

1 as possible with the opening statements.

2 President Wetherell, are you ready for
3 the institutional opening statement?

4 MR. WETHERELL: Yes, Mr. Chairman.

5 CHAIRMAN THOMAS: Thank you.

6 MR. WETHERELL: Thank you, Mr.
7 Chairman. The consultants and various people
8 provided me with some notes to make this
9 statement, and they started off with thanking
10 you for the opportunity to be here today. Upon
11 reflecting upon that a moment, I don't think I
12 can think of a place I would rather not be than
13 here today, quite frankly.

14 Florida State is embarrassed, quite
15 frankly, to be here. We are a better
16 institution than this. This is not something
17 that we are proud of, and it is not necessarily

18 our finest hour. But we do appreciate the help
19 and the support that we received from the NCAA
20 as we went through this process.

21 I kind of reflect back to Apollo 13
22 and remember that they started off to the moon,
23 and in the final analysis never made that, but
24 it well may have been NASA's most probable or
25 best performance of all.

1 I think Florida State will come out of
2 this a better institution, as embarrassed as we
3 might be. You have read the case, you have been
4 provided the information. To the best of my
5 knowledge, there is really no conflict in the
6 facts of the case. We self-reported this case.

7 It evolved in a way that we did not
8 expect it to evolve. The NCAA came down and
9 reviewed the matter after we had sent it up
10 pursuant to policy and procedures. There were
11 very few changes made. We then reacted to that
12 report and made very few changes.

13 So, the facts are pretty simple. It
14 seems like a relatively simple case on the
15 surface, but I think as you have read it and as
16 you hear testimony today you are going to find
17 out that this is a very complex issue.

18 Those of you in the law profession
19 will particularly note some of the issues and
20 the challenges that the institution had to face
21 as we went through various segments of this
22 proceeding.

23 We would point out that it really
24 doesn't fit in the NCAA Manual. We have
25 searched throughout NCAA records and can't find

1 a case that is of this particular nature with
2 this many different options.

3 This case does not involve misconduct
4 by any coach, any assistant coach. There are no
5 boosters, no donors, no trainers, no one
6 directly involved with teams in athletics.
7 That's highly unusual. We admit that.

8 The facts of the matter are that a
9 student-athlete went to the Academic Support
10 Center to do some work as they should do. While
11 at that center, the student-athlete was asked
12 about another student-athlete who was to come
13 and do some work.

14 The student-athlete number one
15 basically responded by saying he is not coming,
16 he is involved in some other things. That
17 happened to be an athlete that

1 is not coming, he is not going to take that
2 test. He was then advised to sit down and take
3 the test by a staff person at Florida State
4 University.

5 The athlete getting instructions from
6 a staff person did as he was told. He did not
7 ask to do this, he was not even enrolled in the
8 course.

9 The student-athlete took the test,
10 left the center, reported that to his coach.
11 His coach then reported it to the Compliance
12 Center, and FSU began an investigation pursuant
13 to NCAA regulations.

14 The issue at that point in time was
15 who was going to do the investigation, the
16 Athletic Department or some other entity? It
17 was my decision that we would let some other

18 entity do that investigation since it was not
19 involving a coach or an athletic issue at that
20 point in time, it was a personnel matter.

21 We determined that the Inspector
22 General at Florida State should do it in
23 conjunction with HR staff at Florida State. we
24 believed we were dealing with an employee
25 relations issue at that point in time.

1 The employee was so notified, the
2 athletic director was so notified because he had
3 been told by the coach, and we moved ahead in
4 that process.

5 Part of that investigation process
6 included talking to student-athletes that were
7 in the course. There were some 30-some student-
8 athletes talked to, amongst other people, and
9 basically as they went through that process it
10 was not much that we didn't know, didn't show
11 up.

12 It was only at the end when one
13 student-athlete basically told us that I don't
14 know what the big problem is. If you talk to a
15 student mentor or tutor, you could do the same
16 thing. That alerted us that there was some
17 other problems.

