

College Sports Reform: A View of the Likely End Game via Four Related Commentaries

It's Time to Expose the Big Lie

Congress has been reluctant to strip the NCAA and its member universities of their tax-exempt status and so help limit the seemingly uncontrolled growth of professionalized big-time college sports entertainment.

Striking Parallels of Abuse

A follow up on previous commentaries on Penn State points out the striking parallels between the sexual abuse scandal at Penn State and in the many such scandals in the Catholic Church.

The Tainted Glory of College Sports

On the motivation behind Sonny Vaccaro's endorsement of David Ridpath's book, Tainted Glory, and the antitrust lawsuits against the NCAA while again pointing out the need for corrective action in the world of college sports.

On Taxing College Sports Related Revenues

On why questionable tax breaks—treated as entitlements by the NCAA and its member institutions—go unchallenged by the federal government and what lies ahead

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CONTENTS

PREFACE

IT'S TIME TO EXPOSE THE BIG LIE.....	1
STRIKING PARALLELS OF ABUSE.....	2
THE TAINTED GLORY OF COLLEGE SPORTS.....	4
ON TAXING COLLEGE SPORTS RELATED REVENUES.....	6
ACKNOWLEDGEMENTS.....	10
THE AUTHOR.....	11

Perhaps the sentiments contained in these pages are not yet sufficiently fashionable to procure them general favour; a long habit of not thinking a thing wrong, gives it a superficial appearance of being right, and raises at first a formidable outcry in defense of custom. But the tumult soon subsides. Time makes more converts than reason.

—Thomas Paine, 1776

College football today is one of the last great strongholds of genuine old-fashioned American hypocrisy. There are occasionally abortive attempts to turn football into an honest woman, but to date, the fine old game that interests and entertains literally millions of people has managed to withstand these insidious attacks.

—Paul Gallico, *Farewell to Sport*, 1938

It is worth a take-home exam to discover how the brains behind higher education have lost their minds in the pursuit of football superiority.

—Selena Roberts, 2008

PREFACE

This is a revealing set of commentaries in the sense that it will likely lead open-minded readers to ask: How can college-conference officials and those at the NCAA and its member colleges and universities continue to get away with their “big lie” about amateur college athletes and the related tax scam involving the exploitation of so-called student athletes? These counterfeit amateurs are passed off as legitimate students so as to create the illusion that NCAA and conference operations fit the academic mission of the participating schools—generating billions of dollars of untaxed revenues for said operations.

Despite the presently unrestricted growth of the professionalized college-sports entertainment industry that is fueled by massive amounts of untaxed income, there currently is no one in Washington who is willing and able to take on this industry. That is to say, there is no one willing and able to give serious consideration to conditioning the tax-exempt status of colleges and universities sponsoring big-time football and men’s basketball programs on the programs’ compliance with the federal requirements for this status.

The Drake Group has engaged in a nine-year, Sisyphean-like struggle in attempts to engage government officials on the tax-exempt status of the NCAA cartel with the aim of catalyzing corrective action not only to help restrain this growth, but also to help resolve related issues. This struggle has involved multiple communications and appeals to both the House and Senate sides of the U. S. Congress, the U. S. Department of Education, as well as two open letters to President Obama.

The very latest effort involved the promulgation of the last of the following four commentaries, "Collegiate Athletics Reform: On taxing college sports related revenues," that begins with references to two revealing front-page stories in the *Marketplace*-section of the December 10, 2012 issue of the *Wall Street Journal* and then goes on to include a postscript based on remarks made in e-mails covering the transmission of the pre-postscript commentary to the Chief Tax Counsels for the Senate Finance Committee, and to my congressional representative.

Apparently, the tax-free moneymaking and blatant hypocrisy in the college-sports entertainment industry will continue to go unchallenged by elected politicians. By letting sleeping dogs lie, not only government officials, but also school and conference officials avoid the risk of losing contributions or getting turned out of office by boosters or sports fans who are addicted to being entertained by college teams that play at professional levels.

With but few exceptions, the outcomes of the Drake Group's efforts to engage government officials have proved to be unsuccessful—most disappointing and frustrating to say the very least. Expect elected officials to continue to muddle along—avoiding any and all attempts to restrain the college-sports entertainment industry no matter the need.

Certainly if the Penn State sex-abuse scandal did not motivate President Obama to say as he did after the Sandy Hook school killings that he will “use whatever the power this office holds to engage my fellow citizens” in preventing gun tragedies, don’t expect him to speak out to prevent the exploitation of college athletes and the hijacking of America’s education system by this entertainment industry.

All the while, America's colleges and universities that sponsor big-time football and men’s basketball programs continue on their march of folly: defiling academic integrity via rampant cheating, warping academic missions, fleecing American taxpayers who help pay multimillion-dollar salaries for coaches and many millions of dollars more for stadiums, arenas, and jocks-only academic eligibility centers—not to mention harboring violent athletes, providing weak testing and inconsistent punishment for

schools that cheat and for athletes that use performance-enhancing drugs, as well as sponsoring games where players can suffer blown knees, paralyzing broken necks, and long-term concussive brain damage if not death.

