IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FOURTH DIVISION

REGGIE WHITE, et al.,	:	
Plaintiffs,	:	Civil Action No. 4-92-906
vs.	:	
NATIONAL FOOTBALL LEAGUE, et al.,	:	
Defendants.	:	

DECLARATION OF PAUL TAGLIABUE

1. I am Commissioner of the National Football League (the "NFL" or "League"), a position I have held since November 1989. Prior to my appointment as Commissioner, I was an attorney in private practice representing the NFL in a wide variety of matters from 1969 to 1989. I make this declaration in support of final court approval of the Stipulation and Settlement Agreement (the "Agreement"). I also respectfully refer the Court to my earlier declaration, made in support of preliminary court approval of the Agreement, which is equally relevant here and is incorporated herein by reference.

2. I was primarily responsible for negotiating the Agreement on behalf of defendants, the NFL and its 28

member clubs under the direction of The Executive Committee of the NFL Management Council ("CEC"). I have intimate and detailed knowledge of both the terms of the Agreement and the nature and substance of the negotiations leading up to the Agreement. Having been a principal in the negotiation of the Agreement, I believe very strongly that the proposed settlement is fair, reasonable, and adequate.

THE CHALLENGED TERMS OF THE AGREEMENT

3. I understand that a relatively small number of players and agents have lodged objections to various provisions of the Agreement. In each case, these objections are directed at provisions that the clubs deemed essential, and without which, the players would not have received from the NFL any form of free agency, other structural relief, or monetary payments. These provisions include those relating to the College Draft, Restricted Free Agents, Franchise and Transition Players, the Final Eight Plan, and the Salary Cap. I respectfully submit to the Court that the NFL would not have agreed to settle this litigation without these provisions.

4. The NFL's principal motivation for entering into this proposed settlement was to achieve long-awaited labor and litigation peace. After a bitter 5 1/2 year

battle with NFL players, the Agreement, when viewed as a whole, represents an arm's length and hard-bargained accommodation of the often divergent needs, interests, and perspectives of the League and its various member clubs, on the one hand, and of NFL players, on the other.

5. Indeed, the League and the NFL players, as represented by Class Counsel, have different views as to the purpose and need for rules which govern player allocation and movement in the NFL. Similarly, the parties are not in agreement with respect to the monetary damage, if any, that restraints on player movement may or may not cause or have caused. As such, the Agreement must, of necessity, reflect a compromise between the parties with regard to these issues, among others.

6. As the Court knows, the NFL believes that significant movement of the better players in an unconstrained manner will substantially reduce the League's competitive balance, disrupt team continuity, and adversely affect the quality of the NFL's entertainment product. To the extent that rules governing player allocation and movement prevent these effects, they are procompetitive, because they enhance the League's ability to compete with other forms of entertainment. In addition, such rules lead to higher League revenues which, in turn,

result in higher player salaries and greater financial stability for the League and its member clubs.

7. From the NFL's perspective, the Agreement is intended to meet the NFL's interest in preserving competitive balance, the high quality of its entertainment product, fan interest, and team and League-wide stability. To that end, the Agreement contains certain provisions designed specifically to achieve these goals. Such provisions include: (1) rules governing the selection and signing of college and other amateur football players; (2) restrictions on player movement during the first four or five years of a player's career (depending on whether the Salary Cap has been triggered); (3) provisions regarding the designation of Franchise and Transition Players; (4) the Final Eight Plan; and (5) the Salary Cap.

The College Draft

8. The college draft is one of the central provisions in the Agreement. The college draft is the mechanism by which incoming player talent is distributed among the NFL clubs. Each club receives one selection in each round of the draft; clubs with the worst records the preceding season are given the first choices in each round. It is my understanding that every professional

sports league has had a draft, organized in essentially the same manner, since at least the 1960s.

9. The NFL believes that the draft mechanism is absolutely essential to its ability to maintain competitive balance because it: (i) provides all NFL clubs access to the most talented incoming players on comparable terms prior to each new season, and (ii) provides the weaker teams with a better opportunity to improve themselves by according them the highest selections in each round.