18 You have to realize that each of these
19 students was asked to come and give us
20 information regarding that system. They were
21 specifically told that they were not being
22 investigated.

23 Their eligibility was not in question,
24 and their scholarship was in no jeopardy. But
25 when a student-athlete then notified us that

1 some students may have violated NCAA rules at a
2 time when he was supposedly helping us resolve
3 another issue, it created a series of complex
4 issues that we had to face.

5 At that point in time, we decided we
6 had more than a personnel issue, we had an NCAA
7 issue, and we hired Mr. Smrt and his firm to
8 help us. We went through that process and
9 determined that there was inappropriate behavior
10 in our minds with a specific tutor.

11 We looked at other issues involved.
12 We could find no conclusive evidence that there
13 were other tutors involved.

14 We have a system at Florida State that
15 runs the grades of each athlete against the
16 grades of the course, and the grades of other
17 students. We looked at those files and we

18 determined that there was one section in the
19 spring of 2007, that there were anomalies--
20 well, actually in the fall there were some
21 anomalies, but they were not significant enough
22 to cause an alarm.

23 In the spring of '07, they were
24 significant. What we found out was that we had
25 a faculty member that was offering an online

1 course, that had been offering that same course
2 for a number of years and in previous semesters
3 had allowed students to work together, to print
4 the final exam, to work as a group on the final
5 exam, and not only the final exam but all exams
6 and tests, and turn those in and receive a
7 grade.

8 It was perfectly acceptable and no
9 violation of the student's honor code and no
10 violation, quite frankly, of the guidelines of
11 the course.

12 The faculty member subsequently
13 changed that. He did not change the syllabus,
14 but he did change the online test procedure.
15 There was no requirement that a student take the
16 test in a secured testing site.

17 They could take it from their dorm

18 room, take it from any computer that they could
19 sign on to. It did go through a process that we
20 used Blackboard like most institutions use. We
21 began talking to other students and asking what
22 did they do and when did they do it? Because if
23 they worked as a group under certain
24 circumstances, there was no violation.

25 If, on the other hand, if they did it

1 in the fall or spring of '07, and the rules of
2 the course and the testing were changed, there
3 was potentially a violation. We came to
4 understand that a rogue tutor had basically made
5 copies of the test, committed those tests to
6 memory, and as he worked with students gave some
7 of those answers to the various students. Some
8 received more answers than others.

9 As we interviewed those 30-some
10 students before, that we went through before and
11 started back with them, we determined that some
12 of those students did receive help. This was a
13 difficult time to define exactly what help was.

14 Some students actually took the test
15 with the tutor saying, yes, you should mark
16 Answer A, B, or whatever was appropriate. Some
17 students sat in the Testing Center and heard

18 people discussing tests, and marked papers
19 accordingly.

20 So, we began to realize that we had a
21 problem with that one course, that one faculty
22 member. As you might expect, any university,
23 particularly an Athletic Department, the
24 grapevine sometimes works better than e-mail.

25 The system and the students started

18 two games, five games or ten? What was the
19 determining factor? How did you determine this?
20 In some cases students and student-athletes went
21 directly to the honor court.

22 Some students went directly to the
23 faculty member. Some students basically had a
24 pass, if you want to call it that, from a
25 faculty member based upon whatever conversations

1 they had with that particular faculty member.

2 We began to submit to the
3 Reinstatement Committee reinstatements after we
4 had sat students for some number of games,
5 contests, or whatever it happened to be, and
6 finally that became cumbersome because the
7 Reinstatement Committee said we can't keep up
8 with these, we want to batch them and do them as
9 a group. We said fine.

10 In addition to that, while all of this
11 is going on, certain athletes were then saying,
12 well, if you are going to bust me, you need to
13 talk to so and so, and we had that issue to deal
14 with.

15 We had some coaches that said, well, I
16 am not sure we are getting the fair treatment
17 because what about this team or that team? We,

18 in essence, had a system going where students
19 could go to a faculty member, the honor court,
20 come through our system and talk to the
21 consultants, and be faced with some preliminary
22 decision with us trying to go to the NCAA and
23 get some kind of across-the-board treatment of
24 those student-athletes.

