry, when you say after
23 the --

24 A. The new year, so --

25 Q. After the new year --

1 A. That was the season of -- you know,
2 '98/'99 we -- was the first year, but we
3 actually didn't start playing our games
4 because that was the lockout year with the
5 Lakers, until '99. So the next year would
6 have been '99/2000. And when I was waived
7 there was a period of time between there where
8 I was not on a team. But I can't remember if
9 I actually started -- it was that season of
10 '99/2000.

11 Q. That you played with the Warriors?

12 A. Correct.

13 Q. And how many seasons did you play with
14 the Warriors?

15 A. Just that one season.

16 Q. And where did you go -- what did you
17 do after you left the Warriors?

18 A. I played briefly in Greece.

19 Q. What year was that?

20 A. That would have been --

21 Q. The fall of 2000?

22 A. Correct, I believe so.

23 Q. How long were you in Greece?

24 A. About a month or two.

25 Q. Why so short?

1 A. I was -- they released me.

2 Q. Okay. Where -- what did you do
3 after -- do you remember the name of that
4 team, first of all, in Greece?

5 A. Yes, it's Olympiakos.

6 Q. What did you do after you played
7 there?

8 A. I got into the Timberwolves' training
9 camp and then was signed by the Timberwolves.

10 Q. Signed by the Timberwolves in the
11 fall of --

12 A. That same year, 2000/2001.

13 Q. And did you -- how long did you remain
14 with the Timberwolves?

15 A. Just that one year.

16 Q. 2000/2001. Were you there the whole
17 year, whole season?

18 A. Yes.

19 Q. What did you do after that? So now
20 we're in the spring/summer of 2001.

21 A. Had surgery, did not play basketball.

22 Q. And have you played professional
23 basketball since -- since 2001?

24 A. Yes. I played in France, or in Italy,
25 then France.

1 Q. When did you play in Italy?

2 A. I can't recall the exact years. It
3 was around '06/'07.

4 Q. For both Italy and France?

5 A. Yep, because I started in Italy in the
6 same year and finished in France. So it was
7 the same basketball year but two different
8 countries.

9 Q. What did you do from 2001 to 2006?

10 A. I got my real estate license and I
11 worked for a company called ProvNet Mortgage.

12 Q. Provident?

13 A. ProvNet.

14 Q. ProvNet.

15 A. I don't remember exactly how to spell
16 it.

17 Q. Okay. ProvNet Mortgage a real estate
18 broker?

19 A. It's a mortgage broker.

20 Q. Mortgage broker.

21 A. Yeah.

22 Q. Any other employment in that 2001 to
23 2006 timeframe?

24 A. Not that I recall.

25 Q. What did you do after you came back

1 from playing professional basketball in Italy
2 and France in 2006 and 2007?

3 A. I finished my degree at the University
4 of Minnesota.

5 Q. What did you get your degree in?

6 A. Finance at Carlson School of Business.

7 Q. How -- how many classes were you
8 short?

9 A. Originally, it was around 16 credits
10 but then they added classes that you had to
11 finish school. Since the time I left school
12 to the time I went back they have added
13 classes that you needed to finish to graduate.
14 So there was added classes. And I don't
15 recall the exact number of credits but --

16 Q. How long -- sorry.

17 A. Sorry.

18 Q. Didn't mean to cut you off. How long
19 did it take you to finish up your degree?

20 A. It was that full year. So I think it
21 was 2008 if I can remember.

22 Q. Were you a full-time student at that
23 time?

24 A. Define a full-time student.

25 Q. Did you have any other employment?

1 (Exhibit Number 62
2 marked for identification).

3 BY MR. SLAUGHTER:

4 Q. Do you recognize Exhibit 62,
5 Mr. Jacobson?

6 A. I don't. I don't recall it but I have
7 an idea by the title of what it is.

8 Q. Was this in your files, among the
9 documents that you sent to your lawyer to be
10 produced in this case?

11 A. I believe so.

12 Q. And what is it?

13 A. The players contract, looks like by
14 the title.

15 Q. This is your contract with the Lakers,
16 correct?

17 A. I believe so.

18 Q. Take your time to look through it.
19 Let me know if it appears to be so. At the
20 very -- at the back, it shows what your
21 compensation is going to be. Maybe that will
22 refresh your recollection?

23 A. (Witness reviews document).

24 Q. You can unclip it if you need to.

25 A. I believe it to be. I don't know if

1 recall this one.

2 Q. Do you know who took this picture?

3 A. I don't.

4 Q. Do you know if whoever put this flyer
5 together got this from the University of
6 Minnesota?

7 A. I don't know.

8 Q. Did you ever have plans to try to sell
9 the rights to your name and likeness but for
10 some reason you didn't go forward with those
11 plans because of anything any of the
12 defendants had done to you?

13 MR. KING: Objection, form.

14 THE WITNESS: I never had plans --
15 did you say to sell my name?

16 BY MR. BOYLE:

17 Q. Sell the rights to your name or
18 likeness?

19 A. No, I never had a plan for that.

20 MR. BOYLE: Okay, can we go off
21 the record?

22 THE VIDEOGRAPHER: The time is
23 12:14 p.m. We're now off the record.

24 (Lunch recess.)

25 THE VIDEOGRAPHER: The time is

1 Q. So for being on the team back when
2 they were student athletes?

3 A. Correct, and I don't know what the
4 definition of what the -- the term of being on
5 the team is. You know, that's at a later date
6 to figure out what's the definition of -- you
7 know, I was on the team so I should be part of
8 the group, if that person was on the team for
9 one day or two months or one year or four
10 years. I don't know at this time what the
11 definition of that is.

12 Q. Okay. You testified previously about
13 when you went back to school to finish your
14 degree. Do you remember that?

15 A. Uh-huh.

16 Q. Did you receive any financial aid for
17 that?

18 A. I believe the U -- there was a reduced
19 pay or I believe they did help pay for the --
20 for me finishing my degree. I don't know what
21 the details were though. I don't remember.

22 Q. Mr. Slaughter asked you previously,
23 and actually maybe Mr. Boyle too, about the
24 flyers for the Jump Start program.

25 A. Yes.

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C E R T I F I C A T E

G E O R G I A:
FULTON COUNTY:

I hereby certify that the foregoing deposition was reported, as stated in the caption, and the questions and answers thereto were reduced to the written page under my direction; that the foregoing pages represent a true and correct transcript of the evidence given. I further certify that I am not in any way financially interested in the result of said case.

Pursuant to Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

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2 Huseby, Inc. to provide court
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5 any contract that is prohibited by O.C.G.A.
6 15-14-7 (a) or (b).

7 I have no written contract to
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9 to the case, any counsel in the case, or
10 any reporter or reporting agency from whom
11 a referral might have been made to cover
12 this deposition. I will charge my usual
13 and customary rates to all parties in the
14 case.

15 This, the 9th day of November, 2011.

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STEVE S. HUSEBY, CCR-B-1372
My Commission Expires
January 20th, 2015.