

**Response of William J. O'Boyle to the Notice of Allegations
from the NCAA regarding Chadron State College**

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Summary of Response to Notice of Allegations

In response to the Notice of Allegations, William J. O'Boyle (O'Boyle) accepts responsibility for violations of NCAA Bylaws and for his failure to take additional steps to educate himself regarding appropriate procedures. O'Boyle mistakenly believed at the time he opened the "Special" account and the "Concession" account that the accounts were permissible because of the long-standing existence and use of the impermissible, off campus "C-Club" account by his Athletic Director, Brad Smith, (Smith) who began turning the account over to O'Boyle in 1994. O'Boyle further takes responsibility for failing to document the expenditures from the Special and Concession accounts, which is something he was never told or required to do with the "C-Club" account. He now recognizes that keeping receipts would have avoided a great part of this investigation. O'Boyle has learned from this unfortunate experience and assures the Committee that he will abide by the NCAA Constitution and Bylaws in all future coaching responsibilities.

O'Boyle denies that part of Allegation No. 2 alleging that he provided any intentionally false and misleading information to Chadron State College (CSC) when Dr. Janie Park (Park) questioned him on September 19, 2011. O'Boyle does however agree and acknowledge he should have been completely forthcoming with information regarding all accounts when asked by Park. In hindsight, he acknowledges that he should have made a complete disclosure of the Last Chance for Glory (LCG) golf tournament funds, even if he was not specifically asked about those funds. Since the golf tournament, and its goal of raising funds, was presented to and approved by the CSC Administration and Chadron State Foundation (CSF) well in advance of the first golf tournament, he mistakenly believed the CSC Administration was well aware of the fundraising activity. Further, because of active participation and financial support of the LCG tournament by the CSC Administration and assistance from the CSF, O'Boyle mistakenly believed that the activities were not prohibited. O'Boyle emphasizes that he did disclose the "Special" account to Smith within minutes of the inquiry by Park on September 19, 2011 and a full disclosure of the Concession account was made to Smith and Park on the morning of September 24, 2011. From that day forward O'Boyle fully cooperated with all investigating agencies.

The following table is a general explanation of O'Boyle's responses to the allegations. Detailed responses are given following this summary.

Allegation No.	O'Boyle's Position
1(a)	Agrees is substantially correct , <i>except</i> he did not maintain or have control of the "C-Club" account. He acknowledges he was authorized to use the "C-Club" account by its owner, Smith
1(b)	Does not contest , <i>however</i> he cannot specifically admit or deny that funds were used inappropriately due to lack of recollection of the expenses
1(c)	Does not contest , <i>however</i> , he cannot specifically admit or deny that funds were used inappropriately due to lack of recollection of the expenses

1(d)	Does not contest <i>because</i> he does not have specific recollections as to what the money was used for
1(e)	Specifically agrees
1(f)	Specifically agrees
2(a)	Acknowledges he should have fully disclosed all accounts, <i>however</i> , he disagrees that he provided false and misleading information
2(b)	Does not contest <i>because</i> he cannot completely recall what each expenditure was designated for
3	Acknowledges his actions in maintaining the “Special” account and the “Concession” account, as well as his authorized use of Smith’s “C-Club” account, to pay expenses for the football program, did not promote an atmosphere of compliance. He denies he maintained the “C-Club” account. He denies CSC instructed him to close “ any and all off-campus accounts”

Despite O’Boyle’s mistaken beliefs, he accepts responsibility for the violations which occurred and his failure to completely disclose all matters with regard to the accounts when questioned by Park.

Response to Allegation No. 1

1. *[NCAA Constitution 6.2.1 and Bylaws 13.2.1, 13.12.1.5, 13.14.1, 13.14.4 and 16.11.2.1]*

It is alleged that as early as 2007 through 2011, the institution failed to control all funds supporting its football program when William O'Boyle (O'Boyle), then head football coach, maintained impermissible accounts at off-campus financial institutions to pay various football program expenses. Additionally, some funds in the accounts were used to provide recruiting inducements to prospective student-athletes and extra benefits to student-athletes. These accounts operated outside of the institution's normal budgeting procedures.

O'Boyle agrees that the allegation(s) set forth in Allegation No. 1 are substantially correct with the exception that he did not maintain the "C-Club" account. O'Boyle agrees he opened and maintained the "Special" account and the "Concession" account at off-campus financial institutions which were used to pay expenses for the CSC football program. O'Boyle also agrees that he was authorized to make deposits and write checks on the impermissible, off-campus "C-Club" account, for the CSC football program, by its owner, Athletic Director Smith.

Specifically, O'Boyle responds as follows:

- a. *As early as 2007 and continuing through 2011, O'Boyle maintained three off-campus financial accounts outside of the procedures and controls of the institution, including the "C Club" account (2007 through 2011), "Special" account (2009 through 2011) and "Concession" account (2010 through 2011) to pay expenses related to football program of equipment, supplies and meals. During this period, O'Boyle used funds from the accounts and failed to document expenses or save receipts for the majority of expenditures. [NCAA Constitution 6.2.1]*

O'Boyle agrees that he opened and maintained the "Special" account (2009 through 2011) and the "Concession" account (2010 through 2011) at an off-campus financial institution outside of CSC procedures and controls. Both were utilized to pay expenses related to the CSC football program. Again, O'Boyle also agrees that he failed to save receipts for the majority of the expenditures. He denies maintaining the C-Club account, but agrees that he used it at the direction and with the permission of Smith.

- b. *As early as 2007 and continuing through 2011, O'Boyle used funds from the "C Club" account, "Special" account and "Concession" account to pay expenses related to the football program's permissible recruitment of prospective student-athletes. [NCAA Bylaws 13.4.1 and 13.14.4]*

O'Boyle does not contest the allegation that he used funds from the "C-Club" account, "Special" account and "Concession" account from 2007 through 2011 to pay expenses related to the football program's permissible recruitment of prospective student-athletes. For the reasons more specifically set forth below in reply to Allegation 1(c) and 1(d), O'Boyle cannot specifically admit or deny that funds were used for the permissible recruitment of prospective student-athletes as he has no specific recollection of the expenses.

