

## NOTICE OF ALLEGATIONS

to the

President of University of Arizona

### A. Processing Level of Case.

Based on the information contained within the following allegations, the Complex Case Unit (“CCU”) believes this case should be reviewed by the hearing panel of the Independent Accountability Resolution Process (“IARP”) pursuant to procedures applicable to a severe breach of conduct (Level I violation).<sup>1</sup>

### B. Allegations.

1. [NCAA Division I Manual Bylaws 10.01.1, 10.1, 10.1-(b), 10.1-(c), 10.1-(g) and 13.2.1 (2015-16); 12.11.1, 15.01.5, 16.8.1, 31.2.2.3 and 31.2.2.4 (2016-17 and 2017-18); and 14.1.2.1-(a) and 14.1.2.1-(b) (2017-18)]

It is alleged that between March 2016 and September 2017, Mark Phelps (Phelps) and Emanuel "Book" Richardson (Richardson), then assistant men's basketball coaches, violated the principles of ethical conduct, engaged in pre-enrollment academic misconduct and/or provided an impermissible recruiting inducement when they knowingly arranged for false academic transcripts for two then men's basketball prospective student-athletes. The prospect in Allegation No. 1-(a) subsequently enrolled at the institution and, as a result, practiced; competed in [REDACTED] contests, including postseason contests; and received institutional financial aid and actual and necessary expenses while ineligible during the [REDACTED]. Specifically:

- a. Beginning in March 2016, Richardson violated the principles of ethical conduct, engaged in pre-enrollment academic misconduct and provided a recruiting inducement when he knowingly arranged for and/or paid \$40,000 to obtain fraudulent academic credit and/or a false academic transcript for then men's basketball prospective student-athlete [REDACTED]. Specifically, Richardson arranged for and/or paid \$40,000 to obtain a fraudulent academic credit and/or transcript from [REDACTED] in [REDACTED], which [REDACTED] needed to meet NCAA initial eligibility standards. [REDACTED] The fraudulent academic transcript was provided to the institution and subsequently to the NCAA Eligibility Center, which used the courses to certify [REDACTED] initial eligibility. [NCAA Bylaws 10.01.1, 10.1, 10.1-(b), 10.1-(c), 10.1-(g) and 13.2.1 (2015-16) and 15.01.5 (2016-17 and 2017-18)]

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<sup>1</sup> Pursuant to NCAA Bylaw 19.7.7.1 of the 2021-22 NCAA Division I Manual, if violations from multiple levels are identified in the notice of allegations, the case shall be processed pursuant to procedures applicable to the most serious violation(s) alleged.

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- b. Between August and September 2017, Phelps engaged in pre-enrollment academic misconduct when he arranged for a false or inaccurate academic record for then men's basketball prospective student-athlete [REDACTED]. Specifically, Phelps arranged for [REDACTED] to receive a fraudulent academic transcript for a [REDACTED], which [REDACTED] needed to meet NCAA initial eligibility standards. [REDACTED]. The fraudulent academic transcript was provided to [REDACTED] through Coach Phelps' coordination, [REDACTED]. While [REDACTED], the fraudulent credit was added to his [REDACTED] transcript, which was provided to the Eligibility Center.<sup>2</sup> [NCAA Bylaws 14.1.2.1-(a) and 14.1.2.1-(b) (2017-18)]

**Level of Allegation No. 1:**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 1 is a severe breach of conduct (Level I) because the violations (a) provided or were intended to provide substantial or extensive recruiting or competitive advantages; (b) provided or were intended to provide a substantial or extensive impermissible benefit; (c) were intentional or showed reckless indifference to the NCAA constitution and bylaws; and (d) involved academic misconduct and unethical or dishonest conduct, which seriously undermined or threatened the integrity of the NCAA Collegiate Model. [NCAA Bylaws 19.01.5, 19.1.1, 19.1.1-(b), 19.1.1-(d), 19.1.1-(f) and 19.1.1-(h), and NCAA Constitution 2.5 (2020-21)]

**Involved Individual:**

The CCU believes the hearing panel of the IARP could enter a show-cause order pursuant to NCAA Bylaw 19.9.5.4 regarding Phelps' and Richardson's involvement in Allegation No. 1.

2. [NCAA Division I Manual Bylaws 10.01.1, 10.1, 10.1-(d) and 11.1.3 (2016-17 and 2017-18)]

It is alleged that during at least March through September 2017, Emanuel "Book" Richardson (Richardson), then assistant men's basketball coach, violated the NCAA principles of ethical conduct when he knowingly solicited and accepted \$20,000 in cash bribes from representatives of LOYD, Inc. (LOYD), a business management company for professional basketball players, in exchange for his agreement to facilitate University of Arizona men's basketball student-athletes' use of LOYD's services when they turned

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<sup>2</sup> The Eligibility Center identified the fraudulent academic credit and/or false transcript prior to completing [REDACTED] initial eligibility certification.