10. The draft contemplated by the proposed settlement is the least restrictive in League history. The draft, which was twelve rounds under the 1977 and 1982 Collective Bargaining Agreements, has been reduced this season to eight rounds. This modification is again the product of compromise between the League and NFL players. The eight-round draft still provides for the equitable distribution of rights to the best college players, thereby furthering the pro-competitive effects of competitive balance, while providing a larger number of entering players with the opportunity to market their services to clubs of their own choosing. The League's willingness to agree to a less comprehensive drafting mechanism is a reflection of its strong desire to reach

an accord with NFL players, and of other provisions of the Agreement.

11. The proposed settlement also provides for a so-called "entering player pool" from which all drafted players are to be compensated. Incoming players will negotiate their salaries individually within the pool; thus, the entering player pool does not represent a wage scale. The total amount available in the pool for 1993 is the average of the total amount spent on drafted players in the first eight rounds over the past three seasons. The pool will be adjusted annually to account for any increases in League revenues, and it can never decline in absolute dollar terms from year to year.

Restricted Free Agency

12. Certain class members have also objected to the "restricted free agency" provisions of the proposed settlement. Under these provisions, players with more than three but less than five (less than four in a "capped" year) seasons of accrued service whose contracts have expired are designated "Restricted Free Agents." Clubs may retain first refusal and compensation rights as to such players by making contract offers of specified amounts -- in general, the higher the offer, the greater the rights acquired. With the limited exceptions dis-

cussed below, all players with expired contracts become unrestricted free agents before the start of their sixth (or, in "capped" years, fifth) season.

13. Under the terms of the proposed settlement, a Restricted Free Agent is permitted to market his services to other teams but, if another club makes him an offer, the player's club has the right to match the competing offer. Alternatively, the club will receive draft choices to compensate it for the loss of a valuable player. Either way, by ensuring that clubs have the ability to seek to maintain their own playing talent, or to receive compensatory playing talent in the event they were to lose their player, the restricted free agency provisions protect the ability of individual clubs to remain competitive, and the ability of the League to remain competitively balanced.

14. In my opinion, the rules limiting the movement of restricted free agents are eminently reasonable. As an initial matter, these provisions affect a limited number of players -- in seasons where no Salary Cap is in effect, players with more than three but less than five years of accrued service, and, in "capped" seasons, fourth-year players only. In addition, the restricted free agents are entitled to seek offers and

negotiate with multiple teams (as many such players are currently doing). They are required to receive high salary tenders in order for rights of first refusal or compensation to be maintained; and the maximum draft choice compensation to a club in the event it does not re-sign such a player -- one first round draft choice and one third round draft choice -- is less than the two first round draft choices provided for under the prior system.

15. The restricted free agency provisions are obviously vital to the League's ability to maintain competitive balance, team continuity, and quality of play. Fourth and fifth-year players are generally key contributors to a club's success, having spent much of the first three years learning the club's system and honing their skills; in this respect, limiting their ability to change teams preserves the balancing effects of the draft.

16. The right of first refusal and compensation provisions attaching to Restricted Free Agents also strikes a balance between the NFL's goals in maintaining competitive balance, team continuity, and quality of play, and the players' interests in greater mobility. While it is true that these provisions are designed to protect and promote the League's legitimate business

interests, rights of first refusal and the relaxed compensation rules provided for under the Agreement, by themselves, have not deterred competitive bidding. Indeed, to date, at least eight players subject to these provisions with fewer than five years of NFL experience have received offers from other teams of which five offers were matched, and three were not.

Franchise and Transition Player Designations

17. A very strong concern of the clubs in an environment of substantial unrestricted free agency was their ability to retain certain key members of their playing squads. The NFL and its clubs felt this was necessary for several reasons; to preserve competitive balance by insuring that even the weaker or less well-financed teams could retain their top players; to preserve a degree of squad continuity; to maintain the quality of the League's entertainment product; and to maintain fan support, which often turns on whether certain players remain with the team.

18. In response to these concerns, the Franchise and Transition Player provisions were developed. Under the terms of the Agreement, each team is able to designate a specified number of its "star" players -- precisely the type of players that the Eighth Circuit

Court of Appeals in Mackey and Reynolds recognized the NFL has a legitimate interest in restricting -- as the team's Franchise or Transition Players.

