

## Dancing Partners: The NCAA and the Knight Commission

David Mortz's report<sup>1</sup> covering the most recent meeting of the Knight Commission on Intercollegiate Athletics (KCIA) as well as the KCIA's press release on the meeting<sup>2</sup> was foreshadowed by an earlier opinion piece by William E. Kirwan, and R. Gerald Turner, the KCIA's co-chairs.<sup>3</sup>

It seems that there is no end to the means to which the NCAA and the KCIA will go to defend the NCAA's big-money turf and the status quo in collegiate athletics. The Kirwan-Turner opinion piece had a clear ring to it—prompting a question: Isn't the pot calling the kettle black?

The authors write:

These online fantasy leagues, which use the real names and statistics of collegiate athletes, raise a crucial question for higher education leaders: Is it amateurism in college sports that has become a fantasy?

A resounding YES answer to this question has long been apparent to all who are concerned about the integrity of collegiate athletics and are working to bring about transparency, accountability, and independent oversight to the college sports entertainment business.

The subtitle of the Kirwan-Turner opinion piece read: "NCAA rules are clear: college athletes are amateurs and should not be part of these new business enterprises." Unfortunately, NCAA rules do not amateurs make, at least not in the NCAA's big time programs as well as in many of their lesser programs.

To that point, in a recent article, Amy and Robert McCormick expose a theme common to three areas of law, labor, antitrust, and tax.<sup>4</sup>—showing that each of these areas of law distinguishes between commercial and amateur activities, regulating the former and exempting the latter. Under the assumption that major college sports are amateur, these laws have exempted college athletics from regulation, providing them unwarranted shelter. The McCormicks challenge this amateur assumption by examining the deeply commercial nature of major college sports—calling for the laws' application to them. Also see Sack<sup>5</sup> and Splitt<sup>6</sup> for more on the NCAA's tenuous, if not false, claim concerning the amateur status of college athletes.

The NCAA's bedrock amateurism principles of many years ago—which required colleges and their business partners to treat athletes like other students and not as commodities—were undermined by unrestrained commercialism and related academic corruption.<sup>7, 8</sup>

Since it was founded in 1989, the KCIA has strongly advocated policies that protect college athletes from commercial exploitation *except by the colleges themselves*.

Nowhere was this failing more apparent than at the KCIA's last meeting. The press release, headlined "Knight Commission Criticizes Commercialization of College Athletes in Fantasy Sports," says all. The CBS Sports' Fantasy College Football enterprise is simply following the lead of the college's much more extensive commercial exploitation of their athletes.

Concerning financial matters, KCIA Co-chair Kirwan said:

It's clear that college sports have a spending problem that must be addressed. In the aggregate, athletics spending continues to escalate while instructional spending has remained stagnant and has even decreased at many institutions. The current economic climate and the needs of our universities require a change in this imbalance<sup>2</sup>

So, when the Commission continues its year-long examination of financial issues this coming January, the commissioners would do well to heed the words of the Chancellor Emeritus of the University of Hawaii-Hilo, Edward J. Kormondy, who said:

The lavish centers that are intended to help players maintain their eligibility are the height of ludicrousness and demonstrate, disgustingly, the commercialization of sports and the inability of the National Collegiate Athletic Association to muster up the muscle to step in. The really sad part is the neglect of the 90-plus percent of students who are not athletes—many of them need to maintain their eligibility to graduate, too.<sup>9</sup>

For all intents and purposes, the prestigious Knight Commission continues to partner with the NCAA—abandoning its watchdog role as it dances with its partner around the margins of the real problems with big-time college athletics while creating the illusion it is serious about meaningful reform.<sup>10</sup>

Since the KCIA's next meeting will commemorate the 20th anniversary of the KCIA's founding, it would be most appropriate if the Commissioners would give thoughtful consideration to:

1. What Creed Black, president of the John S. and James L. Knight Foundation from 1988 to 1997 and the founder of KCIA, intended them to be about—as reflected in the leadership of the KCIA's first co-chairs, William C. Friday and the Reverend Theodore M. Hesburgh, CSC, who were on a clear mission—putting pressure on the NCAA to clean up its own act before Congress stepped in to do it for them.
2. The impression that rather than working for true athletic reform, the KCIA is allowing itself to be used to further the NCAA's own vested, money-making, commercial interests;
3. Endorsing The Drake Group's effort to have the U. S. Congress require the NCAA and its member schools 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—as well as require measures of transparency, accountability, and oversight that are adequate to this task.

Now that could make for a meaningful meeting and the possibility that the KCIA will evolve a call to action aimed at restoring its credibility.

Frank G. Splitt

November 6, 2008

## NOTES

1. Mortz, David, "Defending the Shards of Amateurism," October 28, 2008, <http://www.insidehighered.com/news/2008/10/28/knight> This commentary is a rewrite of an earlier comment that was based, in large part, on the author's comment, "Isn't the pot calling the kettle black?", that was posted October 28, 2008, on *Inside Higher Ed*.
2. "Knight Commission Criticizes Commercialization of College Athletes in Fantasy Sports," [http://www.knightcommission.org/students/item/knight\\_commission\\_criticizes\\_commercialization\\_of\\_college\\_athletes\\_in\\_fanta/](http://www.knightcommission.org/students/item/knight_commission_criticizes_commercialization_of_college_athletes_in_fanta/)
3. Kirwan, William E. and Turner, R. Gerald, "Tackling college football fantasy leagues," August 30, 2008, *Los Angeles Times*, <http://www.latimes.com/news/opinion/sunday/commentary/la-oe-kirwan302008aug30,0,7890950.story>
4. McCormick, Amy C. and McCormick Robert A., *The Emperor's New Clothes: Lifting the NCAA's Veil of Amateurism* San Diego Law Review, October 2008, <http://ssrn.com/abstract=1281648>.
5. Sack, Allen, *Counterfeit Amateurs: An Athletes Journey Through the Sixties to the Age of Academic Capitalism*, pp 67-76, Penn State University Press, University Park, PA, 2008.
6. The Student-Athlete: An NCAA False Claim?" [http://thedrakegroup.org/Splitt\\_The\\_Student\\_Athlete.pdf](http://thedrakegroup.org/Splitt_The_Student_Athlete.pdf)
7. Splitt, Frank G., "Unrestrained Growth in Facilities for Athletes: Where is the Outrage?" [http://thedrakegroup.org/Splitt\\_Unrestrained\\_Growth.pdf](http://thedrakegroup.org/Splitt_Unrestrained_Growth.pdf) and
8. \_\_\_\_\_, "College Athletics and Corruption," [http://www.thedrakegroup.org/Splitt\\_College\\_Athletics\\_and\\_Corruption.pdf](http://www.thedrakegroup.org/Splitt_College_Athletics_and_Corruption.pdf)
9. Kormondy, Edward J., "The Commercialization of College Sports," *The Chronicle of Higher Education*, Letter, p. A42, October 10, 2008. Kormondy's letter was written in response to "Spending Plenty So Athletes Can Make the Grade," *The Chronicle*, September, 5, 2008.
10. Splitt, Frank G., "Lines Between NCAA & Knight Commission Now Blurred – Time for Congress to Step In?" p.16 and "College Sports Reform: Beyond the Knight Commission," p. 29, .ESSAYS & COMMENTARIES ON COLLEGE SPORTS REFORM, October 2004 – October 2005, [http://thedrakegroup.org/Splitt\\_Essays.pdf](http://thedrakegroup.org/Splitt_Essays.pdf)