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professional. Specifically, beginning in March 2017 and continuing through September 2017, Richardson engaged in multiple conversations and meetings with LOYD representatives regarding his agreement to facilitate men's basketball student-athletes' use of LOYD's services. As a part of this agreement, Richardson accepted a \$5,000 cash bribe from LOYD representatives in New York City on or about June 20, 2017; accepted a \$15,000 cash bribe from LOYD representatives in New Jersey on or about July 20, 2017; and helped facilitate meetings on or about August 29, 2017, between then men's basketball student-athlete [REDACTED]; Christian Dawkins (Dawkins), a representative of LOYD and former runner for ASM Sports; and [REDACTED], [REDACTED], and on or about August 30, 2017, between Dawkins, [REDACTED] and Munish Sood and Jill Bailey, both representatives of LOYD.

### **Level of Allegation No. 2:**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 2 is a severe breach of conduct (Level I) because the alleged violations (a) provided or were intended to provide a substantial or extensive impermissible benefit to a staff member at a member institution, (b) involved unethical conduct, (c) seriously undermined or threatened the integrity of the NCAA Collegiate Model, (d) were intentional or showed reckless indifference to the NCAA constitution and bylaws and (e) constituted egregious misconduct inconsistent with the affirmative responsibilities and behavior expectations of college coaches. [NCAA Bylaws 19.01.5, 19.1.1, 19.1.1-(d) and 19.1.1-(h) (2020-21)]

### **Involved Individual:**

The CCUf believes a hearing panel of the IARP could enter a show-cause order pursuant to NCAA Bylaw 19.9.5.4 regarding Richardson's involvement in Allegation No. 2.

3. [NCAA Division I Manual Bylaws 16.11.2.1 and 16.11.2.2-(a) (2016-17) and 12.11.1 and 16.8.1 (2017-18)]

It is alleged that June 29, 2017, Mark Phelps (Phelps), then assistant men's basketball coach, provided an impermissible benefit in the form of a \$500 loan to then men's basketball student-athlete [REDACTED]. Specifically, Phelps provided [REDACTED] \$500 in cash so [REDACTED] could purchase a plane ticket to [REDACTED] to visit his [REDACTED]. On July 11, 2017, [REDACTED] repaid the loan to Phelps. As a result of the impermissible benefit, [REDACTED] received travel related expenses and competed in [REDACTED] contests while ineligible.

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### **Level of Allegation No. 3:**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 3 is a significant breach of conduct (Level II) because the violation (a) included more than a minimal impermissible benefit, (b) was intentional or showed reckless indifference to the NCAA constitution and bylaws as detailed in Allegation No. 4-(a) and (c) is more serious than a Level III violation. [NCAA Bylaws 19.1.2 and 19.1.2-(a) (2021-22)]

### **Involved Individual:**

The CCU believes a hearing panel could enter a show-cause order pursuant to NCAA Bylaw 19.9.5.4 regarding Phelps' involvement in Allegation No. 3.

4. [NCAA Division I Manual Bylaws 10.01.1, 10.1, 10.1-(c) and 19.2.3 (2016-17 and 2018-19) and 19.2.3-(b) (2018-19)]

It is alleged that in July 2017 and January 2019, Mark Phelps (Phelps), then assistant men's basketball coach, violated the NCAA principles of ethical conduct and cooperation when he instructed a then men's basketball student-athlete to delete a text message thread related to an NCAA violation and knowingly provided false or misleading information to the institution and NCAA enforcement staff regarding his knowledge of or involvement in NCAA violations. Specifically:

- a. During a July 10, 2017, text message exchange, Phelps instructed then men's basketball student-athlete [REDACTED] to delete the text message thread evidencing the \$500 cash loan outlined in Allegation No. 3 in order to conceal the violation. [NCAA Bylaws 10.01.1, 10.1, 10.1-(c) and 19.2.3 (2016-17)]
- b. During his January 15, 2019, interview, Phelps, then an institutional employee, knowingly provided false or misleading information to the institution and NCAA enforcement staff when he denied knowledge of or involvement in arranging for a false or inaccurate academic record for then men's basketball prospective student-athlete [REDACTED] as outlined in Allegation No. 1-(b). The factual information in this case supports Phelps' involvement in the scheme to provide a fraudulent transcript that included a [REDACTED].<sup>3</sup> [NCAA Bylaws 10.01.1, 10.1, 10.1-(c), 19.2.3 and 19.2.3-(b) (2018-19)]

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<sup>3</sup> Phelps also provided false or misleading information during an August 25, 2019, interview after the institution terminated his employment. This allegation is included as Allegation No. 1 in a post-separation notice of allegations.

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### **Level of Allegation No. 4**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 4 is a severe breach of conduct (Level I) because the violations (a) involved unethical or dishonest conduct and violations of the cooperative principle, which are presumed Level I; (b) seriously undermined or threatened the integrity of the NCAA Collegiate Model; and (c) were intentional or showed reckless indifference to the NCAA constitution and bylaws. Furthermore, the responsibility to cooperate is paramount to a full and complete investigation, which the membership identified as critical to the common interests of the Association and preservation of its enduring values. [NCAA Bylaws 19.01.1, 19.1.1, 19.1.1-(c), 19.1.1-(d) and 19.1.1-(h) (2020-21)]

### **Involved Individual:**

The CCU believes the hearing panel of the IARP could enter a show-cause order pursuant to NCAA Bylaw 19.9.5.4 regarding Phelps' involvement in Allegation No. 4.

