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COMMENT

"FAMILY ADVISOR": THE TREND FOR ATHLETES WITH FAMILY VALUES

JOSEPH A. KOHM, JR.* AND LYNNE MARIE KOHM**

The tension mounts in this draft for dollars. Not only their own lives, but the lives of their entire family depend on what happens today. As the spectators watch each athlete waiting in the "Green Room"¹ during the draft for the National Basketball Association (NBA), the importance of family cannot be ignored.

Whether you favored the "traveling Marburys," the family of guard Stephon Marbury, or Vanessa Wallace, mother of the New York Knicks pick John Wallace, the family of each player is of great importance as they support their star family member in that very special waiting room. After the selection of each player by their respective team, an entourage of family rejoice and celebrate their new-found fortune. The tears, hugs and cheers of joy between the athlete and his entire family could easily cause any onlooker to be overcome with emotion - even if only an emotion that causes one to finally realize that these people have now all hit the jackpot! Nevertheless, during such high-stakes, the student-athlete's family is still extremely important to the athlete.

The end of this century is proving to be a collage of furrowed ground for redefining "family." That once solid "family founda-

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1. The "Green Room" is where wanna-be professional athletes wait for their name to be called by an NBA team during the NBA draft. Generally, only those expected to be the top picks are invited to wait in this distinguished designated area with their families.

tion" is now up for linguistic, if not moral, grabs. With just one glance into that Green Room, however, you know what "family" is. No need for redefinition here.

In an age when the phrase "student-athlete" is now an oxymoron, some athletes appear to be standing out as lone individuals with virtue.² Students like Danny Wuerffel from the University of Florida decided to stay in college and graduate to do the best thing to honor his family.³ As one of the Heisman finalists in December of 1995,⁴ he could have easily turned pro in 1996. Instead, he chose to return to Florida, finish college, and lead his team for another season. The likely result is that Danny has raised his professional football stock to a top draft pick in the 1997 National Football League (NFL) Draft.⁵

Chris Phillips, the number one draft pick in the 1996 National Hockey League (NHL) draft by the Ottawa Senators, is another fine example (if not the epitome) of an athlete truly committed to his family. Rather than move up hockey's developmental ladder to play in the Western Hockey League, Phillips elected to play a second season in the lower Junior A league because of his commitment to care for his family.⁶ The reason for this is that his mother is paralyzed from the waist down and his father is legally blind.⁷ He has cared for his disabled parents for the last decade, and was not about to abandon them for his own self interests. By continuing to play another season for the hometown Fort McMurray Oil Barons, Phillips continued to do the grocery shopping and cooking for his parents.⁸ Fortunately for Chris (and the Phillips family), playing that extra season in the lower league did not thwart his potential for success in the NHL.

All too often, however, it appears that the myriad of outside influences discourage athletes from pursuing such a virtuous path. One of these outside influences is the sports agent. Sadly, the sports agency industry has turned into a scourge upon the

2. Yes, we have placed "athlete" and "virtue" in the same sentence. Unfortunately, part of following your favorite team or player these days includes reading not only the sports page, but the police blotter as well.

3. Grant Heston, *Remarkable Danny Wuerffel: Faith is Foremost*, PREVIEW Sports College Football, 1996 at 8.

4. Wuerffel was the Heisman Trophy Winner in 1996.

5. There is some speculation among sports writers and draft experts that Wuerffel may suffer the same fate as his predecessor Charlie Ward, and be ignored by the NFL in the 1997 draft.

6. Vance Oliver, *You Can Depend on Phillips*, HOCKEY NEWS, 30, 1996 at 39.

7. *Id.*

8. *Id.*

landscape of college athletics.⁹ While tales of agents paying players are numerous, many athletes who are desirous to do the right thing may not realize they have an option.