America's colleges and universities are short changing our nation that deserves a world-class system of higher education that values academics well above athletics,

But it is what it is. So, here's a sad conclusion: No matter how unjustified, elected politicians seem to consider the nonprofit status of the NCAA cartel and college football and basketball conferences to be a "3rd-rail" entitlement program—a program with dire long-term consequences...consequences that appear beyond the collective ken of these politicians who currently comprise our nation's polarized, dysfunctional government that will likely be locked in bitterly divisive politics over taxing and spending for the foreseeable future.

I now have reluctantly come to agree with John Columbo, the Albert E. Jenner, Jr. Professor of Law at the University of Illinois, who has advised: "There are many things tax policy can accomplish. This isn't one of them." Why? Because elected officials fear retaliation by voters and vested interests so won't even challenge the justification for the college-sports "entitlement" of tax-breaks. Consequently, loop-hole-free taxation of college-sports revenues won't be given a chance to prove its effectiveness.

Finally, it is my view that the beginning of the end game for serious collegiate athletics reform will stem from the antitrust lawsuits against the NCAA driven by Sonny Vaccaro. The postscript in the commentary "On taxing college sports related revenues," and the commentary "The Tainted Glory of College Sports," tell why this is so.

I believe the lawsuits will break ground that will help facilitate The Drake Group's mission as well as the missions of other reform-minded organizations such as the American Council of Trustees and Alumni (ACTA), the National College Players Association (NCPA), and the National Coalition Against Violent Athletes (NCAVA).

Frank G. Splitt
December 31, 2012

Telling the truth about a given condition is absolutely requisite to any possibility of reforming it.

—Barbara Tuchman

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. The average age of the world's greatest civilizations has been 200 years.

—Unknown author (usually attributed to the eighteenth-century Scottish historian Alexander Tytler)

It's Time to Expose the Big Lie

a Clips Guest Commentary

Our guest author believes Congress has been reluctant to strip the NCAA and its member universities of their tax-exempt status and so help limit the seemingly uncontrolled growth of professionalized big-time college sports entertainment.

By Frank G. Splitt, 04-12-12

Given the mountain of mistakes the NCAA has made in the past year and beyond, it is long past the time Congress stripped the NCAA and its member universities of their tax-exempt status.

—Bob Gilbert¹

Stripping the NCAA cartel (the NCAA and its member colleges and universities) of its tax-exempt status by the Congress would certainly help limit the seemingly uncontrolled growth of professionalized big-time college sports entertainment by putting a break on what appears to be a runaway financial train. However, this stripping would require a great deal of congressional courage because it would mean exposing an inconvenient truth—the false claim, i.e., the lie that forms the basis for the cartel's tax-exempt status.²⁻³

Members of Congress do not want the lie exposed since exposure would be contrary to their vested interests—leading to potentially painful and damaging political consequences.⁴

Nonetheless, the time may be right to not only think "stripping," but also to exposing the big lie.

I was first made aware of the "lie" by Rick Telander via his book, *The Hundred Yard Lie*.⁵ Then came Jon Ericson who introduced the notion of the "big lie" in the Afterword to one of my first essays⁶ as can be seen in the following excerpt:

Instruction 2: Focus not on a multi-point list of proposals to address the corruption in college sports, but on one key idea. Problem-Solving 101 suggests the one big idea should be exposing the lie that is the basis for the academic corruption in college sports:

[Bob] LEY [on ESPN's "Outside the Lines"] – Well Tom [McMillen, former Knight Commission member], you brought up the issue of academic integrity. I'm going to bring in a piece of tape with Jon Ericson of the reform minded Drake Group; what he calls the big lie having to do with college athletics.

ERICSON – It is that you can take an under-prepared student [who] does not have the skills to do academic work in higher education, then, take that student, give him a job 30 hours a week where he will be tired when he does come to class -- he's also excused for maybe seven -- maybe eight or nine classes and expect him to acquire anything close to what we would call a university education.

LEY – Is that true?

MCMILLEN – It's absolutely true.

Absolutely true? It is commonplace. As co-chair of the Knight Commission William Friday said: "What has happened with grades and courses seriously threatens the integrity of the institution. The university cannot tolerate these practices."

Once again, attention has been called to the "lie"—this time by Joe Nocera, the widely-read *New York Times* columnist who has written a number of scathing NCAA-related op-eds.⁷

To the point, in his most recent op-ed Nocera wrote:⁸

"All of the problems in college sports stem from one root cause," she (Ellen Staurowsky) told me recently. "It is all built on a lie." Until we acknowledge that lie, the freshmen football players will be studying Swahili.

As if on cue, the very next day an article on the federal law against lying appeared on the front page of *The Wall Street Journal*.⁹

To the best of my knowledge, the law against lying, Title 18, Section 1001 of the U.S. Code, and the False Claims Act have never been used to flush out the big lie.