5. [NCAA Division I Manual Bylaws 13.1.2.1 and 13.1.2.7-(a) (2015-16 and 2016-17)]

It is alleged that on at least one occasion Mark Phelps (Phelps), then men's basketball assistant coach, directed a men's basketball student-athlete to assist in the recruitment of a then men's basketball prospective student-athlete in violation of NCAA legislation regarding permissible recruiters. Specifically, on July 29, 2016, Phelps sent a text message to then men's basketball student-athlete [REDACTED] instructing him to help recruit two then men's basketball prospective student-athletes [REDACTED] and [REDACTED] while attending an Adidas Nations event. Subsequently, on August 1, 2016, [REDACTED] reported back to Phelps his conversation with [REDACTED] regarding [REDACTED] interest in the institution.

### **Level of Allegation No. 5**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 5 is a breach of conduct (Level III) because the violation (a) was isolated and limited and (b) provided no more than a minimal recruiting advantage. [NCAA Bylaw 19.1.3 (2020-21)]

### **Involved Individual(s):**

None.

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6. [NCAA Division I Manual Bylaw 11.1.1.1 (2015-16 through 2017-18)]

It is alleged that from March 2016 through September 2017, Sean Miller (Miller), head men's basketball coach, is presumed responsible for the violations detailed in Allegation Nos. 1, 2, 3, 4-(a) and 5 and did not rebut the presumption of responsibility. Miller did not demonstrate that he promoted an atmosphere for compliance and monitored his staff within the men's basketball program. Specifically:

- a. Miller failed to demonstrate he promoted compliance by not establishing that compliance was a shared responsibility within the men's basketball program, not setting clear expectations that his coaching staff comply with NCAA legislation and not requiring the immediate reporting of actual and potential violations to the compliance staff for an independent inquiry. Specifically, as outlined in Allegation Nos. 1, 2, 3, 4-(a) and 5, two of Miller's three assistant coaches committed intentional violations involving fraudulent academic transcripts, receipt of cash bribes, facilitating a meeting with an aspiring agent, impermissible inducements and recruiting violations all within an 18-month period. The ultimate responsibility for the integrity of the men's basketball program rested with Miller and his staff's actions reflect on Miller as the head coach.
- b. Miller failed to demonstrate that he monitored Mark Phelps and Emanuel "Book" Richardson (Richardson), then assistant men's basketball coaches, regarding their involvement in arranging for fraudulent academic credit and/or transcripts as outlined in Allegation No. 1. Specifically, while Miller knew both prospects had significant academic deficiencies to overcome in order to be academically eligible, Miller failed to ask his staff pointed questions and did not actively look for red flags regarding the circumstances and timing of the prospective student-athletes' academic eligibility.
- c. Miller failed to demonstrate that he monitored Richardson and the men's basketball program regarding their relationship with Christian Dawkins (Dawkins), a representative of LOYD, Inc. and former runner for ASM Sports. Specifically, Miller knew that then men's basketball student-athlete ██████████ utilized Dawkins to advise ██████████ about whether to declare for the ██████████ NBA draft. However, Miller did not ask pointed questions of ██████████ or his coaching staff regarding the origin and nature of the relationship between ██████████ and Dawkins. Further, after ██████████ returned to the institution, Miller knew that ██████████ and ██████████ maintained a relationship with Dawkins. However, Miller failed to conduct any additional inquiry regarding the nature of ██████████ relationship with Dawkins or Richardson's knowledge of and involvement in the relationship between ██████████ and Dawkins. As noted in Allegation No. 2, Richardson accepted bribe money, in part, for helping to facilitate a meeting between ██████████ ██████████ and Dawkins.

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**Level of Allegation No. 6:**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 6 is a severe breach of conduct (Level I) because it is a head coach responsibility violation resulting from underlying Level I, II and III violations and seriously undermined or threatened the integrity of the NCAA Collegiate Model. [NCAA Bylaws 19.1.1 and 19.1.1-(e) (2020-21)]

**Involved Individual:**

The CCU believes the hearing panel of the IARP could prescribe head coach restrictions pursuant to NCAA Bylaw 19.9.5.5 regarding Miller's involvement in Allegation No. 6.