- c. ***On or about June 3, 2011, O'Boyle used Check Number 1034 from the "Special" account to purchase shoes for two unidentified prospective student-athletes who attended the institution's football camp, a recruiting inducement valued at \$125.69. [NCAA Bylaws 13.2.1, 13.14.1 and 13.14.4]***

O'Boyle agrees that on June 3, 2011, he used Check Number 1034 from the "Special" account to purchase shoes for his brothers who were assisting with the CSC football camp. O'Boyle acknowledges that he initially indicated the expenditure could have been for camp attendees who did not have proper footwear. However, upon further reflection, he does not believe the shoes were provided to prospective student-athletes. He acknowledges his initial response and does not contest Allegation No. 1(c) that Check Number 1034 was used to purchase shoes from Anderson Clothing in Chadron, Nebraska, valued at \$125.69. O'Boyle further states that he voluntarily repaid the sum of \$125.69, which was deposited to the "Special" account, because his recollection was that the benefit went to his family members.

- d. ***On or about June 10, 2011, O'Boyle used Check Number 1037 from the "Special" account to pay admission fees for two unidentified prospective student-athletes who attended the institution's football camp, a recruiting inducement valued at \$475. [NCAA Bylaws 13.2.1, 13.14.1, 13.14.4, and 13.12.1.5.1]***

O'Boyle does not contest Allegation No. 1(d) that Check Number 1037 from the "Special" account was used for camp fees in the amount of \$475. O'Boyle acknowledges his initial response was that the check may have been for camp participants who had not paid. However, after reflection, he believed the check had been used to reimburse staff for travel expenses. The camp staff did not confirm the expense, but O'Boyle still thinks the expenses were for a camp staff member, but obviously not the one he had thought. Unfortunately, O'Boyle does not have a specific recollection of what the \$475 was used for with regard to the football camp, and therefore, does not contest the allegation.

- e. ***On or about December 13, 2010, O'Boyle used Check Number 1126 from the "Special" account to provide \$150 to _____ then a football student-athlete. [NCAA Bylaw 16.11.2.1]***

O'Boyle agrees that he used Check Number 1126 from the "Special" account to pay \$150 to _____ on December 13, 2010. He notes that although _____ was

still a football student-athlete at the time of the payment. [redacted] had no remaining eligibility. To the best of O'Boyle's recollection, the funds paid to [redacted] were used to allow [redacted] to pay a bill to CSC so he could register for spring classes. [redacted] repaid the funds in January of 2011.

- f. ***On or about March 23, 2011, O'Boyle used Check Number 1137 from the "Special" account to provide \$100 to [redacted], then a football student-athlete. [NCAA Bylaw 16.11.2.1]***

O'Boyle acknowledges using Check Number 1137 from the "Special" account to pay \$100 to [redacted] on March 23, 2011, when [redacted] was a student-athlete. O'Boyle initially recalled and believed that the \$100.00 was for food. When O'Boyle was told that [redacted] said it was for insurance, he immediately acknowledged that seemed to be correct. [redacted] also said that O'Boyle gave him food with which O'Boyle agrees. O'Boyle notes that [redacted] was not eligible to compete, and never did compete for the CSC football team, although O'Boyle acknowledges he was a student-athlete.

Response to Allegation No. 2

2. *[NCAA Bylaws 10.0 1.1, 10.1, 10.1-(c) and 10.1-(d)]*

It is alleged that between December 2010 and September 2011, William O'Boyle (O'Boyle), then head football coach, violated the NCAA principles of ethical conduct by (a) providing false and misleading information to the institution during its inquiry and (b) knowingly providing improper inducements to prospective student-athletes and extra benefits to enrolled student-athletes. Specifically:

2(a) O'Boyle acknowledges that he should have fully disclosed all accounts to Park on September 19, 2011. Although O'Boyle disagrees with the allegation that he provided false and misleading information to the institution, he acknowledges that he should have made a full and complete disclosure of all accounts when initially questioned, even if he was not specifically asked about anything other than having a "field turf" account.

2(b) O'Boyle takes responsibility for the alleged improper recruiting inducements to prospective student-athletes as outlined in allegations Nos. 1(c) and 1(d) as he failed to keep receipts or documentation which would otherwise explain the expenditures. O'Boyle further acknowledges that he was responsible for knowing the expenditures outlined in Allegations Nos. 1(e) and 1(f) were extra benefits to enrolled student athletes. Further, O'Boyle takes responsibility for his initial responses, which were provided based upon his best recollection at the time. In an effort to fully cooperate in reconstructing three years of financial transactions, with limited information, he acknowledges that some of his responses were not accurate. In fact he made his best guess on some of the transactions, and he shouldn't have. He should have just said "I don't know" on many transactions.

- a. *On September 19, 2011, when Janie Park (Park), President of CSC, questioned O'Boyle about possible impermissible accounts and funds raised from the Last Chance for Glory golf tournament, O'Boyle provided false and misleading information when he failed to disclose his knowledge that funds from the tournament had been deposited in the "Special" account, an impermissible off-campus account O'Boyle maintained outside of the institution's control, as outlined in Allegation No. 1-a. Additionally, on September 22, O'Boyle signed a statement indicating he was not aware of any accounts existing outside the institution, except for the "Special" account, even though he maintained the "Concession" account as outlined in Allegation No. 1-a. Further, on September 23, when Park questioned O'Boyle about the existence of any other accounts existing outside the institution, O'Boyle again asserted that he had no other outside financial accounts, even though he closed the "Concession" account earlier that day. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(d)]*

As outlined above, O'Boyle agrees that he should have made a full disclosure of his authorized use of Smith's C-Club account, the "Special" account and the "Concession"

account to Park on September 19, 2011, even if it was confusing about which accounts, funds and money were being discussed. O'Boyle emphasizes he did disclose the existence of the "Special" account to the CSC Athletic Director Brad Smith within minutes after leaving the office of Park on September 19, 2011. O'Boyle agrees that he signed a written statement on September 22, 2011, indicating he had no additional outside accounts, although he did so hurriedly without reading it when Smith presented it to him as he was on his way to a freshman scrimmage. O'Boyle notes that the confirmation of his disclosure of the "Special" account was handwritten on the statement by Smith, on September 23, 2011 a day after O'Boyle signed it. The morning of September 23, 2011, O'Boyle realized he had not disclosed the "Concession" account, and he closed it that morning when the bank opened. On September 23, 2011, O'Boyle intended to disclose the Concession Account to Park when he met with her. But, he became so upset when she told him that if things go bad, he will still be marketable that he left as quickly as he could. He forgot to tell her at that time. He believed he had just lost his job. It was all he could think about until later in the day, and he remembered that he hadn't told Park. Then, he was so distraught he didn't know what to do.