It's about time to do so. Perhaps it will be left to the likes of David Ridpath¹⁰ and Sonny Vaccaro¹¹ to make it happen. In the meantime the NCAA is trying to resolve what it perceives to be an image problem.¹²

NOTES

1. Gilbert, Robert, "Baylor: Special Treatment," Gilbert Communications, April 11, 2012.
2. Splitt, Frank G. "College Athletics, Academic Assessment, and the False Claims Act," *College Athletics Clips*, Sept. 24, 2006, http://thedrakegroup.org/Splitt_College_Athletics.pdf
3. _____, "The Student-Athlete: An NCAA False Claim?" *College Athletics Clips*, November 21, 2006, http://thedrakegroup.org/Splitt_The_Student_Athlete.pdf
4. _____, "Why Congress has yet to curtail the NCAA cartel's tax breaks: Exemptions historically tied to amateur athletes," *College Athletics Clips*, August 30, 2009, http://thedrakegroup.org/Splitt_Why_Congress.pdf
5. Telander, Rick, *The Hundred Yard Lie: The Corruption of College Football and What We Can Do to Stop It*, University of Illinois Press, Chicago and Urbana, Illinois, 1989, Paperback Edition with Afterword, 1996..
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10. Ridpath, B. David, *Tainted Glory: Marshall University, the NCAA, and One Man's Fight for Justice*, iUniverse, 2012. Robert Lipsyte, former New York Times columnist, claims "this is the best insider's examination of a corrupt system that I have ever read."
11. Branch, Taylor, "The Shame of College Sports," *The Atlantic Monthly*, October 2011, <http://www.theatlantic.com/magazine/archive/2011/10/the-shame-of-college-sports/8643/>. Branch opens with remarks about Vaccaro and then elaborates on his behind-the-scenes role in the antitrust lawsuits against the NCAA later in the narrative.
12. "NCAA Thinks It Has an Image Problem," *Inside Higher Ed Quick Take*, April 13, 2012, <http://www.insidehighered.com/quicktakes/2012/04/13/ncaa-thinks-it-has-image-problem>
The author's comment on this *Inside Higher Ed Quick Take* was based on this commentary.

This was the last in a series of four documents prepared for distribution at the April 19-21, 2012, Scholarly Conference on College Sport, sponsored by the University of North Carolina at Chapel Hill's College Sport Research Institute.

Striking Parallels of Abuse

Clips Guest Commentary

By Frank G. Splitt, 07-14-12

Having heard all of this you may choose to look the other way, but you can never again say that you did not know.—William Wilberforce (1759-1833)

Our guest author follows up on his previous commentaries on Penn State by pointing out the striking parallels of sexual abuse at Penn State and in the cases of abuse in the Catholic Church.

In the July 12, 2012, *Inside Higher Ed* piece, "Culture of Complacency: Freeh report faults Penn State athletics culture," [1] Allie Grasgreen quotes Orin Starn, chair and professor of cultural anthropology at Duke, as saying:

"Comparing the structure of athletics programs to the Catholic Church, he added, "They're certainly systems where once abuse happens, because they're so hierarchical and because such fealty is owed to the head coach, that they very quickly get into cover-up and not owning up, a lack of transparency."

Therein, Professor Starn illuminates the striking parallels between the pedophile abuse at Penn State and the pedophile

abuse in the Catholic Church.

It is difficult to differentiate between the behavior of the Catholic Church when it was confronted with many hundreds of worldwide pedophile cases and the behavior at Penn State University detailed in the July 12, 2012, Freeh Report that made liberal use of phrases like “extremely poor leadership,” “irresponsibility,” “creating dangerous situations for children,” “repeatedly concealed facts” and “showing no concern for the victims.” [2]

The behavior at both institutions was characterized by conspiracies of silence and structures of deceit, denial, corruption, cover-ups, as well as the shockingly callous disregard for the victims of the abuser.

As the AP reported: "The NCAA said yesterday it expects Penn State to answer a handful of crucial questions stemming from the child sex-abuse case against Jerry Sandusky, any of which could result in sanctions against the school. See "NCAA looking for answers from PSU." [3]

The NCAA can't really be serious. It's tantamount to a mother fox looking for answers to explain the dead chickens killed by one of her well-trained kits.

Answers are difficult if not impossible to obtain in colleges and universities because of the federal Family Education and Privacy Act (FERPA). The NCAA and its member institutions employ FERPA to avoid scrutiny of the academic performance and bad behavior of its so-called student-athletes. For example, Iowa's highest court just ruled that the University of Iowa can withhold hundreds of documents related to its inquiry into a dorm-room assault, the state's highest court ruled Friday in a case pitting safeguards for student privacy against calls for transparency about campus crime. See Joe Palazzolo's July 14, 2012, *Wall Street Journal* article "Iowa College Can Shield Student Data, Court Rules." [4]

For more on conspiracies of silence see Chapter 12 of Garry Wills' book, *Papal Sins: Structures of Deceit*. Also see, "Collegiate Athletics Reform: Lessons from Penn State" [5] and "Collegiate Athletics Reform: Lessons from Penn State Redux." [6]