7. [NCAA Division I Manual Bylaws 12.1.2.1.6, 13.1.2.1, 13.11.1 and 13.11.2.4 (2018-19)]

It is alleged that from October 2018 through September 2019, Dwight Dumais (Dumais), assistant swimming and diving coach, facilitated contact between a representative of the institution's athletics interests (booster) and ██████████ of women's diving prospective student-athletes ██████████ and ██████████; facilitated contact between local diving club families and the ██████████ which resulted in the provision of approximately \$1,207 in preferential treatment benefits; and engaged in over 240 impermissible tryouts of ██████████ and ██████████. Specifically:

- a. On or about October 31, 2018, Dumais shared the ██████████ contact information with a booster, who was also the parent of a prospect-aged diver who subsequently joined Dumais' diving club.<sup>4</sup> The booster subsequently contacted the ██████████ in violation of NCAA legislation regarding communication between boosters and prospective student-athletes and ██████████. [NCAA Bylaw 13.1.2.1 (2018-19)]
- b. On or about November 5, 2018, Dumais shared the contact information for the ██████████ with the parent of a second prospect-aged diver (Family No. 2) who subsequently joined Dumais' diving club. After Family No. 2 communicated with the ██████████ ██████████ stayed with Family No. 2 from November 11 through 21,

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<sup>4</sup> On October 21, 2018, Dumais held a meeting with members of the families identified in Allegation No. 7-(a) and (b) regarding his intention to start a local diving club. Dumais officially started practices for his local diving club November 19, 2018.

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- 2018, at no cost. Additionally, between December 2018 and April 2019, both [REDACTED] and [REDACTED] received free occasional transportation from Family No. 2.<sup>5</sup> Family No. 2's provision of free lodging and transportation resulted in violations of NCAA preferential treatment legislation. [NCAA Bylaw 12.1.2.1.6 (2018-19)]
- c. At some point in the fall of 2018, the booster's family connected the [REDACTED] with a third family (Family No. 3) of a prospect-aged member of Dumais' diving club. From November 26 through 30, 2018, [REDACTED] lived with Family No. 3 at no cost. Additionally, Family No. 3 provided [REDACTED] with free transportation and occasional meals. Family No. 3's provision of free lodging, transportation and meals resulted in violations of NCAA preferential treatment legislation. [NCAA Bylaw 12.1.2.1.6 (2018-19)]
- d. Between December 2018 and September 2019, [REDACTED] trained with Dumais as a part of his diving club on at least 195 occasions. Because [REDACTED] was not a legal resident living within a [REDACTED] radius of the sports club and did not meet any of the exceptions to the legislation, her participation resulted in Dumais conducting impermissible tryouts. [NCAA Bylaws 13.11.1 and 13.11.2.4 (2018-19)]
- e. Between January and February 28, 2019, [REDACTED] trained with Dumais as a part of his diving club on at least 45 occasions. Additionally, between March and June 2019, [REDACTED], who was [REDACTED], participated in dryland exercises with the diving club on an undetermined number of occasions. Because [REDACTED] was not a legal resident living within a [REDACTED] radius of the sports club and did not meet any of the exceptions to the legislation, her participation resulted in Dumais conducting impermissible tryouts. [NCAA Bylaws 13.11.1 and 13.11.2.4 (2018-19)]

### **Level of Allegation No. 7:**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 7 is a significant breach of conduct (Level II) because the violations (a) were not isolated or limited; (b) involved multiple recruiting violations; (c) provided or were intended to provide more than a minimal recruiting, competitive or other advantage; (d) included more than minimal benefits; and (e) compromised the integrity of the NCAA Collegiate Model. [NCAA Bylaw 19.1.2 (2021-22)]

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<sup>5</sup> [REDACTED] and [REDACTED] also lived with Family No. 2 during this time period but paid \$500 per month in room and board.



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### **Involved Individual:**

The CCU believes the hearing panel of the IARP could enter a show-cause order pursuant to NCAA Bylaw 19.9.5.4 regarding Dumais' involvement in Allegation No. 7.

#### 8. [NCAA Division I Manual Bylaw 11.1.1.1 (2018-19)]

It is alleged that from November 2018 through September 2019, Augie Busch (Busch), head men's and women's swimming and diving coach, is presumed responsible for the violations detailed in Allegation No. 7 and did not rebut the presumption of responsibility. Specifically, Busch did not demonstrate that he promoted an atmosphere for compliance and monitored the women's swimming and diving program. Busch knew women's diving prospective student-athlete [REDACTED] was in the locale of the institution training with the local diving club operated by Dwight Dumais (Dumais), men's and women's swimming and diving coach. However, Busch failed to notify compliance of the prospect's presence, seek guidance from compliance regarding Dumais' training of [REDACTED] and ensure that Dumais completed the institution's documentation regarding his involvement in a local sports club.

### **Level of Allegation No. 8:**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 8 is a significant breach of conduct (Level II) because it is a head coach responsibility violation resulting from the underlying Level II violations. [NCAA Bylaw 19.1.2 (2020-21)]

### **Involved Individual:**

The CCU believes the hearing panel of the IARP could prescribe head coach restrictions pursuant to NCAA Bylaw 19.9.5.5 regarding Busch's involvement in Allegation No. 8.