19. The Franchise Player provision of the proposed settlement allows each club to restrict one critical player each year of the Agreement. This provision allows both the club and, more importantly, the fans, to be secure in the knowledge that a chosen star will remain with the team from year to year. Should the club ever choose to withdraw the Franchise Player designation, the player in question would immediately become a free agent. The Franchise Player designation was intended to be separate and apart from the Transition Player designation. The clubs felt it was critical that at least one key player (in fact, because NFL teams play with separately comprised offensive, defensive, and special team units, the clubs had sought to have the right to designate more Franchise Players and at differently defined salary levels than the Agreement provides) would be assured of being with the team in the following season.

20. We emphasized during the negotiations that a right of first refusal alone would not be an adequate substitute for the Franchise Player rights. First, a

right of first refusal would not eliminate the prospect of a "blockbuster offer" being tendered by a better-financed rival. In such a circumstance, the old club would be weakened in either possible scenario; either the club would lose its Franchise Player to a rival team, or, if it decided to match the offer, the club might have to forgo its opportunity to sign other players. In many cases, team development, planning, and player selection efforts over a period of years could be negated or seriously undermined if a club were unable to retain the services of a critical player on one of the core units of its team. Second, in years in which a Salary Cap is in effect, a right of first refusal alone would be unavailing and unfair both to the old club and to the other players on the club's roster. The old club may find itself unable, because of the cap, to retain a critical player on one of the core units of its team. Alternatively, the club's other players may find their own salaries reduced because the club must pay an exorbitant amount to retain its Franchise Player while still complying with the Salary Cap requirements. In all cases, the individual club's ability to remain competitive is hindered. For these reasons, the League and the clubs felt it was important that there be at least one player as to

whom each team held exclusive negotiating rights, though at "pegged" star salary levels subject to free agency market indexing, and the Agreement reflects this compromise.

21. The Franchise Players are not unreasonably restrained as a result of their designation, and they will not be limited to employment opportunities or salary levels that are unfair, arbitrary, or unbalanced in relation to the employment terms or salaries of players not so designated. For instance, while the Franchise Player is restricted from negotiating with other teams, he is also, under the terms of the Agreement, guaranteed to earn at least a salary amounting to the greater of: (1) the average of the five highest paid players at the designated player's same position, or (2) a 20% increase from the designated player's previous year's salary. Thus, the Franchise Player will automatically qualify as one of the highest paid players at his position in the entire League and his salary for successive seasons will be linked, under a generous and realistic guideline, to the salaries of other players of equivalent skill, ability, and length of service.

22. The objectors also seemingly ignore the fact that the required tender that must be made to the

Franchise Players is simply a floor and not a ceiling on their earnings. Thus, it is most unlikely, given the undeniable bargaining power that these star players have, that the Franchise Player provisions of the proposed settlement will, in any way, unfairly limit the earning potential of Franchise Players.

23. Under the terms of the proposed settlement, clubs may also designate two Transition Players this season, one Transition Player next season, and one Transition Player in 1999. In addition, clubs may designate one additional Transition Player in lieu of naming a Franchise Player. Transition Players, like Restricted Free Agents, are free to market their services on a competitive basis to all clubs; their old clubs maintain only a right of refusal and no compensation rights.

24. The purpose of the Transition Player provision is to allow clubs to ameliorate the disruptive and potentially destabilizing effects of the transition from the prior NFL player employment terms to the terms of the proposed settlement by entitling clubs to designate a limited number of their most important players and to give the clubs the choice of whether to retain such players for the highest price the market will produce.

25. The Transition Player provisions of the

proposed settlement do not and cannot unreasonably limit the employment opportunities or salaries of a player so designated. Under the terms of the Agreement, a Transition Player is entitled to earn at least a salary amounting to the greater of: (1) the average of the salaries of the ten highest paid players at the designated player's same position, or (2) a 20% increase in the designated player's previous year's salary. Again, these provisions automatically guarantee that the player will be among the highest paid at his position in the League.

26. In addition, the right of first refusal provisions applicable to Transition Players are not unduly restrictive, or discriminatory, or arbitrary in relation to either the overall terms of the proposed settlement or the provisions applicable to other players similarly situated. Currently, for example, the Transition Players are negotiating in a marketplace in which total club salaries and player expenditures are "uncapped." In future seasons, as the rights of the clubs to designate Transition Players become increasingly more limited and are eventually unavailable, "cap" provisions may or may not be applicable. In any event, in the short period since the Agreement took effect on February 26, of the sixteen Transition Players whose contracts have expired,

at least three have received offers from other teams, and one Transition Player has contracted with a new club and changed teams. It is realistic to expect that additional players will similarly obtain new employment prior to the 1993 season under the Transition Player provisions.