Web Links

1. <http://www.insidehighered.com/news/2012/07/13/freeh-report-faults-penn-state-athletics-culture>
2. http://www.thefreehreportonpsu.com/REPORT_FINAL_071212.pdf
3. <http://www.bostonherald.com/sports/college/football/view.bg?articleid=1061145435&srvc=sports&position=recent>
4. <http://online.wsj.com/article/SB10001424052702303740704577525251728937004.html?KEYWORDS=Iowa+college+can+shield+student+data+Court+Rules>
5. http://thedrakegroup.org/Splitt_Penn_State.pdf
6. http://www.thedrakegroup.org/Splitt_Redux.pdf

*For too long, the (college and university governing) boards have been viewed more as boosters than as legal fiduciaries.**

—Anne Neal, President of the American Council of Trustees and Alumni

* The Penn State sex-abuse scandal alerted the nation to the failure of university boards of trustees to do their jobs and properly oversee the conduct of administrators. Penn State football was out-of-control, and the president and trustees engaged in a cover-up. For the source of the quote, see the July 12, 2012, *New York Times* story "In Report, Failures Throughout Penn State" <http://www.nytimes.com/2012/07/13/sports/ncaafotball/in-freeh-report-on-sandusky-failures-throughout-penn-state.html?pagewanted=all&_r=0>.

Our guest author focuses on the motivation behind Sonny Vaccaro's endorsement of David Ridpath's book, Tainted Glory, and the antitrust lawsuits against the NCAA while again pointing out the need for corrective action in the world of college sports.

Frank G. Splitt, 11-17-12

If you care, truly care about sports and academics—you have to read this book.
—Sonny Vaccaro, former Sports Marketing Executive

The above quote was taken from the jacket for David Ridpath's 2012 book, *Tainted Glory*. [1]

Notwithstanding the claim of Robert Lipsyte, former *New York Times* columnist that “this is the best insider’s examination of a corrupt system that I have ever read,” few sport fans will actually take the time to respond to Vaccaro’s appeal. No doubt, Ridpath’s book will be considered by NCAA, college, and government officials as well as media supporters and other defenders of the status quo, as just the latest in a very long list of revelatory books on the corrupt college sports entertainment business – books they seem to believe are akin to attacks on motherhood and the American flag. [2]

To better understand the motivation behind Vaccaro’s appeal see Libby Sander’s article, “The Gospel According to Sonny,” [3] wherein Sander tells how Sonny Vaccaro helped commercialize college sports and why he wants athletes to get their due.

More insights into Vaccaro’s motivation can be found in Pulitzer-Prize-winning Taylor Branch’s essay “The Shame of College Sports.” [4] Branch begins his narrative with remarks about Vaccaro and then elaborates later in the narrative on Vaccaro’s behind-the-scenes role in the antitrust lawsuits against his nemesis (the NCAA).

The NCAA would have you believe that it is the great protector of amateur athletics, preventing college athletes from being tainted by the river of money pouring over college sports. In fact, the NCAA's real role is to oversee the collusion of university athletic departments, whose goal is to maximize revenue and suppress the wages of its captive labor force, aka the players. [5] — Joe Nocera, New York Times columnist

Also consider Vaccaro’s comment:

It has taken me a long time to acknowledge the inequity in athletics and academics. When you are so deeply involved on one side of the fence you fail to see the other. When I finally emerged from my cocoon and looked over the other side of the fence, I knew then that I wanted to get out my sword and go after the windmills. I wanted to try and make sense of reasons for the failure of people to understand that academics and athletics could coincide in college sports. [6]

The most poignant of all Vaccaro stories comes from Neal Gabler, a University of Southern California professor, journalist, author, film critic and political commentator. His essay, “The Redemption of a Sneaker Pimp,” [7] addresses two questions, to wit: 1) Did Sonny Vaccaro ruin college sports? and 2) Is he really the right guy to save them? Gabler tells how Vaccaro has been criticized through the years for turning college sports into big business that takes advantage of so-called student athletes.

He then tells how Vaccaro intends to make amends with the sports world before it’s too late. Vaccaro is hoping his lawsuit will do just that with respect to his reputation. “He doesn’t want to be known as the man who commercialized amateur athletics. He wants to be known as the man who wound up changing the system that abused young athletes. He just might do it,” says Gabler.

Finally, we all need to wake up and face a sad reality: Our nation’s institutions of higher education are academically adrift in a sea of sports and mediocrity. America cannot compete in the 21st-century global marketplace by being the least-educated industrial nation in the world ... a nation in which its colleges and universities serve as prostitutes for the sports entertainment industry—with many focusing resources on athletics at the expense of academics so its best and most important future products could eventually be limited to athletic sports entertainment venues and world-class athletic entertainers.

Unfortunately, the slow but sure decline of America's educational system will continue, unless and until the growth of the professionalized college sports entertainment industry is restrained by forcing the NCAA and its member schools to comply with their tax-exempt purpose of keeping sports as "an integral part of the educational program and the athlete as an integral part of the student body"-requiring measures of transparency, accountability and oversight that are adequate to this task. Since these measures strike at the very core of an enterprise built on myths and falsehoods that are best shrouded in secrecy

that—like the current Vaccaro-inspired antitrust lawsuits—would be strongly resisted by the NCAA, which admits nothing and denies everything, while obfuscating and litigating to the best of its considerable ability.