25 We came together in, I believe it was,

1 October, remembering that summer came in there
2 and students left campus, and trying to find
3 those students at that point in time became
4 difficult.

5 Basically, in the fall when student-
6 athletes came back, we sat down and began
7 talking to the NCAA Enforcement and
8 Reinstatement and said, you know, this is not
9 working. We can't get to the bottom of this
10 without some understanding of what the penalties
11 are going to be.

12 We had the probability of the race
13 card being played by some athletes, saying
14 different students were getting different
15 priorities. We had the gender card being
16 played. We had major sports versus minor
17 sports, all involved in that process.

18 We had some students that were very
19 forthcoming and said, you know, if that is your
20 definition of inappropriate actions, then, yes,
21 I did that. We had others who said no, I didn't
22 do that. We didn't have a way at that point in
23 time to really know what was happening other
24 than he said-she said, so to speak.
25 At that point in time, the provost and

1 the Technology Department came together and we
2 did what we believe is unprecedented in NCAA's
3 history. Because this was an online course,
4 every student had to take that test online, and
5 there was a computer record of when they took
6 it, where they took it, who was in the room when
7 everybody took it, and we then cross-filed
8 payrolls with that, and we could determine what
9 tutors were in the room when who took it and
10 what happened.

11 Most of the time you don't have that
12 type of information in a paper-pencil test. You
13 simply know the hour that the test was taken,
14 but you don't know to the effect when a person
15 punches a button and says it is A, B, C or D.

16 When a student is sitting in the back
17 of the room and says I heard someone holler

18 across the room the answer to number such and
19 such is, and they had already marked, let's say
20 C and the answer was B, and that student says
21 well, if it was inappropriate for me to hear
22 that and change my answer, then I guess I did.
23 So, I am guilty, versus the student who was
24 actually sharing that information. That's the
25 type of things that the NCAA had to have.

1 We knew that information because we
2 created a program that figured it out. We sat
3 with the NCAA and said, you know, what has
4 happened here is the students who have been the
5 most honest are being penalized.

6 We came to a conclusion that we needed
7 to go back and re-interview all of the students
8 in those classes, showing them the information
9 we had, and say do you really want to say this,
10 with the understanding that if you said yes, I
11 did something inappropriate, not trying to split
12 hairs and determine how bad it was or not, you
13 would receive a certain penalty. If, on the
14 other hand, you chose to go a different route,
15 then you would lose your eligibility at Florida
16 State.

17 When we went through that process, we

18 came up with the number that you see before you.

19 In addition to that, the provost and myself

20 began to talk with the Faculty Senate and the

21 term I think we began to use is we had a

22 contaminated course, particularly a section in

23 the spring semester.

24 We made the determination, and I think

25 it is probably somewhat unprecedented, that we

1 would take all student-athletes, regardless of
2 what grade they made, and they would have to
3 retake that course whether they admitted they
4 violated some procedure or not.

5 The Faculty Senate met on that and
6 agreed, and we vacated that course for athletes
7 only. So, we think that as you go through this
8 process had we not been working as closely with
9 the NCAA Enforcement and Reinstatement, where we
10 could sit down and say we need you to be totally
11 honest, and here is the information, we probably
12 would not be here today.

13 Probably, what would have happened is,
14 because it had already started to happen,
15 certain athletes would have begun to get legal
16 counsel. There would have been all kinds of
17 issues raised from parents, media and everywhere

18 else, and we would have never been able to get
19 to the conclusion that we got to and that we
20 believe we have identified those individuals who
21 did get inappropriate behavior -- we believe
22 inappropriate assistance.

23 We believe we have also been able to
24 identify from a staffing standpoint those
25 individuals who participated in giving that

1 help, reminding you that in some cases a
2 student-athlete was counseled to take this
3 course even though they didn't want the course.