#### 9. [NCAA Division I Manual Constitution 2.1.1, 2.8.1 and 6.01.1 (2015-16 through 2019-20)]

It is alleged that between March 2016 and September 2019, the scope and nature of the violations set forth in Allegation Nos. 1, 2, 3, 4-(a), 5 and 7 demonstrate that the institution failed to exercise institutional control and monitor the conduct and administration of its men's basketball and women's swimming and diving programs. Specifically:

- a. The institution failed to establish a culture of compliance in the men's basketball program. As outlined in Allegation Nos. 1, 2, 3, 4-(a) and 5, two of the three assistant men's basketball coaches committed intentional violations involving fraudulent academic credit and/or false transcripts, cash bribes, impermissible inducements and

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- benefits and recruiting contacts in an 18-month period. Further, during this same time, an assistant coach directed a student-athlete to delete information related to a violation. These actions demonstrate that the institution failed to effectively establish a compliance program where the men's basketball coaching staff understood that compliance with NCAA legislation is an obligation shared by all athletics staff members and they had an obligation to report all actual or potential violations.
- b. The institution failed to heighten its monitoring and/or take reasonable steps to prevent noncompliant conduct despite red flags in both men's basketball and swimming and diving programs. Multiple members of the institution's athletics administration and men's basketball coaching staff knew that the men's basketball prospective student-athletes identified in Allegation No. 1 had significant academic issues and/or there were unusual circumstances surrounding the content and timing of the identified transcripts. Additionally, Dwight Dumais (Dumais), assistant women's swimming and diving coach, had no previous NCAA coaching experience and notified compliance on two separate occasions of his plan to associate with a local sports club that included prospective student-athletes. However, the institution failed to heighten its monitoring of these individuals and circumstances in order to prevent violations. Further, the institution failed to take reasonable steps to prevent the same noncompliant conduct as its most recent infractions case, which it was processing at the time the violations outlined in Allegation No. 7 occurred, when it failed to proactively follow up with Dumais to obtain completed compliance paperwork regarding his affiliation with a local diving club.
  - c. The institution failed to provide effective oversight and/or support of its compliance program. During the time period of Allegation Nos. 1, 2, 3, 4-(a) and 5, the compliance staff experienced significant turnover, personality conflicts and a lack of resources that limited its ability to identify and monitor compliance risks. Further, in regard to Allegation No. 7, the institution failed to effectively monitor local sports clubs utilizing campus facilities, despite the fact its most recent infractions case involved this issue. *See University of Arizona Public Infractions Decision (January 30, 2019)*. As a result, the institution failed to implement controls to mitigate these identified risks and none of the violations outlined in Allegation Nos. 1, 2, 3, and 5 were identified by the institution's compliance systems. The institution failed to identify and mitigate several risks in a timely manner that could have prevented or mitigated the violations outlined in Allegation No. 7.

### **Level of Allegation No. 9:**

The CCU believes the hearing panel of the IARP could conclude that Allegation No. 9 is a severe breach of conduct (Level I) because the lack of institutional control seriously undermined or threatened the integrity of the NCAA Collegiate Model. [NCAA Bylaws 19.1.1 and 19.1.1-(a) (2021-22)]

**Involved Individual(s):**

None.

**C. Potential Aggravating and Mitigating Factors.**

Pursuant to Bylaw 19.7.1, the CCU has identified the following potential aggravating and mitigating factors that a hearing panel may consider.

**1. Institution:**

a. Aggravating factors. [NCAA Bylaw 19.9.3]

- (1) Multiple Level I and II violations by the institution. [NCAA Bylaws 19.9.3-(a) and 19.9.3-(g)]

The CCU identified Allegation Nos. 1, 2, 4, 6 and 9 as Level I violations. It identified Allegation Nos. 3, 7 and 8 as Level II violations.

- (2) A history of major violations by the institution.<sup>6</sup> [NCAA Bylaw 19.9.3-(b)]

January 20, 2019 – Violations by the men's and women's diving coach when he arranged for impermissible inducements and impermissible tryouts with a diving prospect. Head coach responsibility violation involving the head men's and women's swimming and diving coach.

July 29, 2010 – Violations of impermissible inducements and tryouts, impermissible recruiting activities, failure to promote an atmosphere of compliance and failure to monitor involving men's basketball.

October 17, 1984 – Improper recruiting transportation.

May 20, 1983 – Improper employment, entertainment, financial aid, lodging and transportation; extra benefits; improper recruiting contacts, entertainment, inducements, lodging and transportation; unethical conduct; outside fund; coaching staff limitations, institutional control; certification of compliance.

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<sup>6</sup> The dates of previous Level I, Level II or major infractions and the accompanying descriptions are provided directly from the Legislative Services Database for the Internet (LSDBi).

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May 16, 1974 – Improper recruiting contact and transportation.

January 10, 1961 – Improper financial aid; improper recruiting transportation; tryout; questionable practice.

- (3) Lack of institutional control [NCAA Bylaw 19.9.3-(c)].

The CCU identified a lack of institutional control violation in Allegation No. 9.