Perhaps it will be left to Sonny Vaccaro and the likes of David Ridpath and his colleagues in The Drake Group to bring about significant corrective action in collegiate athletics that have been tainted by immense oceans of tax-free money. Absent this corrective action, reform-minded organizations and individuals are likely to adopt the approach of Don Quixote's faithful squire Sancho Panza and just laugh at America's dysfunctional schools and government, viewing the battle against academic corruption, exploitation, crime, and complicity in college athletics with all of its ironies in dark, sardonic humor.

POSTSCRIPT

Once you get rid of integrity, the rest is a piece of cake. — Larry Hagman, as J.R. Ewing, a rapacious, roguishly charming Texas oilman on "Dallas."

Three recent publications inspired the above Clips Guest Commentary: 1) Dave Ridpath's book, *Tainted Glory*, 2) Neal Gabler's October 2012, *Playboy* article, "The Redemption of a Shoe Pimp," and 3) Brad Wolverton's *Chronicle* article, "Need 3 Quick Credits to Play Ball: Call Western Oklahoma." [8]

Ridpath's book provides a striking example—a case study—of how America's institutions of higher education destroy academic integrity. In a foreword to the book, Dr. Richard Vedder said: *The commercialization of big time sports has led universities to compromise their academic and moral integrity. The time for reform is now.*

The Clips commentary formed the basis for a review of the book. [9] Both the book and Gabler's essay are referenced in the commentary.

In the third publication, Brad Wolverton describes how providing accredited 10-day online academic courses enable college athletes to satisfy eligibility requirements with a minimum of effort—generating significant revenue for the institution. The process certainly raises serious questions about the institution's academic integrity but even more serious questions about the integrity of the NCAA's Academic Progress and Graduation Rates.

Shortly after the publication of Wolverton's piece, a newspaper report detailed accusations from a University of North Carolina-Chapel Hill reading specialist about how the school and its academic support system tolerated and participated in cheating to keep athletes eligible to compete. [10] The specialist said numerous people in the academic support program looked the other way at plagiarism and knew of the school's no-show classes that were billed as lecture classes but never met. Those classes were frequently a favorite of athletes.

In the end, it's about glorious pageantry, rabid fans, and America's sports culture, but above all it's about enabling academic corruption and the loss of academic integrity, complicity and immense amounts of tax-free money. A good sense of the glory and money dimensions as well as the sports entertainment industry can be obtained by viewing *CBS's 60 Minutes* program segment, "Has college football become a campus commodity?" [11]

FGS, 11-27-12

ENDNOTES

1. Ridpath, B. David, *Tainted Glory: Marshall University, the NCAA, and One Man's Fight for Justice*, iUniverse, 2012.
2. For example, here's a revelatory book list: Paul Gallico's *Farewell to Sport*, James Michner's *Sports in America*, Walt Byers' *Unsportsmanlike Conduct*, Allen Sack's and Ellen Staurowsky's *College Athletes for Hire*, Murray Sperber's *Shake Down the Thunder, Onward to Victory, and Beer and Circus*, Rick Telander's *The Hundred Yard Lie*, John Thelin's *Games Colleges Play*, Andy Zimbalist's *Unpaid Professionals*, Jim Duderstadt's *Intercollegiate Athletics and the American University*, Don Yaeger's and Doug Looney's *Under the Tarnished Dome*, Allen Sack's *Counterfeit Amateurs*, John Gerdy's *Sports: The All-American Addiction* and *Airball*, William Dowling's *Confessions of a Spoilsport*, Mike Oriard's *Bowled Over*, Ron Smith's *Pay for Play*, Mark Yost's *Varsity Green*, and Ken Armstrong's and Nick Perry's *Scoreboard Baby*.

3. Sander, Libby, "The Gospel According to Sonny," *The Chronicle of Higher Education*, July 25, 2010, <http://chronicle.com/article/Sonny-Vaccaro-Helped/123672/>.

4. Branch, Taylor, "The Shame of College Sports," *The Atlantic Monthly*, October 2011, <http://www.theatlantic.com/magazine/archive/2011/10/the-shame-of-college-sports/8643/>.

5. Nocera, Joe, "The College Sports Cartel," *New York Times*, Dec. 30, 2011

http://www.nytimes.com/2011/12/31/opinion/nocera-the-college-sports-cartel.html?_r=1 today's paper

6. Vaccaro, John P., An excerpt from Sonny Vaccaro's, Nov. 2, 2010, comment on "Collegiate Athletics Reform ... It's a long and Lonely Journey," http://www.thedrakegroup.org/Splitt_Journey.pdf.
7. Gabler, Neal, "The Redemption of a Shoe Pimp," *Playboy*, Vol. 59, No. 8, October 2012.
8. Wolverton, Brad, "Need 3 Quick Credits to Play Ball: Call Western Oklahoma," *The Chronicle of Higher Education*, November 16, 2012; <http://chronicle.com/article/Need-3-Quick-Credits-to-Play/135690/>.
9. Splitt, Frank, "The Tainted Gory of College Sports," *Amazon.com*, November 20, 2012, <http://www.amazon.com/gp/pdp/profile/A3927GE69M656Q>.
10. Editorial, "The deeper scandal with college athletes: Report raises questions about athletes ill-equipped for UNC," *Charlotte Observer*, November 19, 2012, <http://www.charlotteobserver.com/2012/11/19/3677036/the-deeper-scandal-with-college.html#storylink=cpy#storylink=cpy>.
11. "Has college football become a campus commodity?" *CBS 60 Minutes*, November 18, 2012, http://www.cbsnews.com/8301-18560_162-57551556/has-college-football-become-a-campus-commodity/

Collegiate Athletics Reform: On taxing college sports related revenues

Clips Guest Commentary

The writer says entitlements provide the NCAA and its member institutions with a wide variety of tax breaks.