- b. ***As outlined in Allegation Nos. 1-c through 1-f, between December 2010 and June 2011, O'Boyle knowingly provided over \$600 in improper recruiting inducements to prospective student athletes and \$250 in extra benefits to enrolled student-athletes. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(c)]***

O'Boyle acknowledges that his initial response indicated that the expenses of \$600.69 could have been shoes and fees for camp attendees. O'Boyle accepts responsibility for the alleged improper recruiting inducements to prospective student-athletes as he maintained no receipts or documentation which provide an explanation.

As outlined above, O'Boyle does not contest the improper extra benefits by providing \$150 to _____ and \$100 to _____. Unfortunately, O'Boyle cannot make a complete admission as he does not recall what the expenditures were for, but likewise cannot contest the allegations.

Response to Allegation No. 3

3. [NCAA Bylaw 11.1.2.1]

It is alleged that as early as 2007 through 2011, William O'Boyle (O'Boyle), then head football coach, failed to promote an atmosphere of compliance within the football program when he failed to exclusively operate within the institutionally approved budget for football, as outlined in Allegation No. 1. Specifically, as early as 2007 and continuing until September 2011, O'Boyle maintained three impermissible accounts identified in Allegation No. 1-a and continued to use those accounts and disregard institutional accounting and financial procedures even though the institution instructed him to close and discontinue use of any and all off-campus accounts as early as 2008. Additionally, O'Boyle personally accepted and deposited donations from representatives of the institution's athletic interests into those impermissible accounts to benefit the football program. Further, O'Boyle made arrangements for his football staff to promote participation in the tournament fundraiser, which operated outside of institutional procedures.

O'Boyle acknowledges that his actions in maintaining the "Special" account and the "Concession" account, as well as his authorized use of Smith's "C-Club" account, to pay expenses for the football program, did not promote an atmosphere of compliance. Again, O'Boyle denies that he maintained Smith's "C-Club" account. O'Boyle also denies that the institution instructed him, as early as 2008, to close "**any and all** off-campus accounts". O'Boyle does agree that Smith made a comment to him that the "C-Club" account should be closed, possibly as early as 2008, but O'Boyle maintains that he could not close the account. Smith was the owner of the account, and the only person who could do so. Smith also told Cricket Haag on several occasions that he (Smith) needed to close the "C-Club" account, but Smith never did until September 22, 2011.

Additionally, O'Boyle agrees that he personally accepted and deposited donations from the LCG golf tournament organizers into the "Special" account. He further agrees that the football staff participated in the promotion of the LCG golf tournament. O'Boyle believed the golf tournament was operating within CSC's institutional procedures for numerous reasons, including:

- a. The tournament committee met with Park and CSF representatives and explained their plan and fundraising purpose before ever planning, organizing and holding the tournaments;
- b. The announcements that the tournament was a fundraiser for the CSC football team;
- c. The annual participation and support of Smith in all four tournaments;
- d. The Athletic Department's payment of the entry fees for football staff; and

- e. The College Administration's approval of the use of state vehicle and drivers for transportation for golf tournament participants, staff and boosters in the July 2011 LCG golf tournament, as well as in earlier year earlier years.

Finally, O'Boyle does not think he deposited donations from "representatives of the institutions athletic's interests" into the C-Club or Concession accounts. He thinks deposits from "representatives of athletic interests" went into the Special account. Furthermore, he thinks most of the expenditures from the C-Club and the Concession were actually for concessions.

O'Boyle and his counsel struggle with the term "institutionally approved budget" because none of the athletic teams at CSC were ever given budgets. They were given a one page document with a number at the top that supposedly represented the amount the team could spend for operations. It was usually unreasonably low, and there were no line items for income or expenses.

Mitigating Circumstances

I. THE IMPERMISSIBLE OUTSIDE C-CLUB ACCOUNT

The use of impermissible, outside bank accounts is at the core of the allegations against O'Boyle, and CSC is attempting to distance itself from O'Boyle's use of such accounts. In reality Smith had an out-side account, the C-Club account, before CSC moved into NCAA Division II, and it kept and maintained the account until it was closed as part of this investigation. Funds deposited into the C-Club account, and expenses paid from the account, were used for the football program but not included as a part of any football budget. The existence of the C-Club account is confirmed by Scott Tompsett in the interview of Cricket Haag, as follows:

Thompsett: Are you familiar with the C-Club account?

Cricket: Yes.

Thompsett: ...and is that, would that qualify as one of those off-campus accounts or downtown accounts?

Cricket: I would assume, yes.

Thompsett: What was your knowledge about the C-Club account?

Cricket: That it existed? I knew that it was downtown.

Thompsett: And did you understand what it was used for?

Cricket: No.

Thompsett: How did you know that it existed?

Cricket: Brad Smith had said numerous times that he had an account downtown.

Thompsett: And who would he have said that to, you?

Cricket: Me. He said it to me.

Thompsett: In what context?

Cricket: Just in terms of, like, I really need to move that account uptown, or from downtown to the Foundation.

Thompsett: And when did that happen, or when did he say that?

Cricket: I heard him say it more than once, prior to this investigation.

Furthermore, no documentation was maintained for expenses paid from the C-Club account, nor was the account subject to normal auditing procedures. This account was in the name of the head football coach and Athletic Director Smith, personally, both before and after the college's transition to NCAA Division II, and it was in existence and operating in the exclusive control of Smith when O'Boyle arrived in 1994. Over a period of time, Smith gradually relinquished control of the C-Club account to O'Boyle, who continued to use the account as Smith had, until the account was finally closed by Smith at the direction of Park on September 22, 2011. Apparently, neither three college presidents nor the (Nebraska State Auditor) NSA were ever informed of the account by Smith. Under the circumstances and given the history of the C-Club account O'Boyle was certainly justified in believing that the existence and use of accounts of this nature were permissible.