- (4) Compromising the integrity of the investigation and failure to cooperate. [NCAA Bylaw 19.9.3-(e)]

The institution compromised the integrity of the investigation and failed to cooperate when:

- The institution refused to share the factual findings of its external investigation related to the men's basketball program despite the NCAA enforcement staff and the CCU making every possible accommodation to protect attorney-client privilege;
- On or about October 1, 2017, the director of athletics and head of compliance discussed and drafted talking points related to the external and NCAA investigations that demonstrated from the outset a lack of commitment to cooperation and acceptance of responsibility.<sup>7</sup>
- On May 20, 2019, the institution's outside counsel and general counsel, Laura Todd Johnson, at the direction of the president, conducted an unrecorded interview with Richardson without first notifying and/or involving the NCAA enforcement staff despite being engaged in a collaborative investigation and knowing Richardson was a key individual the NCAA enforcement staff wanted to interview.
- The institution failed to notify the NCAA enforcement staff when it discovered potential significant violations in the swimming and diving program, as detailed in Allegation No. 7, despite (a) being instructed to do so during the June 5, 2018, notice of inquiry; (b) having an ongoing men's basketball investigation at the time of the discovery; and (c) the violations being similar to the institution's most recent infractions case that was processed during the course of this investigation (Case No. 00855).

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<sup>7</sup> See FI058, [DHecke Email 100117 Arizona 00837](#).

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- (5) Violations were premeditated, deliberate or committed after substantial planning. [NCAA Bylaw 19.9.3-(f)]

As detailed in Allegation No. 1, Phelps and Richardson engaged in deliberate planning of academic misconduct in order to secure fraudulent credit and/or false academic transcripts for two then prospects. Allegation No. 2 involves cash payments after substantial planning by Richardson and LOYD representatives.

- (6) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As detailed in Allegation Nos. 1, 2, 3, 4-(a) and 5, Phelps and Richardson were persons of authority and personally involved in the violations. Additionally, Busch and Dumais were both aware of and/or participated in the violations contained in Allegation No. 7.

- (7) One or more violations caused significant ineligibility to a student-athlete. [NCAA Bylaw 19.9.3-(i)]

As a result of Allegation No. 1, ██████████ competed while ineligible during the ██████████ ██████████.

- (8) Conduct or circumstances demonstrating an abuse of a position of trust. [NCAA Bylaw 19.9.3-(j)]

As detailed in Allegation Nos. 1 through 3, Phelps and Richardson abused their positions of trust as assistant men's basketball coaches and teachers of young people when they effectively agreed to jeopardize the well-being, eligibility and/or futures of the institution's men's basketball student-athletes.

Additionally, related to Allegation No. 7, Dumais served as the prospective student-athletes' club coach for approximately ██████████ years prior to taking the assistant swimming and diving coach position at the institution. As a result, the prospects and ██████████ relied on Dumais regarding what activities and interactions were permissible.

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- (9) A pattern of noncompliance within the sport program involved. [NCAA Bylaw 19.9.3-(k)]

As detailed in Allegation Nos. 1, 2, 3, 4-(a) and 5, multiple violations involving multiple men's basketball staff members occurred over an 18-month period. Additionally, the circumstances of and violations identified in Allegation No. 7 are almost identical to the institution's most recent infractions case, which was being processed at the same time the violations in Allegation No. 7 occurred.

- (10) Intentional, willful or blatant disregard for the NCAA constitution and bylaws. [NCAA Bylaw 19.9.3-(m)]

Phelps' and Richardson's actions as detailed in Allegation Nos. 1 through 4 constituted an intentional, willful or blatant disregard for the NCAA constitution, bylaws and Collegiate Model.

- b. Mitigating factor. [NCAA Bylaw 19.9.4]

An established history of self-reporting Level III or secondary violations. [NCAA Bylaw 19.9.4-(d)]

The institution reported 74 Level III violations from 2015 to 2020, approximately 14 violations each year.

**2. Involved Individual [Richardson]:**

- a. Aggravating factors. [NCAA Bylaw 19.9.3]

- (1) Multiple Level I violations by the Richardson. [NCAA Bylaw 19.9.3-(a)]

The CCU identified Allegation Nos. 1 and 2 herein and Allegation No. 1 in the post-separation notice of allegations as Level I violations.

- (2) Unethical conduct. [NCAA Bylaw 19.9.3-(e)]

Richardson violated the NCAA principles of ethical conduct as detailed in Allegation Nos. 1 and 2 herein and Allegation No. 1 in the post-separation notice of allegations.

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- (3) Violations were premeditated, deliberate or committed after substantial planning. [NCAA Bylaw 19.9.3-(f)]

As detailed in Allegation Nos. 1 and 2, Richardson's conduct -- specifically arranging and/or paying \$40,000 in order to secure a fraudulent academic credit and/or false academic transcript for a then prospect and receiving multiple cash bribes in exchange for steering student-athletes to a professional sports agency -- was deliberate and committed after substantial planning.

- (4) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As detailed in Allegation Nos. 1 and 2, Richardson, the lead recruiter of the prospect and coach of the student-athlete, was a person of authority and personally involved in the violations.

