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As time goes on, shady dealings with NCAA basketball schools grow

A year ago, this column discussed federal criminal complaints involving NCAA basketball programs. The complaints detailed allegations of wire fraud, bribery, travel act and conspiracy offenses allegedly committed by Adidas executives. "Lowly gym shoe may be undoing of college hoops," Chicago Daily Law Bulletin (Nov. 28, 2017).

Acting Manhattan U.S. Attorney Joon H. Kim stated at the time, "The picture of college basketball painted by the charges is not a pretty one — coaches at some of the nation's top programs taking cash bribes, managers and advisers circling blue chip prospects like coyotes and employees of a global sportswear company funneling cash to families of high school recruits."

Indeed, the picture of college basketball painted by the prosecution of those charges has not been a pretty one. The underbelly of college basketball recruiting and the dark, underground money and influence exerted by corporate shoe companies has been exposed.

As one of the defendants presciently stated, in the presence of an FBI undercover agent, "You guys are being introduced to ... how stuff happens with kids and getting into particular schools ... this is kind of one of those instances where we needed to step up and help one of our flagship school in [Louisville], you know, secure a five-star caliber kid ... and that's an Adidas-sponsored school." The introduction has been enlightening and justice is beginning to be levied against those participating in the scheme.

On Oct. 24, a jury convicted three defendants accused of pay-for-play schemes to influence high-profile basketball recruits to attend Kansas, Louisville and

North Carolina State. Adidas employee James Gatto, former Adidas consultant Merl Code and former runner for NBA agent Andy Miller, Christian Dawkins, were found guilty of paying money from Adidas to the families of recruits to ensure they signed with Adidas-sponsored schools, and then with the sneaker company and certain financial planners and agents once they turned pro.

Each is now a convicted felon after a three-week criminal trial in federal court in New York. Gatto, Code and Dawkins are to be sentenced by U.S. District Judge Lewis A. Kaplan on March 5.

The testimony at trial was troubling for NCAA basketball. In particular, testimony focused on the defendants conspiring to pay \$100,000 from Adidas to Brian "Tugs" Bowen's father to influence him to sign with Louisville in the summer of 2017.

Last week, Brian Bowen II sued Adidas and several associates caught up in the college basketball corruption scandal. The lawsuit details claims that

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Bowen and other players targeted by Adidas' "criminal racketing enterprise" were denied the chance to grow their talents in college on the way to becoming professionals.

It seeks monetary damages and an injunction to prevent Adidas "from engaging in sponsorship of NCAA Division I men's basketball programs." *Bowen II v. Adidas America Inc., et al.*, No. 3:18-3118, D. South Carolina.

During the criminal trial, all

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three of the defendants admitted their role in making payments to Bowen and other players (or players' families), but their attorneys argued that these payments were not in violation of the law.

In contrast, the deputy U.S. attorney for the Southern District of New York argued that, "The defendants not only deceived universities into issuing scholarships under false pretenses, they deprived the universities of their economic rights and tarnished

Dawkins' bank account as a reimbursement for money Dawkins had already dispersed and more money was transferred for a future disbursement. Id. The indictment further states, "[T]he defendants, and one or more coaches at the University of Louisville, made, intended to make or caused or intended to cause others to make false certifications to the University of Louisville and the NCAA about the existence of the payments and the known violations of NCAA rules." Id. at ¶ 29.

After these allegations surfaced, the University of Louisville fired head coach Rick Pitino, who brought his own suit against Adidas claiming he had no knowledge of the defendant's illegal conduct or violations of NCAA rules. That suit was later dismissed pursuant to a mandatory arbitration clause in Pitino's endorsement deal with Adidas.

Other NCAA member institutions are also under fire. Gatto was also charged with defrauding or conspiring to defraud Kansas University. T.J. Gassnola, another Adidas representative that allegedly paid more than \$90,000 to two prospective Kansas players, testified that head coach, Bill Self, and Kansas assistant coach, Kurtis Townsend, did not know about any of these payments.

However, Code's lawyer reported a wiretapped phone call between Code and Townsend that involved a prospective player's relative asking for money to which Townsend said to Code, "So, I've got to just try to work and figure out a way. Because if that's what it takes to get him for 10 months, we're going to have to do it some way."

Additionally, there was evidence at trial that Gassnola texted head coach Bill Self to thank him for helping to ensure the 12-year contract extension

an ideal which makes college sports a beloved tradition."

According to the federal indictment, Gatto approved transfers of money from Adidas to an AAU basketball program that was managed and run by Code. *United States v. Gatto, et al.*, 2017 WL 7790584, ¶ 26 (S.D.N.Y.). The funds were listed as travel expenses for the AAU team to hide from Adidas officials where the money was actually going. Id.

Code then moved the money to

was successful between Kansas and Adidas. Self responded that he was happy with the deal and that they “Just got to get a couple real guys.” Gatto, the sneaker company’s director of global sports marketing for basketball, also was accused of conspiring with Gassnola to pay \$90,000 to former Kansas prospect Billy Preston’s mother and \$20,000 to current Jayhawks player Silvio De Sousa’s guardian. As a result, star recruit, De Sousa has been held out of competition this season pending a review of his eligibility.

Gassnola also testified during the trial that he provided former North Carolina State assistant Orlando Early with \$40,000 to secure the commitment of

former Wolfpack star Dennis Smith Jr., after Gatto approved the payment.

At this point, only these three schools have been implicated and only these three men have been convicted. But additional trials implicating others are scheduled for early next year.

Former Auburn assistant Chuck Person and former NBA referee Rashan Michel are scheduled for trial in February. Person is accused of accepting \$91,500 in bribes from a federal cooperating witness to influence Auburn players to sign with certain financial advisers and agents.

Three former assistant coaches — Arizona’s Emanuel “Book” Richardson, Oklahoma State’s

Lamont Evans and USC’s Tony Bland — are scheduled for trial in April. They are accused of accepting bribes from Code and Dawkins, who are also defendants in that case.

Clearly, the door is wide open for potential NCAA sanctions in connection to these activities. The NCAA specifically prohibits any payment from a “representative of an institution’s athletics interests.” 2018-19 NCAA Division I Manual Article 12, Section 1.2.1.3.1.

Players’ acceptance of these types of payments can result in bars from competition, exclusion from NCAA playoffs or exclusion from NCAA sanctioned teams. Coaches that have facilitated these types of payments can be

themselves fired from the university. But there are also potential penalties for the programs, such as bar from NCAA Division I tournament play or forfeiture of wins or championships.

NCAA Division I teams, all 351 of them, each offering 13 scholarships, provide the opportunity each year to 4,563 student athletes to participate in the highest level of amateur basketball.

Certainly, all are not tainted. But, the world has now seen how the sausage is made at some of the top basketball programs. The sundry details of Adidas’ funneling of cash in the underground world of college basketball recruiting is not a pretty picture at all.