The Final Eight Plan

27. Under the terms of Final Eight Plan, the top eight clubs in the prior season's playoff and championship competition are limited, for reasons of competitive balance, in the number of top free agents they may sign; the remaining twenty clubs are free to sign as many free agents as they wish. These provisions are, however, qualified by a number of carefully-designed and negotiated limitations. First, the rules allow the top clubs to sign free agents to replace any they may have lost. The obvious rationale for this term is that, while dominant clubs should not be able to stockpile additional top talent, they should not be unduly limited by their past success in their efforts to maintain the quality of their team and to replace key losses of playing talent. Second, the Final Eight provisions apply only in years -- such as the current year -- in which no Salary Cap is in effect; the provisions do not apply when a Salary Cap is equally applicable to the player spending of all 28

clubs. Obviously, these terms also reflect give-and-take and compromise in the negotiations leading to the proposed settlement. The terms are rooted in requirements of competitive balance, and recognize the competitive playing field advantages that could be obtained by a dominant team in signing additional top playing talent in an unconstrained or "uncapped" marketplace. As the Court is aware, concepts of this type were presented on behalf of the plaintiffs in the McNeil case in support of their contention that alternative, less restrictive systems could be implemented to accord players broader negotiating opportunities while preserving the competitive balance interests of the NFL member clubs. As noted above, in "capped" years of the Settlement Agreement, the clubs have agreed to terms regarding free agency that do not involve the provisions of the Final Eight Plan on the premise that the equal amount of salary "room" under the cap available to all clubs will then make it unlikely that any club -- even "winning" teams -- will be able to secure an unfair competitive playing field by signing free agent players under those conditions.

28. The Final Eight Plan also seeks to protect the quality of the League's product by placing limits on the ability of the upper echelon teams from using their

success to strengthen themselves further. In short, this provision is designed to prevent member clubs from utilizing the mechanism of liberalized free agency to build dominant teams -- capable of winning championships year after year. At the same time, the provision assures that free agent players will nonetheless have a large number of teams in the marketplace from which to solicit offers. It also forces free agents to consider offers from weaker teams, thereby helping to distribute available free agent talent on a more widespread and equitable basis.

The Salary Cap

29. The Salary Cap provisions of the proposed settlement are quite complex and will only briefly be summarized here. First, the cap is not "triggered" until player costs exceed 67 percent of "designated gross revenues," as that term is defined in the Agreement. Second, once the cap is triggered, it begins at 64 percent of designated gross revenues and never falls below 62 percent. And, third, in all "capped" years, there is a guaranteed League-wide salary of 58 percent of designated gross revenues and a minimum team salary of 50 percent.

30. The Salary Cap was also designed with considerations of competitive balance in mind. As indicated above, the Salary Cap is intended to limit the

ability of the more successful and better situated clubs to acquire a disproportionate number of the highest priced players. In addition, the Salary Cap is designed to promote (though not assuring) the continued financial stability of the League and its 28 member clubs. This will, in turn, benefit not only the clubs themselves, but also the players, and most importantly, the customers and consumers of the NFL's "product" (the fans). At the same time, neither the Salary Cap itself nor the other provisions of the proposed settlement will necessarily ensure the continued financial stability of each of the 28 member clubs nor ensure the clubs against losses or other entrepreneurial risks in the highly competitive sports-entertainment marketplace in which they operate. Indeed, while they support the proposed settlement, a number of NFL clubs view its terms as involving both new and substantial risks to their continued successful operation and as a risky alternative to other player employment systems that might lawfully be implemented and maintained under the federal labor and antitrust statutes. Acceptance of these risks was, however, another element of the compromise that resulted from the intensive, arm's length negotiations that produced the proposed settlement.

31. As with the other challenged provisions of

the proposed settlement, the objectors fail to acknowledge the above-mentioned pro-competitive benefits of the Salary Cap and overstate the effects of any cap on salaries. Indeed, salaries must increase from their current levels before the cap is triggered and, if revenues continue to rise, the opportunity will remain for further increases.