- (5) Conduct or circumstances demonstrating an abuse of a position of trust. [NCAA Bylaw 19.9.3-(j)]

As detailed in Allegation Nos. 1 and 2, Richardson abused his position of trust as an assistant men's basketball coach and teacher of young people when he effectively agreed to jeopardize the eligibility of the men's basketball student-athletes.

- (6) Conduct intended to generate pecuniary gain for an involved individual. [NCAA Bylaw 19.9.3-(l)]

Richardson's solicitation and receipt of \$20,000, as detailed in Allegation No. 2, constituted misconduct intended to generate personal pecuniary gain.

- (7) Intentional, willful or blatant disregard for the NCAA constitution and bylaws. [NCAA Bylaw 19.9.3-(m)]

Allegation Nos. 1 and 2 detail Richardson' actions that were an intentional, willful or blatant disregard for the NCAA constitution, bylaws and Collegiate Model.

- b. Mitigating factor. [NCAA Bylaw 19.9.4]

The absence of prior conclusions of Level I, Level II or major violations by the involved individual. [NCAA Bylaw 19.9.4-(h)]

Richardson has no prior conclusions of Level I, Level II or major violations during his approximately 13 years as an NCAA coach.

**3. Involved Individual [Phelps]:**

a. Aggravating factors. [NCAA Bylaw 19.9.3]

(1) Multiple Level I and II violations by the Phelps. [NCAA Bylaws 19.9.3-(a) and (g)]

The CCU identified Allegation Nos. 1 and 4 as Level I violations and Allegation No. 3 as a Level II violation. Additionally, the CCU identified Allegation No. 1 in the post-separation notice of allegations as a Level I violation.

(2) Unethical conduct. [NCAA Bylaw 19.9.3-(e)]

Phelps violated the NCAA principles of ethical conduct as detailed in Allegation No. 4 herein and in Allegation No. 1 in his post-separation notice of allegations.

(3) Violations were premeditated, deliberate or committed after substantial planning. [NCAA Bylaw 19.9.3-(f)]

As detailed in Allegation No. 1, Phelps engaged in deliberate planning of academic misconduct in order to secure a fraudulent transcript for a then recruited prospect.

(4) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As detailed in Allegation Nos. 1, 3, 4-(a) and 5, Phelps, as the lead recruiter of the respective prospect and the coach of the student-athletes, was a person of authority and personally involved in the violations.

(5) Conduct or circumstances demonstrating an abuse of a position of trust. [NCAA Bylaw 19.9.3-(j)]

As detailed in Allegation Nos. 1, 3 and 4-(a), Phelps abused his position of trust as an assistant men's basketball coach and teacher of young people when he effectively agreed to jeopardize the eligibility of the men's basketball student-athletes.

(6) Intentional, willful or blatant disregard for the NCAA constitution and bylaws. [NCAA Bylaw 19.9.3-(m)]

Phelps' actions as detailed in Allegation Nos. 1 and 3 constituted an intentional, willful or blatant disregard for the NCAA constitution, bylaws and Collegiate Model.



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b. Mitigating factor. [NCAA Bylaw 19.9.4]

The absence of prior conclusions of Level I, Level II or major violations by the involved individual. [NCAA Bylaw 19.9.4-(h)]

Phelps has no prior conclusions of Level I, Level II or major violations during his approximately 24 years as an NCAA coach.

4. **Involved Individual [Miller]:**

a. Aggravating factor. [NCAA Bylaw 19.9.3]

(1) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As the head coach, Miller negligently disregarded the violations as detailed in Allegations Nos. 1, 2, 3, 4-(a) and 5.

(2) A pattern of noncompliance within the sport program involved. [NCAA Bylaw 19.9.3-(k)]

As detailed in Allegation Nos. 1, 2, 3, 4-(a) and 5, multiple violations involving multiple men's basketball staff members occurred over an 18-month period.

b. Mitigating factor. [NCAA Bylaw 19.9.4]

The absence of prior conclusions of Level I, Level II or major violations by the involved individual. [NCAA Bylaw 19.9.4-(h)]

Miller has no prior conclusions of Level I, Level II or major violations during his approximately 28 years as an NCAA coach.

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**5. Involved Individual [Dumais]:**

a. Aggravating factors. [NCAA Bylaw 19.9.3]

- (1) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As outlined in Allegation No. 7, Dumais allowed the prospects to participate in his local sports club in violation of NCAA legislation. Dumais did not seek guidance from compliance in regard to the permissibility of these arrangements.

- (2) Conduct or circumstances demonstrating an abuse of a position of trust. [NCAA Bylaw 19.9.3-(j)]

Dumais served as the prospective student-athletes' club coach for approximately [REDACTED] years prior to taking the assistant swimming and diving coach position at the institution. As a result, the prospects and [REDACTED] relied on Dumais regarding what activities and interactions were permissible.

b. Mitigating factor. [NCAA Bylaw 19.9.4]

The absence of prior conclusions of Level I, Level II or major violations committed by the involved individual. [NCAA Bylaw 19.9.4-(h)]

Dumais has no prior conclusions of Level I, Level II or major violations.