Frank G. Splitt, 12-12-12

Big money associated with college football was the focus of two front-page stories in the Marketplace Section of the December 10, 2012 edition of *The Wall Street Journal*. [1, 2] "College football is a multibillion-dollar, taxpayer-subsidized business. That's a lot of public investment in head trauma," said Patrick Hubry in his essay on long-term brain damage from football. [3]

It's also a lot of investment in an entertainment business that exploits college athletes and warps the academic mission of many colleges and universities via an overemphasis on sports and related academic corruption with a consequent loss of academic integrity, while prompting cheating and the use of performance enhancing drugs that spawn violent athletes. It's all about money....and tax free at that.

The university presidents, conference commissioners, athletic directors and corporate marketers who attend (the annual IMG Intercollegiate Athletics Forum) spend very little time mouthing the usual pieties about how the "student-athlete" comes first. Rather, they gather each year to talk bluntly about making money. —Joe Nocera[4]

University athletics benefit from in what can be likened to a stealth entitlement. Donors can usually write off gifts for athletic facilities and the right-to-purchase tickets. For example, federal tax revenues are lost because more than 1,000 university sports departments are eligible to extort deductible gifts as a condition for ticket sales. According to Andrew Zimbalist, an economist at Smith College: "based on the Bloomberg sampling, it wouldn't be unreasonable to estimate that giving related to season tickets may total \$1 billion a year." [5]

Also, college programs are excused from paying taxes on billions of dollars in revenue from television, advertising, sponsorships, licensing and royalties since stadiums and academic-support centers (a. k. a. eligibility centers) built or renovated using municipal debt benefit from lower costs as buyers of the bonds are exempt from taxes on interest.

Almost all of this tax revenue has been lost because the NCAA cartel has somehow convinced the IRS that it is compliant with its tax-exempt purpose of keeping sports as "an integral part of the educational program and the athlete as an integral part of the student body"; that is, its athletes are real students and its sports businesses are an integral part of its academic

mission. So too have conference officials. The IRS has challenged the tax breaks but is faced with a formidable problem, to wit: without transparency, accountability and independent oversight the IRS is literally forced to accept the word of the cartel's representatives.

In 2006, three College Athletics Clips commentaries addressed this problem. [6-8] These commentaries encouraged the comments on the Draft of a Redesigned IRS Form 990 by The Drake Group. [9] The reader's attention is called to the final paragraph of the last section of [8], titled: "A 'QUID PRO QUO' TACTIC." The wording in this paragraph was echoed in Note 21 of the comments:

Conditioning the continuation of the NCAA's tax-exempt status on their meeting specific reporting requirements such as outlined herein and plugging the tax loopholes that help subsidize the college sports arms race will provide a strong message as to the serious nature of the revised Form 990 and its schedules....Failure to implement and comply with the IRS reporting requirements should put the NCAA and/or individual institutions at risk of losing their tax-exempt status. Once implemented, evidence of a continuation of existing patterns of fraud, continued efforts by universities and colleges to circumvent the intent of these measures, or, retaliation against whistleblowers, should garner severe penalties.

A related e-mail to the Senate Finance Committee's chief tax counsels is appended. For those interested in a more in-depth discussion, see Colombo[10] and the Congressional Budget Office paper.[11]

Regrettably, the CBO paper focused on the financial implications that various tax changes might have on collegiate athletics without questioning the justification for its present tax-exempt status. The primary issue in college sports stems not from the exorbitant financial spending of college athletic departments, but rather from the fact that commercialization and professionalization have corrupted the original intent of college athletics and compromised the integrity of our institutions of higher learning.

In the event Congress prefers to avoid dealing with the NCAA cartel's considerable lobbying forces that would again be launched to protect its financial interests from an Unrelated-Business-Income-Tax (UBIT)-based challenge, it could simply employ an excise tax on gross revenues. In fact, University of Chicago Professor Allen Sanderson says consideration should be given to imposing a "sin tax" tax on gross revenues stemming from college football and basketball programs.[12] In an Oct. 9, 2011, comment on Sanderson's article, I said:

Since collegiate football and basketball conferences are serving as uncompensated minor leagues for the NFL and NBA, serious consideration should also be given to the imposition of steep taxes on all NFL and NBA advertising, television broadcasts, logo merchandise sales, and gate receipts.