In a similar manner, O'Boyle opened the Concession account and Special account in 2008. The Concession account was opened because there were some problems using the C-Club account as it was still just in Smith's name. By placing the account in his name, O'Boyle was able to avoid some of these problems. The CSC football program continued to operate the concession stand during the basketball season just as it had in the past using coaches, GAs and players. Expenses for the concession stand were paid from the Concession account; revenues generated from concessions were deposited to the account; and, excess funds in the account were used for football program expenses in the same manner as the C-Club account. No receipts had ever been required for expenditures from the C-Club account, and so none were gathered or kept for the Concession account. Operation of the Concession account was no different than operation of the C-Club account had been; it was a continuation of the same practice and procedure.

At about the same time the Concession account was opened, a Special account was opened by O'Boyle to handle funds from the LCG golf tournament. In a manner similar to the Concession account and other club accounts at CSC, O'Boyle had the account statements mailed directly to him at his personal residence, and at all times remained the owner of the two accounts. In hindsight, O'Boyle recognizes that the accounts were maintained outside of the institutional control of CSC, and he made a mistake in establishing the accounts. (All outside CSC club accounts must now be in the name and social security number of a CSC student instead of in the name of a CSC employee)

It is difficult to tell if there were times when CSC did not have an NCAA compliance officer. It could be that there wasn't, or that the compliance officer was just a name only designee. It is clear that from the time it was allowed to join NCAA II until this investigation, CSC was without a **full-time** compliance officer and a full-time business manager in the athletic department. Trained, active employees in those positions would have known the accounts, including Smith's C-Club account, were impermissible and these violations probably would have been detected and stopped. O'Boyle was charged with the responsibility of knowing and following the NCAA II rules regarding impermissible outside accounts, but it is understandable why he would simply follow a long-standing practice and tradition.

II. LCG GOLF TOURNAMENTS WERE APPROVED, ATTENDED, SUPPORTED AND CONDONED BY THE CSC ADMINISTRATION

The fundraising activity that supposedly sparked this investigation was the Last Chance for Glory (LCG) golf tournament. CSC is attempting to distance itself from the event with claims that it thought the tournament was for “relationship building,” and it wasn’t aware that it was a fundraising event. CSC’s position is just not credible. In fact, it is false and misleading. CSC was just as much involved in the tournaments as O’Boyle.

In 2006 or 2007 one of the organizers of the LCG golf tournament, Mike Brownfield, met with Park, Connie Rasmussen (the Director of the CSF), and the co-chairs of the Foundation’s Centennial Capital Campaign (one of whom was the president of the foundation) and informed them of the tournament committees’ wish to organize and hold a golf tournament, specifically for the purpose of raising funds for the football program. Renee Madison’s questioning of Crickett Haag confirms the LCG golf tournament organizers contacted the Foundation:

Renee: ... Did you ever have any discussions with, anybody from the football program or Brad Smith about the tournament for golf?

Cricket: About how it should be handled? Or just anything in general?

Renee: Right, anything in general?

Cricket: I didn't have any discussions with the organization of the tournament.

Renee: Do you recall any conversations taking place at the beginning, before it started that first year, do you recall anyone, either you or anyone from your office, that the football program was starting this?

Cricket: There would have had to have had, there would have had to of been a discussion somewhere because I know him, our office provided the list of football alumni for them to mail to. That's, at some point there was a conversation with someone. I don't produce those type of reports so it wasn't requested by need to produce the report but I know our office provided the report to the football tournament...

Initially Park and the representatives of the CSF were concerned about the new tournament interfering with and detracting from the CSF tournament held annually in May. Mr. Brownfield explained that the tournament would be held in other communities around the region, later in the summer, and would target a different group of supporters composed of former CSC football players and coaches. He emphasized the main purpose of the tournament was to raise money for the football program. Park and the CSF representatives were satisfied with Brownfield’s assurances, and so the tournament committee went forward with its planning.

The tournament committee began by requesting a listing of names and addresses of football alumni from the CSF office, and the information was readily provided. CSC staff and employees openly assisted with the mailing of notices and invitations to the first tournament to be held in Cozad, Nebraska. Copies of available LCG tournament flyers are attached as **Exhibit 1**.

Athletic Director, Smith, participated in all four tournaments from 2008 through 2011. He paid entry fees for athletic department members, which were clearly more than the cost of normal green fees and a meal, and he arranged for transportation to and from the tournaments in state vehicles, the use of which were approved by Park.

At the first tournament, the tournament committee was introduced, and the members informed everyone in attendance that the net proceeds would be used for the CSC football program. Smith thanked the committee the sponsors and the participants for their support of the program and expressed his hope that the tournament would continue and grow. He did the same thing at the second, third and fourth tournaments.

After the second tournament, which was also held in Cozad in 2009, Smith visited with the business manager of the CSF about whether or not funds from the tournament were deposited with the CSF, and was informed that they were not. Smith's questions to Cricket Haag is confirmed by Renee Madison in the interview of Cricket Haag, as follows:

Renee: ... Did you have any conversations at all with her [Park] about that?

Cricket: Not her, I remember that like after the second, maybe the second, tournament, I know Brad asked if I had the funds and I'm like no, why would I have their money?

Renee: After the second tournament, you mean in 2009?

Cricket: Yeah. I don't really know when started, but it was one of the early years. He acted shocked that the money wasn't at the Foundation and I said I don't understand why it would be, and then that was the end of that.

After that discussion Smith never questioned any of the tournament committee members nor O'Boyle about the location or use of the funds until September 19, 2011.

The CSC sports information office promoted the tournament and prepared DVD's of alumni football footage to play at the fourth tournament. It also wrote and published an article announcing the success of the tournaments and the donations to the Chadron football program. This article was published in the Chadron newspaper in July, 2011 after the fourth tournament as well as on KCSR/Chadrad.com. (See **Exhibit 2** attached hereto) There were similar articles in the Scottsbluff Herald, the Tri-County Ledger, and other local newspapers which circulated in the Cozad area. **Still no one from the college administration asked tournament committee members or Coach O'Boyle about the use or location of tournament funds.**

In late July, 2011 the CSF hosted a golf outing for alumni in Ashland Nebraska. This was after the fourth annual LCG tournament in Crawford earlier in July, and after all of the media coverage following the tournament. During the event in Ashland, Rasmussen and Smith visited with Cody Beguin, a LCG committee member, about the success the tournaments were enjoying and the funds that were being raised. Apparently, the discussion became somewhat heated and involved whether or not the committee and the CSF should be working together on the LCG tournaments and placing the funds with the CSF. **After this discussion no one from the college administration or CSF asked tournament committee members or O'Boyle about the tournament funds.**

The Chadron State sports information office also recognized LCG donors and tournament sponsors in the 2011 football game day programs, **and yet nothing was said to the tournament committee or O'Boyle about the location or use of any tournament funds.**

There was no investigation or inquiry into the LCG funds, or any outside accounts for that matter, until after a weekly Booster Club meeting that took place at the Country Kitchen restaurant, on Monday, September 12, 2011. The coaches speak at the meeting, and during his report O'Boyle mentioned the fact that he had to paint the field before every game, and he jokingly directed a comment at Park that she should take care of getting field turf so that he wouldn't have to spend time doing the painting. Some at the meeting thought it was inappropriate and probably upsetting to the Park, but O'Boyle didn't mean it that way. When he learned later that it might have offended Park, he regretted it and referred to it as dumb.