4 The student-athletes didn't start off
5 with the idea of this is how I am going to
6 "cheat". We don't really believe they cheated.
7 They got inappropriate help. Most of the
8 athletes did not need this course for
9 graduation.

10 It is not a required course, it is an
11 elective course that does count in several
12 categories. There were student involved in this
13 who had 4.0's and students who had 2.0's. It
14 was not a course that people were put into to
15 gain eligibility.

16 Had we known the information in the
17 spring that we know now, and had we chosen to

18 vacate that course then, had we known it, all of
19 those students would have been eligible to go to
20 summer school and retake a class and avoid any
21 possibility of being "ineligible".

22 Part of the conversation that we had
23 with Enforcement and Reinstatement was that if
24 we went through this and developed that profile
25 and that matrix, and we had a student who came

1 forward and honestly gave us the information,
2 that would not affect their eligibility. That
3 was part of the understanding that we worked off
4 of.

5 So, we have gotten here today what you
6 see before you is that information. The problem
7 the University was faced with is we started a
8 personnel matter, we advised the students that
9 they would be helpful to us, could be helpful to
10 us, and didn't tell them at that point in time
11 that they could be jeopardizing their
12 eligibility for their scholarship.

13 We told them just the opposite. We
14 then went back and reassessed where we were, and
15 told the students the exact truth of where we
16 were. We defined exactly what semesters we were
17 talking about, because under certain guidelines

18 they could literally take a copy of the test in
19 and write the exam with that copy and be in no
20 violation. It is not something we are proud of,
21 it is not something the way we want to run a
22 course.

23 The provost has had conversations with
24 the faculty member, but we would remind you that
25 we have a unionized faculty and a union

1 procedure that we had to recognize. We had an
2 honor code that we had to recognize.

3 We had a code of conduct that we had
4 to recognize. We had students who had been
5 interviewed once and said one thing, then when
6 presented with data that showed something
7 different and defined inappropriate behavior in
8 a different way, recanted that and then decided,
9 yes, I did.

10 We had some students who came to us
11 with their attorney or their mother or father or
12 person, significant other, and were very
13 forthcoming. Others, when they saw the
14 information, said yeah, I probably did do
15 something I shouldn't have.

16 But the bottom line is that, in my
17 judgment, while this is an embarrassing process

18 for the State of Florida and for Florida State
19 in particular, because it isn't how most
20 institutions in the State of Florida operate or
21 we operate, we have learned a lot.

22 I am teaching an online course this
23 semester just to see how the thing works. I
24 converted a political science in a Florida
25 history course into an online course, and we are

1 now going through a process to, first of all,
2 put everybody in a monitored testing situation,
3 randomly select questions as opposed to using
4 the same questions each time.

5 We have done a number of things and
6 you have seen those in some of the corrective
7 actions. But I really believe that had we not
8 been as diligent as we were in getting on this
9 when we found it, had we not created the profile
10 and matrix that we could show students, their
11 attorneys or whomever they wanted, and had the
12 NCAA not been as helpful to us as they were, we
13 would not be able to sit here today and tell you
14 as definitively as we can exactly what happened.

15 We would have strong suspicions, but
16 we could not say without a doubt this is where
17 we are. I think if you read the report you will

18 find that basically that is what it says.

19 You will find there is very little
20 difference of opinion on the facts of the case.
21 The outcome of the case probably is some degree
22 of conversation. Florida State is taking this
23 very seriously.

24 Quite frankly, I don't know what you
25 are going to do. We hope you will accept the

1 penalties that we have placed upon ourself. It
2 really doesn't matter because we are going to do
3 that no matter what you do.

4 The issue that we had was that we
5 believed that the student-athletes needed to
6 share in the responsibility of their actions,
7 but the University also needed to share in
8 those. The University was more culpable than
9 the student-athletes in this case.

10 I think, Mr. Chairman, that is
11 basically the facts of the matter, and from
12 Florida State's standpoint how we got to where
13 we are.

14 CHAIRMAN THOMAS: Thank you, President
15 Wetherell.

16 Mr. Lyons, do you wish to make an
17 opening statement?