



# HOW COLLEGE SPORTS

Justice Robert F. Orr and Jill C. Walters Poyner Spruill LLP

Consider these three scenarios: First, a superbly credentialed law student at prestigious State University is being recruited by a national law firm; second, an extraordinarily talented musician and singer who is a student at State University is being recruited by a national talent agency who wants to represent the student; and finally, a highly acclaimed All-American football player at State University is being recruited by a sports agent who wants to represent that player when he turns pro. The law firm, talent agency and sports agent all provide a lavish meal and entertainment to the student of interest as well as a few gifts to commemorate the occasion. Only one of these business people has arguably committed a felony – the sports agent – thanks to an innocuous sounding law called The Uniform Athlete Agents Act (UAAA).

With the strong support and backing of the National Collegiate Athletic Association (NCAA), the UAAA was promulgated in the year 2000 by the Uniform Laws Commission with the support of the NCAA. The purpose was allegedly to protect NCAA so-called “student athletes” from risking their eligibility to play college sports by accepting “im-

proper benefits” from agents in violation of NCAA Bylaws. Despite the fact that 41 states adopted the UAAA in some form, no criminal prosecutions were reported in any state until last year. In 2013, some 13 years after its initial enactment and once again with the strong support and backing of the NCAA, the UAAA for the first time was used to bring criminal charges against five individuals accused of providing improper athlete inducements to three football players at the University of North Carolina.

The UAAA provides uniform standards for the registration and certification of sports agents as well as a mandated criminal history disclosure for agents seeking to represent student athletes. Furthermore, the UAAA criminalizes non-compliant conduct. The UAAA was sold by the NCAA as a logical way to prevent unscrupulous agents from preying on student athletes. Reform advocates for the athletes, however, have characterized the purpose as more sinister. Advocates see the law as the NCAA using the criminal justice system as a means to enforce their rules that substantially limit the rights of college athletes to have agents, financial planners and others represent the

players’ interest. In the escalating realm of legal issues surrounding college athletes from compensation for use of their images, to workers’ compensation benefits being denied, to the long-term threat from concussions, advocates argue that college athletes need more representation, not less. The enforcement of the UAAA clearly discourages greater representation.

In October 2013, a prosecutor in Orange County, North Carolina, indicted five individuals, including one sports agent, for violating the UAAA by providing “improper benefits” to three University of North Carolina (UNC) football players to induce them to sign with him when they finished playing at UNC. At the center of the “scandal” is Terry Watson, a Georgia-based sports agent, who is accused of providing the three football players a total of around \$24,000.00. Prosecutors claim the reason for the payment was that Mr. Watson hoped the athletes would use him as their agent when they went pro. The charges against Watson total 13 felony counts of athlete inducement and one count of obstruction of justice.

Among the others indicted is Jennifer



# AGENTS BECOME FELONS

Thompson, a former academic tutor for University of North Carolina student athletes, who now faces four felony counts of athlete inducement, each with a maximum prison sentence of 15 months. Her crime, according to the indictment, was acting as a go-between for Watson in providing “the alleged improper benefits.” Thompson has lost her job as an elementary school teacher and now faces the possibility of a felony conviction that carries jail time for allegedly giving money to one of the players to help buy plane tickets as well as having passed along cash payments from Watson to the players.

The North Carolina UAAA criminal cases are still pending and lawyers for the individuals have pledged to vigorously fight them. While what happens in North Carolina is being closely watched by other states and universities, the UAAA drafting committee is by all accounts considering expanding the enforcement of the UAAA to include marketing professionals and financial advisors. The past year also brought about proposals to expand the UAAA to secondary and elementary school athletes which has already been done in Oregon and California. The outcome of the North

Carolina criminal cases as well as the proposed expansion of the UAAA to cover non-agents means an increased national focus on this law and its enforcement.

With huge amounts of money at stake in the world of big time college sports, the rights of the athletes whose talents generate this windfall and the rights of business people to assist them in a legitimate way will undoubtedly result in policy debates with legal challenges to follow. The UAAA may well be at the center of this debate as events play out in North Carolina. Potential legal and constitutional challenges are undoubtedly under consideration by defense counsel and national players’ rights advocates are prepared to expand those challenges by raising important questions about the policies behind the law. For instance, at what point is the criminal justice system allowed to be used to enforce the bylaws of a non-profit association bent on protecting its huge money-making machine? Can the legal and constitutional rights of college athletes and business people to earn a living for their work and talent be put in jeopardy by the criminal laws championed by the NCAA?

If it is permissible, if not downright encouraged, for law firms and talent agencies to be able to recruit the best college student out there for employment and representation, how is it that the “sports agent” trying to do the same thing is a felon? Perhaps we’ll find out in North Carolina.



*Robert F. Orr and Jill C. Walters are attorneys with Poyner Spruill LLP in Raleigh, N.C., and both have experience representing student athletes in NCAA matters. For more information go to [www.poynerspruill.com](http://www.poynerspruill.com).*