The comment at the Booster meeting is apparently what started the concerns about impermissible, outside accounts although it doesn't appear that anything was mentioned about accounts at the meeting. A week later, on September 19, 2011, Park scheduled a meeting between herself, Smith and O'Boyle in her office. O'Boyle was questioned about accounts--which accounts and the names and purposes of the accounts is unclear, but the conversation was about accounts and money. **Neither Park or Smith had ever questioned O'Boyle about outside accounts until the meeting on the 19th.** As soon as they were out of Park's office, Smith asked O'Boyle about the money from the LCG golf tournaments, and O'Boyle told him the funds were in a Special account. At that time O'Boyle said I didn't know we couldn't have an outside account, and Smith said that he didn't either. **Smith said nothing at the meeting about the C-Club account in his name, and nothing was mentioned about NCAA rules or violations.**

III. CLOSING THE ACCOUNTS

Thursday, September 22, 2011, O'Boyle was painting the game field, and in the early afternoon Smith came to the field, as O'Boyle was cleaning out the painter. O'Boyle again mentioned to Smith that he thought it was okay to have the outside accounts. Smith left and came back a short time later and told O'Boyle that they needed to get the bank statements for the Special account. They drove to the First National Bank of North Platte; both went into the bank and O'Boyle ordered all of the bank statements for the account. Smith said that the college wasn't sure what to do with the Special account, and so they weren't going to close it. The

Special account was left open. Then, Smith said they needed to go to another bank and close the C-Club account. O'Boyle went along while Smith went into the bank and closed his off-campus C-Club account. The two returned to the college, and O'Boyle worked on game preparation in his office until later in the afternoon. As he was leaving for a freshman scrimmage, Smith presented him with a paper and asked him to sign it, and O'Boyle did so hurriedly without reading it.

Early the next morning (Friday, September 23) O'Boyle remembered that he had not told Park or Smith about the Concession account. As soon as he could that morning, O'Boyle went to the bank and closed the Concession account and went to work. At the office Smith was there looking at the document O'Boyle had signed the day before and said it wasn't right, and he wrote something on it to "fix it". Smith also told O'Boyle that Park wanted to see him at 1:15 that afternoon. He didn't tell Smith about the Concession account at that time, and he should have.

At 1:15 O'Boyle met with Park, and she told him the College was going to keep the matters involving the outside accounts "in-house". She told him that the State Auditor was on-campus, but not to talk to him; they didn't want him involved, and the college attorney Kristin Peterson would be handling everything. At the meeting Park also told O'Boyle that if things did go "bad" he would be able to leave and he would be marketable. O'Boyle was extremely upset about Park's comment about things going "bad." He believed Park was preparing him for the worst; that he was going to lose his job. It was all he could think about. O'Boyle was shook up. He did not mention the Concession account, and he should have. O'Boyle left the meeting and went back to his office to continue final game preparation. Later that afternoon he remembered that he hadn't told Park about the Concession account and he didn't know what to do. During all of his meetings and conversations with Park and Smith nothing was mentioned about potential violations of NCAA regulations.

IV. CSC REQUESTS COUNSEL FOR O'BOYLE

On Friday, September 23, 2011 attorney Marty Connealy (Connealy) and his wife were attending the Chadron High School football. A short time before the game started, Smith came to where they were sitting and asked to speak with Connealy. Connealy left his seat and stepped to an area behind the bleachers where there was more privacy. Smith said he was worried about O'Boyle, that he is distraught, that he needed some legal advice, and asked Connealy if he could give O'Boyle some advice. Connealy was unaware of what O'Boyle's problems might be. Smith said O'Boyle was in the north end zone by himself. Connealy told Smith he would speak with O'Boyle alone, and went to the end zone.

Connealy told O'Boyle that Smith had asked him to speak with him; that he needed some legal advice. It was obvious to Connealy that O'Boyle was agitated and distraught. O'Boyle immediately began talking about several different bank accounts. He also mentioned a comment that he had made at a Booster Club meeting directed at Park about field turf. He stated that the comment was dumb and it must have made her mad, and he never should have said it. O'Boyle said he had met with Smith and Park. Park asked him about a field turf account, and O'Boyle

told her that he did not have a field turf account. He said after the meeting, Smith asked him about golf tournament money and O'Boyle told him it was in a bank account. O'Boyle also mentioned he met with Smith later in the week, and Smith had him sign some sort of document about bank accounts, he had forgotten to tell him about one account because he wasn't even thinking about this other account. O'Boyle was visibly agitated, upset, speaking very fast, and mentioning several different accounts by different names. It was difficult for Connealy to follow.

Connealy told him to "slow down" and he would ask some questions. Connealy asked O'Boyle if there was a field turf account, and O'Boyle said no. Connealy asked how many accounts there were and what each was used for. O'Boyle said there was a C-Club account in Smith's name that was used for concession money. It had been around forever and the money was used for football. O'Boyle said that Smith had turned this account over to him over the years. Connealy asked about the next account, O'Boyle said there was a Concession account in his name; he had opened it and used it like the C-Club account was used. The third account was a Special account that held money from a golf tournament. O'Boyle said he told Smith about this account right after their meeting with Park. It was the Concession account that he forgot to tell Smith and Park about; not thinking that the Concession account was a big deal because it was like the C-Club account. It was this Concession account that had O'Boyle upset because he hadn't told Park and Smith about it on Friday. O'Boyle wanted to talk to Park right away.