A college athlete who deals with an agent in nearly any manner is in violation of the rules of the National Collegiate Athletic Association (NCAA) which is the private governing body for college sports.¹⁰ Although not all agents are licensed to practice law, it is becoming increasingly more of a necessity for sports agents to be lawyers.¹¹ Whether the NCAA intended it or not, there is a provision in its bylaws which allows athletes to employ the services of an advisor, while not jeopardizing their eligibility.¹² NCAA Rule 12.3.2 states that, "Securing advice from a lawyer concerning a proposed professional sports contract shall not be considered contracting for representation by an agent under this rule, unless the lawyer also represents the student-athlete in negotiations for such a contract."¹³ This provision allows athletes to hire "family advisors. . ." Recognizing that athletes and their families want to work together to explore all options professionally, yet not lose or even jeopardize their college eligibility, a family advisor working on behalf of the student-athlete and his or her family can smooth the rough terrain and pave the way so that an athlete is neither taken advantage of by his or her college team, nor by a professional organization. The family advisor is not an agent, and therefore is not subject to agent restrictions set out by the NCAA. By successfully using these provisions of the NCAA Rules, the

9. See Michael Banberge & Don Yaeger, *So Sue Me*, SPORTS ILLUSTRATED, July 15, 1996 at 82; *Anatomy of a Scandal*, SPORTS ILLUSTRATED, May 16, 1994, at 18; *Florida Tackle Admits Taking Money From a Player Agent*, THE VIRGINIAN-PILOT, Oct. 2, 1996 at C5; Alexander Wolff, *Haste Made Waste*, SPORTS ILLUSTRATED, Sep. 9, 1996 at 56. A plethora of articles and news accounts are printed each season about the tactics of agents to win athlete clients.

10. Pursuant to NCAA rules, a player loses his or her college eligibility if he or she contracts orally or in writing to be represented by an agent. NCAA CONST. art. 3, 1-(c), reprinted in NCAA MANUAL 10-11 (1987-1988). This is true even if the services of the agent are not to begin until after the student-athlete is finished with his or her college eligibility. *Id.* Accepting gifts, money or even lunch is also a violation of NCAA eligibility rules. *Id.* Art. 3, 1-(a)-(3), reprinted in NCAA MANUAL, *supra*, at 9-10.

11. Any necessity for sports agents to be licensed to practice law stems from the need for contract negotiations that generally center on legal liability and obligations, general contract advisement and other legal representation needed by a professional athlete. There exists in this area a thin line between non-layer sports agency representation and the unauthorized practice of law.

12. NCAA Rule 12.3.2.

13. *Id.*; See also *NCAA Regulations Regarding Agents And Amateurism*, brochure published by the NCAA (1993).

athlete and his or her family can explore all options professionally, yet not lose or jeopardize their college eligibility.

The NCAA Rules never use the term "family advisor." The term "advisor" is used often to refer to one who might offer contractual or other advice to the student-athlete. The term "family advisor" is a relatively new concept and has a very brief history. Lawyer-agents have only recently begun to actively put these provisions to use, and as a result have coined the term "family advisor." It is indeed a concept still in the making.

Generally, an athlete becomes "ineligible for participation in an intercollegiate sport if he or she ever has agreed, orally or in writing, to be represented by an agent for the purpose of marketing his or her athletic ability or reputation in that sport."¹⁴ An athlete may similarly become ineligible "if he or she enters into a verbal or written agreement with an agent for representation in future professional sports negotiations that are to take place after the individual has completed his or her eligibility in that sport."¹⁵

It would appear that the NCAA has toiled laboriously over their rules governing athletes and agents.¹⁶ As the governing body of intercollegiate athletics, it is obvious that the intent of these rules is to regulate the intercollegiate athlete's contract with an agent. The NCAA is responsible for implementing and enforcing the rules that govern college athletics.¹⁷ Member schools voluntarily submit themselves to its jurisdiction upon joining.¹⁸ The NCAA wields its power by punishing member schools who violate the rules by using either economic or procedural sanctions.¹⁹ For instance, the NCAA may punish a member institution for a rules violation by prohibiting that university from appearing in a nationally televised bowl game,²⁰ thereby missing out on substantial revenue. Procedurally, the NCAA may punish a member school by limiting the number of athletic scholarships available for a program.²¹ The NCAA also has the power to punish the stu-

14. NCAA Rule 12.3.1.

15. NCAA Rule 12.3.1.1.

16. There are a plethora of other NCAA prohibitions that we have not mentioned, detailed nor even eluded to here. These rules may sometimes seem ridiculous in nature and iron-clad in structure. The distinction between the manifest power of the NCAA as a private organization, however, and the force of actual state and federal law will be discussed later in this article.

