

**To:** Amended Uniform Athlete Agents Act Drafting Committee

**From:** Paul Pogge, Associate Athletic Director, University of North Carolina

**Date:** February 28, 2014

**RE:** Additional Thoughts for the Amended Uniform Athlete Agents Act Drafting Committee

Thank you all for your continued efforts on this important initiative. With the great leadership of Dale and Jerry, I believe we are making significant progress. I spoke with Dale earlier today about several related matters and he asked that I share with all of you some of the thoughts we discussed.

First, a number of people familiar with the professional representation industry are concerned with the increasing involvement of individuals who do not self-identify as “agents” or “financial advisors,” yet who nevertheless work with or solicit athletes for professional representation purposes. We have discussed many of these individuals already. One area which has seen marked growth in this type of activity involves the professional “trainers” who help prepare athletes for seasons or, especially at this time of the year, the NFL Combine or individual Pro Days. These trainers have been known to recruit on behalf of agents.

In addition, there has been a marked increase in activity from “business managers.” Although these individuals usually do not have the credentials to become an agent, they often “manufacture” a job where one would otherwise not exist. For example, business managers usually offer to help coordinate travel, marketing, and/or non-profit work for an athlete despite the fact that most reputable agents already fulfill those roles for their clients. By convincing athletes to hire them for the aforementioned purposes, business managers are able to circumvent rules that would preclude them from being retained as agents. Nevertheless, athletes still need a certified agent in most cases to negotiate their contract with a professional team. Therefore, business managers are forced to either have the athlete negotiate the contract on their own or retain the services of a licensed agent in addition to the services they are providing. We have strong reasons to believe that this often leads to collusion between agents and various business managers, marketers, and other similar roles. Naturally, these scenarios also lead to additional and unnecessary financial obligations for athletes.

Second, there has been some dialogue regarding the extent to which attorneys should be subject to the legislation. I believe it is important to reiterate that some very prominent issues confronting the industry have been presented by licensed attorneys and financial advisors. Therefore, it is imperative that we ensure that attorneys and financial advisors are among those governed by the proposed legislation. Moreover, it would be helpful to require professional representation entities themselves to register and require disclosure about their paid and unpaid personnel, services they provide, affiliated persons and entities, and current and former clients.

This information is often very difficult to obtain, so disclosure under penalty of perjury would provide yet another means of assisting athletes in making informed choices.

Finally, I hope that we can move towards a structure that is supported in large part by money derived from fines levied under the legislation. To accomplish this objective, it is critical that laws are relatively easy to enforce. I am encouraged by the inclusion of a notice provision. If our final product includes language that requires a professional representative to notify the appropriate institution before contacting an athlete or affiliated individual, it will be much easier to identify violations when athletes communicate to administrators the names of those professional representatives who have made contact with them. Administrators will be able to quickly identify those who have not notified the institution in accordance with the law and can then turn violators in to the appropriate enforcement agency. Of equal importance, this notice provision will enable institutions to fulfill an educational responsibility by providing known information about the contacting party to the athlete so the athlete can make an informed decision at the appropriate time. Institutions can obtain much of this information about the professional representative by accessing the proposed standard registration form which, though lengthy, would provide a wealth of relevant material for the athlete to consider.

Once again, thank you all for your efforts on this important initiative. Please let me know if I can be of further assistance.