Absent this taxation-based action to curb the unrelenting growth of the college-sports entertainment industry, it will be left to the antitrust lawsuits against the NCAA driven by Sonny Vaccaro to bring about significant corrective action in collegiate athletics that have been tainted by immense oceans of tax-free money.

POSTSCRIPT (12-15-12)

This commentary was prompted by the fiscal-cliff discussions in Washington. It is the latest of numerous commentaries and e-mails concerning college sports that have been sent to government officials beginning in 2004. Two examples of what has been a Sisyphean-like effort to engage these officials in corrective action are the open letters sent to the president and members of his administration. [13]

Most likely, resolution of America's debt problem will require significant revenue via reform of the federal tax code. Untaxed college sports related revenues could then be on the table in what would certainly be an already politically contentious process. However, experience indicates that politicians not only don't want to pick the low hanging fruit represented by these untaxed revenues, but have avoided serious consideration of this revenue source as well---fearing the fruit is a political-poison apple.

The fiscal-cliff discussions are instructive in that the talks illuminate a fundamental flaw in the democratic legislative process: Elected officials are politicians, who almost always take the path of least resistance, rather than statesmen and stateswomen, who would be primarily concerned with the long-term health of America in today's global economy. It is of interest to note the counterbalance exercised by the judicial branch of the government. The judges hearing the antitrust cases against the NCAA are appointed not elected, offering a much greater probability of favorable outcomes in the sense that the outcomes could impede the presently unrestricted growth of the professionalized college-sports entertainment industry that is fueled by untaxed revenues.

7

The unmistakable truth is that the taxation of college-sports revenues has a trivial constituency relative to the NCAA cartel and the college conferences that are supported by allies in the media and in the government where politicians of every stripe provide salient examples of pandering to athletes and to their sports-addicted constituents.

So it would seem that with the exception of the Vaccaro-driven antitrust lawsuits,[14] reform-minded individuals and organizations are relegated to nibbling around the edges of a formidably-defended business enterprise that has helped set America's colleges and universities academically adrift in a sea of sports while politicians look the other way.

Additional insights into the taxation issues discussed in the commentary follow:

o Dr. Richard Vedder, Distinguished Professor of Economics at Ohio University in Athens, Ohio, has made a strong pitch to apply the Ohio sales tax to sporting revenues in that state as part of a broader based tax reform in Ohio, thinking it will be at least on the table for serious discussion next year. This initiative will likely be killed when the sports lobby goes to work.

o Although Senator Chuck Grassley ordered the CBO study, there have been scant follow-up communications by his SFC staff. Dean Zerbe, Grassley's chief tax counsel, and the real champion behind the requested study, was the main contact for The Drake Group (TDG)—circa 2005 through the time he resigned his position in 2008. Over this time period TDG also worked with staffers for Congressman Bill Thomas, the then chair of the House Ways & Means Committee, who, in 2006, sent a sharply worded letter, concerning its tax-exempt status, to Myles Brand, the then NCAA president.

At the outset, it was thought that TDG would be pleased with the study the SFC was initiating at the CBO. Indeed, it was not pleased as evidenced by its comment on the May 2009 CBO paper in its the May 27, 2009, Open Letter to the President and His Administration.[13] The “Regrettably” comment with reference to the CBO in the foregoing text was taken from this letter. The weak nature of the CBO paper was most likely a direct consequence of Zerbe's departure from his SFC position.

o To the best of my knowledge, there currently is no member of Congress who is willing and able to give serious consideration to taxing college sports-related revenues. Who would want to eat what they believe is a political-poison apple?

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APPENDIX -- December 4, 2012, E-mail to Senate Finance Committee Chief Tax *Counsels*, Subject: How about taxing college sports related revenues?

M r. Jim Lyons, Chief Majority Tax Counsel
Mr. Mark Prater, Chief Minority Tax Counsel
Senate Finance Committee

Dear Messrs. Lyons and Prater:

FYI and reference purposes, please find appended a comment posted on the Wall Street Journal's Dec. 1-2, headline story, "GOP Takes Aim at Entitlements," <http://online.wsj.com/article/SB10001424127887323751104578151322684021276.html?mod=rss_economy>.

By way of background, I worked with Senator Grassley's and Congressman Thomas' staff members on the apparently unwarranted basis for the NCAA's tax-exempt status.

A similar letter (also appended) will soon be published in the Chicago area's Daily Herald. Both pieces have been called to the attention of my Congresswoman Jan Schakowsky.

Best,

Frank G. Splitt
Former McCormick Faculty Fellow
McCormick School of Engineering and Applied Science
Northwestern University

P. S. -- For additional background, see "The U.S. Congress: New Hope for Constructive Engagement with the NCAA and Intercollegiate Athletics." Montana Professor, Spring 2007, <http://mtprof.msun.edu/Spr2007/splitt.html>.

Also see "Comments by The Drake Group on the Draft of a Redesigned IRS Form 990," September 12, 2007, http://thedrakegroup.org/Splitt_TDG_IRS_Commentary_091207.pdf. These comments were prepared at the behest of Dean Zerbe, the Chief Republican Tax Counsel for the SFC when it was chaired by Senator Chuck Grassley. He resigned in 2007, shortly after the Republicans lost control of Senate committees after the 2006 elections, Theresa Pattara served as his replacement.