17. See, WALTER T. CHAMPION, *SPORTS LAW IN A NUTSHELL* 204 (1994).

18. *Id.*

19. See, MARTIN T. GREENBERG, *SPORTS LAW PRACTICE* § 10.14(2), (1993).

20. *Id.*

21. *Id.*

dent-athlete by revoking his or her eligibility for a rules infraction.²² "The NCAA's amateurism rules adversely affect student-athletes across the country. The NCAA limits the compensation student-athletes can receive while it actively promotes the increased commercialization of revenue-generating sports."²³ The result is that the NCAA can punish players and sometimes universities for rules violations, yet they have no authority to sanction agents who interfere with these rules.²⁴

When athletes see their school and their coaches marketing themselves and generating substantial income because of the ability of the team's players, they cannot help but wonder about the inequities of the system.²⁵ The rules state clearly that a coach cannot market his or her own son or daughter to a professional sports team or organization.²⁶ A coach may, however, recommend an agent to a student, providing that student with advice, so long as that recommendation is without compensation.²⁷ Pursuant to the NCAA Bylaws 12.3.1, an athlete becomes ineligible if he or she contracts for purely future negotiations with professional sports organizations, even if those negotiations will not take place until after the individual has completed his or her eligibility."²⁸

The power of the NCAA is, however, limited. The rules and bylaws of the NCAA are binding only on those member institutions who voluntarily join the Association and the athletes representing those schools.²⁹ NCAA rules do not have the force of law because the American federal and state constitutions have

22. *Id.*

23. Symposium: *Issues Facing College Athletics; The Facade of Amateurism: The Inequities of Major-College Athletics*, 5 KAN. J. L. & PUB. POL'Y 137 (1996).

24. See Lionel S. Sobel, *The Regulation of Sports Agents: An Analytical Primer*, 39 BAYLOR L. REV. 701, 728 (1987). There have likewise been attempts by states to adopt NCAA rules as state agent regulations. *Id.* at 768-771. The NCAA cannot require but encourages agents to participate in registering with the Association. *Id.* at 728. For an interesting look at the very limited effect of the NCAA agent regulations on this area of law, primarily because of their voluntary nature, lack of power for enforcement and limited scope, see also David L. Dunn, Note, *Regulation of Sports Agents: Since at First It Hasn't Succeeded, Try Federal Legislation*, 39 HASTINGS L.J. 1031, 1041-43 (1988).

25. This type of activity can easily raise the ire of any student-athlete. Len Elmore, and NBA player-turned-agent, has some strong views on this matter. He says "the NCAA and its schools should distribute information to athletes on how the money they help generate is disbursed and how it affects them during their careers. Not doing so, he says, fuels the attitude, 'they're getting theirs; I should get mine.'" Jack Carey, *Player Unions Looked to for Help*, USA TODAY, June 25, 1996 at 11C.

26. NCAA Rule 12.3.1, 1(b).

27. NCAA Rule 12.3.1.

28. *Id.* at 1(c).