Connealy asked O'Boyle if these accounts violated NCAA regulations; O'Boyle said no- he didn't think so. O'Boyle said Park and Smith had not said anything about NCAA violations to him. He said Park told him he had to meet with a private auditor but not to talk to the State Auditor.

Connealy questioned O'Boyle about the C-Club account and the Concession account, and if there were rules about handling concession money, particularly cash. O'Boyle said no.

Connealy told O'Boyle he would visit with Smith and Park and set up a meeting as soon as possible. He told O'Boyle he had to disclose everything about the Concession account, and all of the accounts, and they need to find out if there have been NCAA violations. O'Boyle continued to be very upset, and Connealy kept reassuring him that he would help him make full disclosure and hopefully it would work out. O'Boyle was worried about game preparation, his "kids" (players), his job, his career.

The next morning, Saturday, September 24, 2011, before 6:00 AM. O'Boyle called Connealy and informed him that he had not slept the night before, he had met with Smith earlier in the morning and told Smith about the Concession account. O'Boyle asked to come to Connealy's home, and arrived within a few minutes. He was still distraught and upset. He told Connealy about his conversation with Smith, and asked Connealy to arrange a meeting with Park as soon as possible. Connealy told O'Boyle he would do so. O'Boyle left and Connealy called Smith to schedule a meeting with him and Park. Smith said he would like to come over and visit with Connealy. Smith arrived within a few minutes. Connealy told Smith what O'Boyle had told him the night before and that morning about the bank accounts, and that O'Boyle wanted to have a meeting with Park as soon as possible to explain, face to face, about the Concession account.

Smith said that O'Boyle had signed a statement stating there were no other bank accounts; and that he had not told them about the Concession account. Connealy knew that, but said O'Boyle wanted to meet with Park personally and tell her about the other account. Smith said that he "just can't deal with him (O'Boyle) any more", and Park said "he's not a team player." Smith also commented that Park told him "if you give him enough rope, he'll hang himself."

Connealy asked Smith about whether or not the golf tournament account violated NCAA regulations, if boosters could make donations into accounts outside the college. Smith didn't know. Connealy asked about the other two outside accounts - the C-Club account and the Concession account and about concession policies. Connealy told Smith that he was concerned about there being NCAA violations by O'Boyle and by CSC and that it looked like a situation involving outside accounts and lack of institutional control. Smith said "Now you're scaring me. Maybe I need an attorney." Connealy told Smith that everyone should meet, and determine if this needs to be reported and what steps should be taken to fix it.

Connealy asked Smith if he could arrange a meeting with Park so that O'Boyle could tell her about the Concession account. Smith gave Connealy Park's cell phone number, and he placed a call to her. Park answered the phone, and Connealy told her that he had visited with O'Boyle and Smith about her meetings with them and the accounts. Connealy told Park that O'Boyle had not disclosed an account to her and that they would like to meet with her that morning so O'Boyle could tell her about it personally. At first she said they could, but then she said she is to have the college attorney present during such a meeting. Park said she would call the college attorney, Kristin Peterson, and visit with her about it, and then they would schedule the meeting. Connealy told Smith about his conversation with Park, and they agreed to have the meeting scheduled as soon as possible. Connealy also mentioned to Park that this looks like there could be NCAA violations for outside accounts and lack of institutional control. He said that these things have a way of moving up the ladder.

After Smith left, Connealy called O'Boyle and he and his wife, Susan, came to Connealy's house. Connealy informed them about his conversation with Smith and with Park. Connealy told them that O'Boyle had made some mistakes, that he needed to make full disclosure and fix the problem. Connealy told them they would start with the Park meeting, and then meet with the private auditor and give him all of the information they could. The O'Boyles said they were terrible bookkeepers, and didn't keep receipts, and it would be hard to do but they would come up with as much information as they could. Connealy told them to gather all of the bank statements for the three accounts. They told Connealy there were football expenses on their credit cards and money from the accounts may have been used to pay on the cards. Connealy told them to begin gathering their credit card statements. O'Boyle said that he screwed up, and he would do anything he could because he didn't want to lose his job.

After meeting with the O'Boyles, Connealy went to his office and called his partner, Randy Cullers (Cullers). Connealy told Cullers everything that had happened from the time Smith approached him at the high school football game through the morning's meetings and conversations. They discussed issues about the handling of state funds, possible NCAA violations, reporting, lack of institutional control, possible use of state funds from the C-Club

and Concession account, etc. Cullers went on line to the NCAA website and printed some research and materials.

Saturday afternoon after the CSC football game, Connealy went to the post-game celebration, and visited with Smith about scheduling the meeting. Smith had the phone number for Kristin Peterson, the attorney for NSCS, and Connealy had phone conversations with her about scheduling a meeting.

Cullers and Connealy met with the O'Boyles on Sunday, September 25, 2011, to review many of the same issues that Connealy had spoken to them about on Saturday morning. They discussed all of the records and documents they could gather and produce to make a full disclosure. The O'Boyles began gathering the information.

On Tuesday, September 27, 2011, O'Boyle, Cullers and Connealy attended the meeting with Park, Smith, Dale Grant, and a vice chancellor. At the outset of the meeting O'Boyle apologized and took full responsibility for his mistakes and informed everyone that he would cooperate in any investigation and do what he could to make things right. He told everyone about the Concession account. He was told to meet with Rand Gambrell of BKD which O'Boyle did several times over the days and weeks.

V. O'BOYLE FULLY COOPERATED

O'Boyle has attempted to make full disclosure of all facts, documents and information at his disposal regarding these NCAA violations. Admittedly, the disclosures were not full and complete at the outset when questions were being asked of him by Park. However, there are differing versions of what questions Park asked when she met with O'Boyle. That is evident from the differences in Park's and Smith's statements to the investigators, and in O'Boyle's recollection of the questions that were asked. Differing versions and recollections are common in conversations of this kind. It is, however, important to put the meetings with Park in context. O'Boyle had been informed that his job was at stake; he was being questioned about fundraising and accounts that he thought were permissible and condoned by Park and Smith, his long-time boss and mentor; he was scared, worried and confused; he was in-season preparing the football field and his team for a big, up-coming game. Furthermore, he was told to meet and cooperate with a private auditor, and not to involve the Nebraska State Auditor (NSA), who was on campus conducting an annual audit. These are difficult circumstances, but even so by Saturday morning, September 24, 2011 O'Boyle had disclosed both the Special account and the Concession account to Smith, and was trying to schedule a meeting with Park to personally disclose the Concession account to her.