32. The recent free agency experience of Reggie White serves as a useful example of how the Final Eight Plan, working in conjunction with the prospect of a Salary Cap, was designed to work and will, in fact, operate. Because Mr. White desired a multi-year contract and expected to be paid at unprecedented levels, I believe that the expectation of a Salary Cap for next year, as well as the competitive balance limitations applicable to the "winning" clubs under the Final Eight Plan, gave the Green Bay Packers an advantage over various other clubs in structuring multi-season contract terms attractive to Mr. White. This example demonstrates how the Stipulation and Settlement Agreement serves to promote competitive balance and equitable competitive conditions within the League and among teams operating in broadly varying circumstances.

33. For all of the above reasons, I firmly

believe that the above-referenced provisions of the Agreement constitute a reasonable accommodation of the often divergent needs and interests of the parties.

THE LICENSING LITIGATION

34. The Philadelphia Eagles have also objected to the Agreement. As an initial matter, I believe that the Eagles' challenge to the proposed settlement violates the express terms of the Stipulation and Settlement Agreement (Article III, ¶ 1). In addition, under the Articles of Association and Bylaws of the NFL Management Council and several resolutions adopted by the NFL member clubs, the Eagles are bound to the terms of the Stipulation and Settlement Agreement, and are not entitled now to object to the Agreement. Those resolutions, attached hereto as Exhibits A and B, demonstrate that the NFL member clubs, including the Eagles, voted to delegate complete authority to the NFL Management Council Executive Committee (the "CEC") to conclude a settlement of the labor-related litigations, and that the CEC properly exercised its authority under that delegation to approve the proposed settlement here.

35. Many of the assertions made in the Eagles' submissions objecting to the proposed settlement are both misleading and inaccurate. The Eagles fail to state that

they have an ongoing disagreement with the CEC regarding the compensatory draft selections that are to be provided to clubs who may "lose" the services of certain named plaintiffs currently or in the future. The Eagles are also demanding compensatory draft pick selections in return for the club's "loss" of Keith Jackson, a player who was released pursuant to this Court's order in Jackson v. NFL. If it were not for these ongoing disputes, the Eagles' objections to the proposed settlement would not have been filed.

36. At all times during the course of the settlement discussions relating to this case, the NFL licensing litigation (hereinafter the "NFL Properties' cases"), and various other related litigation, the League has kept all of its member clubs well-informed. There were a number of League or Management Council meetings in 1991, 1992, and early 1993 at which the clubs were given in-depth and detailed reports on the status of these settlement negotiations. These included regular sessions of annual League or Management Council meetings in October 1991, and March, May, and October 1992, as well as special League or Management Council meetings in (among others) July, September, and December 1992, and January 1993. With respect to the settlement of the NFL Proper-

ties' cases, in particular, Mr. Braman, the Eagles' owner, was kept apprised in depth of the status of these negotiations by executives of the League, the Management Council, and NFL Properties, because, among other things, he served at all relevant times as the Chairman of the Executive Committee of NFL Properties and was actively involved for many months in proposing and evaluating financial, licensing, and other terms for the settlement of the NFL Properties' cases.

37. NFL Properties is an entity owned by the 28 member clubs of the NFL. Its principal business is the licensing of the names, logos, uniform designs, and other identifying marks of the NFL (the "NFL Marks") for use in promotions and on licensed retail merchandise. The origin of the claims in the NFL Properties' cases dates back to the late 1980's and 1990, when NFL Properties made certain changes in respect of player licensing programs and expanded its business to include programs in which it would license the right to use the images, names, signatures, and other publicity rights of NFL players along with the NFL Marks. Essentially, the NFL Properties' cases involve allegations that NFL Properties' business decision to expand into the player licensing business unlawfully interfered with NFLPA existing

player licensing rights and to license their rights to third parties.

38. As part of the agreement in principle to settle the NFL Properties' cases, the NFL, without admitting liability, has agreed (i) to pay the plaintiff NFLPA $10 million; (ii) to sublicense certain of the contested players' rights back to the plaintiff NFLPA; and (iii) to assign to the NFLPA certain licensing agreements with manufacturers that had licensed players' rights from NFL Properties.