29. GREENBERG, *supra* note 20.

deemed that only the government may create and enforce law.³⁰ As a result, it is often overlooked that the NCAA does not have the power to punish unscrupulous agents that violate NCAA rules. Indeed, many player agents openly ignore NCAA rules.³¹ It is quite possible, therefore, for a school to be sanctioned by the NCAA, a player to lose his or her eligibility, yet the agent who is at least partly responsible (if not at the heart of the infraction) may suffer no repercussions at all. To respond to this inequity, many state legislatures have enacted laws which attempt to regulate the activities of sports agents. At least nineteen states have some form of state regulation.³² Usually, these state laws include some form of registration, a registration fee, and criminal or civil penalties for a violation.³³

Perhaps the most stringent of all these is the law enacted by the State of Florida.³⁴ This law requires that prospective agents pay a registration fee, pass an examination, and post a \$15,000 surety bond.³⁵ Violation of this statute constitutes a third degree felony.³⁶ Similarly, many of the unions which represent the players in their respective sports are being asked to monitor the activities of agents.³⁷ The National Hockey League, the National Football League, and the National Basketball Association all certify respective player agents.³⁸ Recently, the NCAA has been looking to the players' associations to decertify agents who violate NCAA rules, but unfortunately, little has been done against agents accused of rules violations.³⁹ Some are of the opinion that professional sports players' associations should be the ones to take the lead in this area of agent regulation.⁴⁰ NCAA Executive Director Cedric Dempsey recently claimed, "We've not seen any

30. *Id.* at section 10.14(2)(d).

31. *Id.* Former agent Mike Trope once stated, "The NCAA rules are not the laws of the United States. They're simply a bunch of hypocritical and unworkable rules set up by the NCAA. As an agent, I absolutely was not bound by them. NCAA rules are meaningless. . . . Hell, nobody follows the NCAA rules." *Id.*

32. GREENBERG, *supra* note 20, at sec. 10.16 (3)(b).

33. *Id.* See also *supra* note 27.

34. FLA. STAT. ch. 468.452 (1995).

35. FLA. STAT. ch. 468.453 (1995). An exemption exists for attorneys licensed to practice law in Florida. *Id.*

36. FLA. STAT. ch. 468.4561 (1995).

37. Carey, *supra* note 26.

38. These certification requirements are listed in the respective collective bargaining agreements for each league. Certification requirements carry annual fees as well, which are generally quite hefty in comparison to other lawyer licensing dues and fees.

39. Carey, *supra* note 26.

40. *Id.*

indication that [players' associations] are willing to [levy sanctions against agents]. Even when we've turned in names to them, there's been no action taken."⁴¹

The sad result of this is that many player agents will continue to run roughshod over the NCAA and its rules and leave many ineligible players in their wake.⁴² A catch-22 situation is created for the student-athlete who does indeed need some legal advice regarding his or her professional future. It would appear, at least on the surface, that a student-athlete cannot get such valuable advice without losing his or her NCAA eligibility. The good news is that student-athletes do have some recourse in the NCAA rules which allow them to seek advice regarding their professional future without losing their eligibility. NCAA Bylaw 12.3.2 allows student-athletes to secure the advice of a lawyer concerning a proposed professional sports contract.⁴³ This family advisor concept gives a player room to seek professional legal advice, and creates breathing room for such student-athletes within the eligibility requirements set by the NCAA.

The NCAA does indeed allow for student-athletes to secure the advice of legal counsel. In other words, the NCAA rules permit a student-athlete to retain a lawyer to advise him or her and their family. In fact, it appears that the NCAA does not in any way wish to restrict student-athletes from securing advice from lawyers or other individuals like a family advisor.

NCAA rules regarding agents are straightforward: Retain them to negotiate deals for you or accept cash and gifts from them and lose your eligibility. But student-athletes are allowed to seek legal counseling. These advisers can counsel players through the draft [and] signing process[es] but are not supposed to negotiate contracts on a player's behalf.⁴⁴

41. *Id.*

42. An extremely interesting incident of agent criminal sanctioning took place in *United States v. Walters*, 913 F.2d 388 (7th Cir. 1990). The agents were charged with mail fraud in their enticement of players. This case marked the rise of the attack against unscrupulous sports agents. For insight into this case, See Landis Cox, Note, *Targeting Sports Agents with the Mail Fraud Statute: United States v. Norby Walters & Lloyd Bloom*, 41 DUKE L.J. 1157 (1992). Mr. Cox goes so far as to define the term "bad sports agent" as referring to "sports agents who are unscrupulous and unsavory—those who ignore the rules governing college athletics to pursue their own personal wealth." *Id.* at 1157, n4.