From that point on, O'Boyle gave his full cooperation to counsel for the Nebraska State College System (NSCS); met and disclosed information to the BKD auditor on at least three occasions, and, began the process of gathering and producing copies of all of the bank statements for Smith's C-Club account, the Concession account, and the Special account. On his own accord, he also began gathering and organizing all of his and his family's personal bank statements, tax returns, credit card statements and investment and retirement accounts. This

information was placed in binders and voluntarily provided to CSC, BKD and eventually the NSA. The Table of Contents for the binders, **Exhibit 3**, shows the nature and extent of the information provided. Susan O'Boyle also voluntarily provided all of her personal financial information, and information on a charitable organization that she manages. Even the O'Boyle's daughter, Cassie, provided her bank records.

Because of the vast amount of financial information, O'Boyle and his attorneys decided to assemble large, monthly calendars depicting deposits and expenditures to and from all of these accounts and credit card statements. They requested access to information at CSC, such as O'Boyle's computer and football program records to assist in assembling the information on the calendars, but this request was denied. O'Boyle was also not allowed to consult or confer with any of his staff about the transactions. After numerous requests, he was given travel logs showing when and where he and his staff were on the road when many of the expenditures occurred. These helped, but it was still extremely difficult, if not impossible, to accurately assemble the calendars and other information without the information from CSC. At this time CSC had suspended O'Boyle and told him the main reason for doing so was so he could work on the investigation. Then he wasn't given what he really needed to be thorough and accurate. Nonetheless he, his wife and his attorneys did the best that they could, trying to show and explain three to four years of financial transactions.

When O'Boyle and his attorneys met with the BKD auditor, they explained that the calendars were a "work in progress; and that they were not fully accurate, but it was the best that O'Boyle could do at the time given the sheer volume of documents and not being given access to information from the college.

O'Boyle and his attorneys also contacted the Nebraska Political and Accountability Commission and informed it that the investigation of Smith's C-Club account and the Concession account might involve state funds. The Director was told that O'Boyle was represented by counsel, and he would cooperate with any investigation the Commission might have to undertake.

O'Boyle and his attorneys also contacted the Nebraska Attorney General's office and informed it of the CSC investigation and that O'Boyle was represented, and he would cooperate with any investigation that office might have to undertake.

During the time that O'Boyle was cooperating with the BKD auditor and the NSCS, he was told by Park on one occasion and by Smith on several occasions not to talk to the State Auditor. The NSA made several attempts to interview O'Boyle. On one occasion Sandy Steinbrecher from the NSA went to O'Boyle's office and asked to talk with him. According to O'Boyle, Smith "panicked" and didn't know what to do. O'Boyle didn't know what to do either - follow instructions from his employer, or cooperate with the State Auditor. They tried to put off the State Auditor, but he was persistent. During this time, O'Boyle and his attorneys kept the NSCS informed of the Auditor's efforts, and on two occasions counsel for the NSCS informed O'Boyle and his attorneys **that if he (O'Boyle) did not cooperate and give a statement to the**

NSA, it would not be held against him in any employment matters. The meaning of that statement was obvious.

O'Boyle and his attorneys decided to fully cooperate with the NSA, as they had all other investigating agencies. Mr. Tompsett was informed of the decision during O'Boyle's interview, and the meeting with the NSA and his staff took place thereafter in Kearney, Nebraska. Prior to the interview, all the information given to BKD was provided to the NSA. It was apparent that the NSCS office was not happy with O'Boyle's decision to cooperate with the NSA, and the mood and attitude of the NSCS office changed noticeably after the interview.

Park and the NSCS directives to O'Boyle not to talk to the NSA were threatening and troublesome to O'Boyle and his attorneys. They felt that there should have been full, open cooperation and disclosure by the NSCS, and CSC to the State Auditor.

VI. O'BOYLE'S SELF IMPROVEMENT GOALS

- A.** Complete any conditions, requirements and penalties imposed by the NCAA and the RMAC as promptly and thoroughly as possible with a positive attitude.
- B.** Daily reading and study of 5-10 pages of NCAA Manual with a goal of completing the entire document within 75-90 days with special attention on Boosters and fundraising. (In Progress)
- C.** Completion of all NCAA compliance training and testing required by my employer, the RMAC, and the NCAA. (In Progress)
- D.** Attendance at all employer staff and compliance meeting unless excused. (In Progress)
- E.** Visit employer's web-site, RMAC web-site, and NCAA web-site regularly to review any new entries, information, requirements; etc. regarding NCAA rules and regulations and discuss with fellow employees.
- F.** Calendar all significant dates on computer and phone so that all significant dates involving compliance are readily available, such as dates involving seasons, recruiting, etc.
- G.** Keep readily available all phone numbers, email addresses and contact information of NCAA, RMAC, and employer's compliance officers to assist with questions that may arise on short notice.
- H.** Abide by all NCAA, RMAC and Employer policies, procedures, rules and regulations, particularly those pertaining to financial and monetary matters such as the handling of funds, the use of credit cards, receipts, etc.

"It is my goal to turn this ordeal, which has hurt so many people besides myself, into a positive learning experience for me and others. I am willing to present my experiences to others. If this is something the NCAA, the RMAC and my employer is interested in, then I am willing to be available if it does not interfere with my job. Probably the most important thing that I have learned from this experience is to deal with problems- personal, financial, with my boss or all of the above, immediately and honestly, even if it will be difficult." Bill O'Boyle.

VII. O'BOYLE'S EVALUATIONS

O'Boyle underwent regular, annual job performance evaluations which are included as **Exhibit 4**. The evaluations are very good. In the evaluations there are no comments or concerns whatsoever about O'Boyle not being a team player, or not working with the CSF office, or being questioned about funds from the LCG golf tournament, or withholding information from the administration. In fact, the evaluations reflect that O'Boyle wanted to be more involved with fund raising and CSFs matters. The statements of O'Boyle being difficult to work with and complaints of that nature are just not consistent with his evaluations by Park and Smith.