39. Mr. Braman has commented to me, or in my presence, on the proposed terms of the NFL Properties' settlement and, indeed, has strongly supported such a settlement. Specifically, Mr. Braman has stated that: (i) the football "card business" may well have peaked and may not continue to be attractive for NFL Properties; (ii) that the settlement contemplated was a very fair arrangement with the NFLPA; and (iii) that, as Chairman of the NFL Properties Executive Committee, he was satisfied that the proposed settlement would serve the interests of the member clubs, NFL Properties, the League, and the players.

40. Despite Mr. Braman's efforts to secure the licensing settlement, the Eagles have objected to the contemplated settlement of the NFL Properties' cases claiming that such settlement will preclude NFL Properties from competing in the player licensing business and will give the NFLPA the exclusive right to license NFL player identities in the future. Such claims are simply wrong.

41. NFL Properties will continue to market NFL Game Day and Classic NFL Pro Line Collection trading cards for the foreseeable future in order that it may recoup certain substantial expenses incurred in obtaining player licenses and in continuing to perform certain player agreements. In any event, through the NFL Quarterback Club, NFL Properties will continue to represent up to 40 of the star players in the League with respect to individual and group retail licensing opportunities. Thus, the terms of the contemplated settlement do not require NFL Properties to "exit" the player licensing business.

42. Contrary to the assertions made in the Eagles' submission objecting to the proposed settlement, the NFL, as part of the contemplated settlement of the NFL Properties' cases, did not agree to refrain from

competing with the NFLPA for rights to license group player identities, either when the NFLPA viewed itself as a trade association or subsequently. Further, there is no provision in the proposed settlement that would prevent other companies from competing with the NFLPA for the right to sell players' publicity rights. While the League is aware that the NFLPA will attempt to bargain collectively on behalf of the players in its unit for the right to be the exclusive group licensing agent of NFL players, the NFL has not to date reached such an agreement and we recognize that any such arrangement must be concluded in the context of collective bargaining. Indeed, past collective bargaining agreements in the NFL have addressed player licensing issues and representatives of the National Labor Relations Board have opined that such matters are mandatory subjects of bargaining. Thus, while the NFLPA may pursue such an agreement in collective bargaining, it is not part of the settlement negotiated with regard to settlement of the NFL Properties' cases.

43. For these reasons, I submit that none of the Philadelphia Eagles' objections to the Agreement has merit, and none warrants the disapproval of the Agreement.

FORMATION OF THE UNION

44. Prior to January 6, 1993, the date on which the parties reached a tentative agreement to settle this action and a host of related litigation, Class Counsel, as well as representatives of the NFLPA (particularly Messrs. Upshaw and Berthelsen) who consulted with Class Counsel, consistently maintained that they would not collectively bargain with League representatives. They similarly maintained that the NFLPA representatives were no longer authorized to collectively bargain on behalf of NFL players and that no meeting or negotiation aimed at settling this and related litigation could, under any circumstances, be construed as collective bargaining.

45. After agreement in principle was reached on January 6, the NFL and NFL clubs were informed that the Board of the NFLPA had voted to attempt to constitute itself as the exclusive collective bargaining representative of NFL players. Thereafter, NFLPA officials informed League representatives, including myself, that it had begun to collect authorization cards from NFL players in an effort to constitute itself as the sole and exclusive bargaining agent of all present and future NFL play-

ers. At no time during this process did the NFL improperly assist the NFLPA.

46. By letter to me dated, March 23, 1993, Richard A. Berthelsen, General Counsel of the NFLPA, officially informed the NFL that "[a] majority of the players on 1992 season-ending rosters have now signed cards authorizing the NFLPA to represent them for purposes of collective bargaining." See Exhibit C attached hereto. At that time, Mr. Berthelsen requested that the NFL voluntarily recognize the NFLPA as the exclusive collective bargaining agent for NFL players. After confirmation of the authenticity of the cards by an independent entity (the American Arbitration Association), the NFL voluntarily recognized the NFLPA as the exclusive collective bargaining representative of NFL players by letter dated, March 29, 1993. See Exhibit D attached hereto.

47. At no time during the NFLPA's efforts to constitute itself as the collective bargaining representative of NFL players, did the NFL, or any of its member clubs, take any action to hinder or support the formation of the players' union. The NFL has always recognized that the decision whether or not the NFLPA should be the

players' collective bargaining representative was solely up to the players.