43. NATIONAL COLLEGIATE ATHLETIC ASS'N., 1996-97 NCAA MANUAL 101 (1996).

44. Jack Carey, *Role of Advisers to Athletes Often Clouded*, USA TODAY, June 25, 1996, at 11C.

The lawyer hired by the student-athlete's family can freely give advice to the athlete or his family. That lawyer, however, may not represent the athlete in contract negotiations.⁴⁵ The family, or a family friend, with the assistance of the lawyer, may negotiate such a contract on their own, or have another professional handle the negotiations for them.⁴⁶ The family may have another lawyer whom they have retained to negotiate on behalf of the student-athlete without restriction on that aspect of representation.⁴⁷

With a family advisor, the student-athlete may enjoy "the opportunity to seek competent legal counsel to review the terms of a proposed professional contract and to assist the individual in understanding those terms. . . ."⁴⁸ Another section of the NCAA rules clearly state how this works:

Advice from a lawyer or agent concerning a proposed professional contract. A lawyer or agent may provide advice to an individual regarding the merits of a proposed contract without jeopardizing the individual's amateur status, provided he or she has no contact with the professional sports organization, and does not market the individual's athletics ability or reputation in the particular sport.⁴⁹

An athlete and his or her family need to feel confident in decisions they make or do not make, and the invaluable assistance of legal counsel cannot legally or constitutionally be withheld from them - not even by the NCAA. Being mindful that the rules and regulations promulgated by the NCAA are only just that, the federal and respective state constitutions deem that only the government is granted the power to create and enforce laws.⁵⁰ Generally, a virtuous student-athlete does desire to abide by NCAA rules, and the family advisor concept encourages and fosters exactly that.

The NCAA staff liaison to the Pro Sports Liaison Committee, Rick Perko, has stated, "There's no doubt the [NCAA] rules are intended to treat the adviser as an extension of the family, not a link to a pro team."⁵¹

"The popular perception of the nuclear family in this country portrayed in the news media and political campaigns is that the

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. NCAA Rule 12.3.1, 1-(f).

50. GREENBERG, *supra* note 20.

51. Carey, *supra* note 45.

nuclear family structure is the dominant family structure in the United States."⁵² Yet the reality for student-athletes, especially those who might be seen waiting breathlessly in the Green Room, is that many of them do not come from stable families, with the support of a mother and a father.⁵³ In fact, such "[n]uclear families comprise only 27% of families. . . ."⁵⁴ The need for even greater wise counsel is especially apparent and necessary for such student-athletes⁵⁵ to avoid the devastating possibility that the athlete and their talent would be easily taken advantage of by many, if not all surrounding them.⁵⁶

52. 1997 Mid-Atlantic People of Color Legal Scholarship Conference call for papers for the *Journal of Family Law* Symposium on "Law and the 'Family' in the 21st Century: Critical Perspectives."

53. Some would say that many student-athletes come from families that would sell the athlete if given the opportunity. The case of Walters and Bloom involved the agents offering cash to the players' "families, in exchange for the athlete's signatures on contracts." Charles W. Ehrhardt & J. Mark Rodgers, *Tightening the Defense Against Offensive Sports Agents*, 16 FLA. ST. U. L. REV. 634 (1988).

54. *Id.* Most conspicuous by their absence are the fathers of many of these young athletes. Shaquille O'Neal addressed this very real problem in his own life. When Shaq's mother found herself pregnant with him, the man who fathered him was not interested in being tied to a family at that point. Later, his mother met a man who took both she and her son as his own family. Philip became Shaq's father in his mind, if not biologically and genetically, in every other way. The two are often seen together, and each of Shaq's parents have made notable television commercials. When Shaquille O'Neal turned pro his biological father reappeared. Shad raps about his feelings in the matter in one of his recently released songs. His perspective is that Phil is his father, and his biological father did not bother with he and his mother. That old saying is certainly true: What goes around comes around. Shaq's biological father lost out on his son's fortune.