**6. Involved Individual [Busch]:**

a. Aggravating factor. [NCAA Bylaw 19.9.3]

Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h)]

As outlined in Allegation No. 8, Busch knew a prospective student-athlete was in the locale of the institution and training with Dumais. However, Busch did not report this information to the institution or seek guidance as to the permissibility of these arrangements.

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b. Mitigating factor. [NCAA Bylaw 19.9.4]

The absence of prior conclusions of Level I, Level II or major violations committed by the involved individual. [NCAA Bylaw 19.9.4-(h)]

Busch has no prior conclusions of Level I, Level II or major violations.

### **D. Hearing Attendance.**

In addition to the involved individuals and institutional representatives as outlined in Bylaw 19.7.7.5.2, the hearing panel may benefit from asking the following individual(s) to attend the hearing pursuant to Bylaw 19.7.7.5: None.

### **E. Factual Information.**

The attached exhibit details the factual information on which the CCU relies for Allegation Nos. 1 through 9. The CCU incorporates the factual information referenced throughout this document, its exhibits and all other documents in the secure filing system.

### **F. Response to Allegations.**

1. Please indicate whether the information contained within these allegations is substantially correct and whether the institution and involved individuals identified in these allegations believe violations of NCAA legislation occurred. Submit materials to support your response.
2. If the institution and involved individuals believe NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.
3. Please indicate whether the factual information is substantially correct and whether the institution and involved individuals have additional pertinent information and/or facts. Submit facts in support of your response.
4. In accordance with Bylaw 19.7.8.3.4, the hearing panel may view the failure by an institution or involved individual to submit a timely response to a notice of allegations an admission that an alleged violation, for which the party may be subject to penalty pursuant to Bylaw 19.9, occurred.

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### **G. Request for Supplemental Information.**

1. Provide mailing and email addresses for all necessary parties to receive communications from the hearing panel related to this matter.
2. Indicate how the violations were discovered.
3. Provide a detailed description of any corrective or punitive actions implemented by the institution as a result of the violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any corrective or punitive actions were implemented.
4. Provide a detailed description of all disciplinary actions taken against any current or former athletics department staff members as a result of violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any disciplinary actions were taken and submit copies of all correspondence from the institution to each individual describing these disciplinary actions.
5. Provide a short summary of every past Level I, Level II or major infractions case involving the institution or individuals named in this notice. In this summary, provide the date of the infractions report(s), a description of the violations found, the individuals involved, and the penalties and corrective actions. Additionally, provide a copy of any major infractions' reports involving the institution or individuals named in this notice that were issued within the last 10 years.
6. Provide a chart depicting the institution's reporting history of Level III and secondary violations for the past five years. In this chart, please indicate for each academic year the number of total Level III and secondary violations reported involving the institution or individuals named in this notice. Also include the applicable bylaws for each violation, and then indicate the number of Level III and secondary violations involving just the sports team(s) named in this notice for the same five-year time period.
7. Provide the institution's overall conference affiliation, as well as the total enrollment on campus and the number of men's and women's sports sponsored.
8. Provide a statement describing the general organization and structure of the institution's intercollegiate athletics department, including the identities of those individuals in the athletics department who were responsible for the supervision of all sport programs during the previous four years.

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9. State when the institution has conducted systematic reviews of NCAA and institutional regulations for its athletics department employees. Also, identify the agencies, individuals or committees responsible for these reviews and describe their responsibilities and functions.
  
10. Provide the following information concerning the sports program(s) identified in this inquiry:
  - The average number of initial and total grants-in-aid awarded during the past four academic years.
  - The number of initial and total grants-in-aid in effect for the current academic year (or upcoming academic year if the regular academic year is not in session) and the number anticipated for the following academic year.
  - The average number of official paid visits provided by the institution to prospective student-athletes during the past four years.
  - Copies of the institution's squad lists for the past four academic years.
  - Copies of the institution's media guides, either in hard copy or through electronic links, for the past four academic years.
  - A statement indicating whether the provisions of Bylaws 31.2.2.3 and 31.2.2.4 apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.
  - A statement indicating whether the provisions of Bylaw 19.9.7-(g) apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.
  
11. Consistent with the Committee on Infractions Internal Operating Procedures 4-16-2-1 (Total Budget for Sport Program) and 4-16-2-2 (Submission of Total Budget for Sport Program), please submit the three previous fiscal years' total budgets for all involved sport programs. At a minimum, a sport program's total budget shall include: (a) all contractual compensation including salaries, benefits and bonuses paid by the institution or related entities for coaching, operations, administrative and support staff tied to the sport program; (b) all recruiting expenses; (c) all team travel, entertainment and meals; (d) all expenses associated with equipment, uniforms and supplies; (e) game expenses; and (f) any guarantees paid associated with the sport program.

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Any additional information or comments regarding this case are welcome.

IARP Complex Case Unit

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