VIII. THE CSC ATHLETIC DEPARTMENT

It is only fair to evaluate O'Boyle's conduct against the backdrop of the institution's programs, services and practices that were in place to promote compliance with NCAA rules and regulations at the time of his employment. Did CSC have the necessary personnel, resources and funding to assure that the athletic department at CSC could become and remain compliant with the vast number of complex rules required for membership in NCAA Division II?

One way to evaluate whether or not CSC met its obligations is to look to the many changes that have made in the Athletic Department to prevent the violations which led to this investigation. CSC now has a full time Compliance Officer, and a full time business manager in the Athletic Department. There are now regular staff meetings and compliance meetings, and notices of new rules and rule changes are disseminated quickly and efficiently. Credit cards are used on team road trips instead of staff having to carry large amounts of cash. Receipts for all expenditures must be kept and returned. Line item budgets have replaced the ledger sheets with one figure at the top that supposedly represented a team's annual operating budget. The Athletic Department's Web Site has been updated to include information about the NCAA, its rules and regulations, compliance, eligibility and student services. The changes are many, and impressive, and long overdue. Very few, if any, of these resources were in place during O'Boyle's tenure. These upgrades seem to be obvious, basic procedures and protocols commonly used in college athletic departments across the country to promote and assure compliance with NCAA rules.

Another way to evaluate whether or not CSC met its obligations is to see what Athletic Departments in similar institutions in Nebraska and in the RMAC have provided. Similar institutions clearly have created and filled positions to assure that their athletic departments are equipped to meet NCAA requirements. The positions include full-time, associate Athletic Directors, compliance officers, and business managers in athletic departments. In visiting with

other schools in the area, they have had regular staff and compliance meetings, training sessions, and other necessary safeguards in place for quite some time to assure compliance. Furthermore they have had basic comprehensive, informative website information for administrators, coaches, students, and boosters regarding NCAA rules and compliance. Wayne State College is a good example. It is one of the institutions in the NSCS. Its personnel, resources and organizational structure in the athletic department far exceeded CSC's until the recent improvements were made. Why? Shouldn't the NSCS have been able to staff and structure the departments in similar fashion? It has been twenty years since CSC joined Division II, and it appears that there has been very little planning and funding to meet basic NCAA requirements. Even Black Hills State, which is in its first year in Division II seems to be more organized and structured than CSC.

It may be that Smith has served as the Athletic Director, the head football coach, the compliance officer, the athletic department business manager, and one of the main fundraisers for the college and the department, possibly at the same time. If this is the case, it places him in an impossible position. Furthermore, it hinders development of the entire athletic department, makes it difficult for programs to succeed, and adversely impacts the entire college. It fails to promote an atmosphere of compliance, and it fosters and promotes a lack of institutional control.

O'Boyle is not offering these comments as an excuse, and he accepts full responsibility for his conduct. However, if O'Boyle had the same resources and structure as many other similarly situated institutions, this unfortunate costly situation, in all likelihood, would have avoided

IX. O'BOYLE HAS BEEN SUBJECTED TO UNNECESSARY PERSONAL ATTACKS

Articles disseminated to the media by the NSCS mentioned that the investigation was being referred to the Nebraska State Patrol clearly suggesting that there was criminal conduct on O'Boyle's part. This type of release was designed to cast blame, and it received wide publicity. That wasn't necessary. It was especially embarrassing to O'Boyle, his wife, his daughter, his mother, and his extended family. To O'Boyle's knowledge there was no ongoing criminal investigation. He has never been contacted by any law enforcement agency.

Before the BKD report was released and before it was given to O'Boyle and his attorneys, Park shared the confidential report with her husband, Tom Park. Tom Park in turn published information from the report in an email to an alumni who supported O'Boyle (**Exhibit 6**). The supporter delivered the email to O'Boyle, who felt compelled to apologize to the supporter for being drug into the investigation.

At one point during the investigation, while O'Boyle was suspended and banned from campus, the NSCS and CSC assumed that O'Boyle had been hired by Colorado Mesa, and apparently were concerned that he was drawing two salaries. Rather than ask him or his attorneys to confirm the information, Park assigned O'Boyle, who was still a suspended employee at the time and banned from the campus, to report to the basement of Sparks Hall for specified hours every day to draft an NCAA Compliance Manual, and then meet monthly with

all current CSC head coaches on NCAA compliance "because of his experience". At their initial meeting, Park emphasized to O'Boyle how important the manual and the meetings would be to the other coaches. This was a slap in the face. It was humiliating and demeaning to O'Boyle because he was the subject of an NCAA rules violation investigation, and yet he was being asked to prepare an NCAA Compliance Manual and educate other coaches. O'Boyle appeared as he was ordered for a few days and attempted to work on the manual even though he was not given the materials and resources to do so. Within a few days, the assignment was changed to drafting a manual for new coaches, and then the project was stopped, possibly because of indignation in the community.

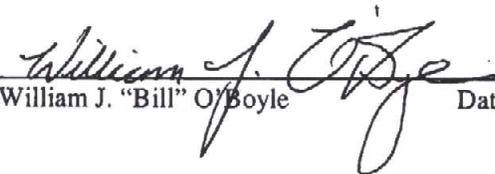
The media campaign suggesting criminal conduct, the disclosure of confidential information to Park's husband which brought a college alumni and supporter into the investigation, and the humiliating job assignment were difficult to deal with. O'Boyle was attempting to cooperate with everyone who had a legitimate interest in investigating the NCAA violations.

O'Boyle and his counsel were hoping, suggesting, and requesting that everyone work together to bring out all of the facts and submit a comprehensive report to the NCAA. The dispute between the NSCS and the NSA is another example of the difficulties that O'Boyle encountered while attempting to make full disclosure. Please see the NSA report attached hereto as **Exhibit 7**.

X. O'BOYLE'S REQUEST.

The past 15 months have been the most traumatic times of my life. I made choices that not only effected my life but the lives and families of other people. Being the head football coach at Chadron State was a great job, mostly because of the players and coaches I had the privilege to work with everyday. There is not a day that goes by that I don't miss being the head football coach at Chadron State.

I take full responsibility for my conduct and my mistakes. During the last 15 months I have tried my best to cooperate with everyone who was investigating this matter. I have worked hard to educate myself on the rules and regulations of NCAA. I will continue to do so. Coaching is my life, and I ask that you allow me to continue my coaching career. I will accept any requirements and conditions you set.


William J. "Bill" O'Boyle 12-21-12
Date