PRESEASON PAY

48. I am also aware that the law firm of Yablonski, Both & Edelman ("Yablonski") filed various objections on behalf of a handful of players to preliminary approval of the settlement agreement. Even though they have not filed objections to the final approval -- indeed, the named plaintiffs in the Tice case have settled their claims -- I want the record to reflect certain errors in the Yablonski factual assertions.

49. As I noted in my earlier declaration, negotiations over a possible global settlement of the labor dispute between the NFL clubs and NFL players were conducted intermittently over the 5 1/2 years preceeding the execution of the Agreement. The most serious and intensive of these negotiations began shortly before the start of the McNeil trial and continued during and after the trial.

50. During these negotiations, I advised the players' representatives (including Messrs. Quinn, Kessler, Upshaw, and Berthelsen) on numerous occasions that the NFL was negotiating with the expectation that such discussions would lead to a global litigation set-

tlement -- one that would encompass all systemic challenges to the NFL's rules governing player selection and retention and to the NFL Player Contract. In particular, I made clear that any settlement would have to include all claims for damages based on NFL preseason pay policies of the kind asserted by plaintiffs in Tice v. Pro Football, Inc., Civ. No. 91-2314 (D.D.C.), a case then-pending in the federal district court in the District of Columbia. As a result of these statements, which plaintiffs' representatives acknowledged and with which they agreed, negotiations proceeded on the basis that resolution of the preseason pay dispute was a sine qua non of any agreement. (When certain other claims by developmental squad players were adjudicated in a jury trial in the early Fall of 1992, those claims -- and only those claims -- were exempted from the "global" settlement.)

51. Throughout our negotiations in late 1992, I was informed by Class Counsel and the players' negotiators that they would work with Yablonski, then-counsel of record for all Tice plaintiffs, and bring about a settlement of the preseason pay dispute within the context of a contemplated global settlement. I was also assured that there were no insurmountable problems to resolving the preseason pay dispute as part of the larger settlement.

I received such assurances at least through January 5-6, 1993, when representatives of the parties met with this Court and then reached an agreement in principle on settlement terms. This was, obviously, subsequent to December 18, 1992, the date on which Yablonski informed the NFL, through our attorneys, of its interest in having the Tice claims excluded from the global settlement.

52. On January 6, 1993, after extensive discussion, the mutual exchange of substantial concessions on both sides, and a meeting with the Court concerning several remaining matters, the parties reached an agreement in principle. Subsequent discussions have resulted in a fully executed Stipulation and Settlement Agreement. The Agreement provides for the settlement of numerous outstanding litigation matters, including claims based on NFL preseason pay policies.

53. Following the parties' agreement in principle on January 6, I participated in discussions with Yablonski regarding the portion of the $115 million in settlement payments that would be allocated to preseason pay claimants. For example, I spoke by telephone with Yablonski on January 22, 1993, and asked League counsel to confirm in writing the proposal that I had made. In this regard, I was seeking to facilitate a consensus on

the portion of the agreed-upon settlement payments that should be accorded to preseason pay claims. Yablonski was fully informed about the role I was playing. However, because Yablonski's valuation of the preseason pay claims far exceeded the estimates generated both by the NFL and by the players' settlement representatives themselves, I was unable at that time to secure Yablonski's commitment to the terms that had been agreed upon.

54. The players' representatives have now concluded that approximately $5 million of the proposed settlement fund will be allocated to preseason pay claimants, who are represented by plaintiff Dave Duerson in this litigation. In contrast to the payments to be made in connection with claims regarding Plan B, which payments will be made over a period of years, payments on preseason pay claims are due to be made promptly, and in full, immediately upon final Court approval, and the determination of any appeals therefrom. Based on my understanding of the preseason pay claims, my understanding of the claims regarding Plan B and other NFL player employment practices, the substantial counterclaims associated with the preseason payment claims and the considerable uncertainties and extreme delays that would likely accompany any attempt to determine damages incurred by

individual preseason pay claimants, I have no doubt that this allocation of funds is fair, reasonable, and adequate.

CONCLUSION

55. In sum, nothing I have seen in the way of objections to the proposed settlement has altered my firm belief, as stated in my earlier declaration, that the proposed settlement, in its entirety, represents a fair, reasonable, and adequate resolution of this labor dispute.

56. I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th day of April, 1993.

Paul Tagliabue