APPENDIX

Frank Splitt Wrote on December 1, 2012

Tax a Stealth Entitlement!

Senate Minority Leader Mitch McConnell said his ideas for saving money on entitlement programs were examples of the structural changes sought by Republicans."

Two recent TV news segments provided deep insights into the profligate spending and immense revenue streams associated with college sports: "College Teams Play Game of Musical Chairs Switching Conferences for TV Contracts," (Nov. 29, PBS Newshour)[1] and "Has college football become a campus commodity?" (Nov. 18, CBS 60 Minutes). [2]

One would hope that these news reports would prompt Mr. McConnell and his congressional colleagues to examine what amounts to a stealth entitlement involving federal tax policies that allow many billions of dollars to go tax free. These are college sports related revenues derived from multibillion-dollar television contracts, merchandise sales, and profits from the sale of images of former athletes, as well as from donor contributions that also provide a tax-exemption for the donor.

This examination would be a long-overdue follow up on the early efforts of Senator Chuck Grassley, past chair of the Senate Finance Committee, and former Congressman Bill Thomas who, when chair of the House Committee on Ways & Means, questioned the justification for the NCAA's tax-exempt status.

9

Sad to say, the tax-free revenues help drive academic corruption and the related loss of academic integrity at schools sponsoring professionalized college sports entertainment businesses....schools that tend to go academically adrift in a sea of sports.

Sadder still is the fact that it will require great political courage to put this initiative on the table.

Web Links

1. http://www.pbs.org/newshour/bb/sports/july-dec12/sports_11-29.html

2. http://www.cbsnews.com/8301-18560_162-57551556/has-college-football-become-a-campus-commodity/

How about taxing college sports related revenues?

The Dec.3, front-page story, "Fiscal cliff talks stuck on tax hikes," tells how White House and Republican leaders are struggling to avoid a year-end economy-rattling combination of expiring tax cuts and major across-the board spending reductions.

One would hope tax-code and fiscal-crisis-focused government officials would take heed of two recent TV news segments that provided deep insights into the immense revenue streams and profligate spending associated with college sports: "College Teams Play Game of Musical Chairs Switching Conferences for TV Contracts," (Nov. 29, PBS Newshour) and "Has college football become a campus commodity?" (Nov.18, CBS 60 Minutes).

These reports should prompt an immediate revision of federal tax policies that allow many billions of dollars of college sports related revenues to go untaxed. These revenues come from multibillion-dollar television contracts, merchandise sales, and profits from the sale of images of former athletes, as well as from donor contributionscontributions that also provide tax deductions for the donors.

Sad to say, the tax-free revenues help drive academic corruption and the related loss of academic integrity at schools sponsoring professionalized college sports entertainment businesses....schools that tend to go academically adrift in a sea of sports.

Sadder still is the fact that it will require great political courage to put this initiative on the table.

Frank G. Splitt
Mount Prospect, IL

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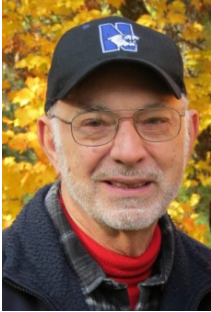
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10

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THE AUTHOR



Frank G. Splitt holds a Ph.D. in Electrical and Computer Engineering (1963) from Northwestern University where he served as the McCormick Faculty Fellow of Telecommunications at the McCormick School of Engineering and Applied Science (1993-2005).

He is a member of The Drake Group, a member of the College Sport Research Institute's Advisory Committee, University of North Carolina at Chapel Hill, and was the Vice President Emeritus of Educational and Environmental Initiatives for NTI, the U.S. subsidiary of Nortel Networks, formerly known as Northern Telecom Limited.

As a Director of the International Engineering Consortium, he chaired the Consortium's Committee on the Future and its Fellow Awards Committee. He was also a member of the Accreditation Board for Engineering and Technology (ABET) inaugural Industry Advisory Council, the Institute of Electrical and Electronic Engineers (IEEE) Educational Activities Board, and the IEEE's Corporate

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His professional career covered research & development, marketing, administration, teaching, and public service. He has authored numerous technical papers, as well as articles on public affairs. He is a Fellow of the International Engineering Consortium, a Life Fellow of the Institute of Electrical and Electronic Engineers, an Eminent Engineer of Tau Beta Pi, the recipient of The Drake Group's 2006 *Robert Maynard Hutchins Award*, and has been recognized by the state of Wisconsin for Outstanding Lake Stewardship.

His interests involve research and planning for the future of engineering education, environmental protection and conservation, and college sports reform. He and his wife Judy reside in Mt. Prospect, Illinois, and in Star Lake, Wisconsin.

A complete listing of links to his essays and commentaries on college sports reform can be found at <http://thedrakegroup.org/splittsays.html>

If the ways of God are inscrutable, the path of man has become incomprehensible. Modern man, despite the wonderful body of knowledge and information he has accumulated and the means to apply it, appears to be muddling ahead as if he were blind or drugged staggering from one crisis to another.

—Aurelio Peccei and Alexander King, 1977

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