55. In his article, *The Myth of the Superspade: The Persistence of Racism in College Athletics*, 22 FORDHAM URB. L.J. 615 (Spring, 1995) Timothy Davis relates this greater need to African-American players in particular. "A study of the college experience of African-American student-athletes tends to support the assertion that they have special needs and are harmed by the failure of NCAA rules and regulations to consider these needs: Black student athletes' reliance on off-campus support may interact with their socioeconomic background to place them at greater risk. Because black student-athletes come from poorer families and because their support systems are more likely to be located away from campus, it is more difficult for them to access their support systems personally. This problem is exacerbated by the NCAA's financial restraints which forbid student-athletes to work during the school year and yet do not provide them with any money beyond tuition, room and board. *Id.* at 662, citing Robert M. Sellers et al., *Life Experiences of Black Student-Athletes in Revenue-Producing Sorts: A Descriptive Empirical Analysis*, 1991 ACAD. ATHLETIC J. 20, 33.

56. John Helyar and Roger Thurow, *Personal Jams: A Tale of Two Lives Shows Why Not All Is Golden in the NBA; Bad Luck and Poor Decisions Tripped Up Players Who Seemed to Have It All; Why Miami Freed Willie*, WALL ST. J., Nov. 1, 1996, at A1. This article chronicled, among other episodes, the downfall of Willie Burton, the ninth player chosen in the 1990 NBA draft by the Miami Heat. Burton signed a \$7 million contract. Burton had a very difficult time making the transition from having encouraging people and teammates around him in college to being surrounded by

Most parents take central interest in their children from birth. And that interest, love, and concern does not stop when the child becomes a teenager, of the age of majority, emancipated, or an athlete. The parent is interested in the welfare and best interests of that child until either of them dies. Explicitly the authority that any parent has over their child changes with age, but with major life decisions, children generally consult their parents. And parents may not always have all the answers, but can direct and assist their child in seeking the proper and most beneficial counsel available. At the very least, parents do what they can to educate their children. “. . . [G]iven our culture’s recognition that parents should have general custody and control over their children, the deference we extend to parental educational choices should resemble (though not always equal) the deference we give to the self-regarding choices of adult individuals.”⁵⁷ From educational choices career choices may naturally stem. Student-athletes want their parents’ input, and more often than not, still look to mom and dad for advice.⁵⁸

The social purposes and function of the family in light of postmodern society and contemporary reality are not easy to agree on. The fact seems to remain, however, that athletes consider family ties as quite valuable, if not priceless.⁵⁹ NCAA member schools are generally likewise concerned with the interests not only of the student-athlete, but with the interests of his or her

resentful and individually competitive pro colleagues. Because of his need to be surrounded by people he knew cared about him, “Mr. Burton flew in old chums as companions, but now that he had money, he paid for clothes, picked up tabs, and still found their hands reaching for more. It sours relationships, he says, when ‘you go from being somebody’s friend to being somebody’s bank.’” *Id.* at A9.

57. Stephen G. Giles, *On Educating Children: A Parentalist Manifesto*, 63 U. CHI. L. REV. 937 (1996). Indeed, even the Supreme Court of the United States has made its pronouncement on this issue of parental authority in *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925), where the high Court stated unequivocally that parents have a constitutional right to direct and control the education of their children. Parental authority was declared to be among our fundamental liberties. See also *Meyer v. Nebraska*, 262 U.S. 390, 399-400 (1923); *Farrington v. Tokushige*, 273 U.S. 284, 298-99 (1927).

58. Several high profile examples of this attitude among student-athletes who turn professional exist today. Grant Hill is depicted in a television commercial as calling his mom for help during a training session with Bill Laimbeer and George “The Animal” Steele on how to be “not nice,” and it was common (sports) knowledge that Joe Smith of the Golden State Warriors moved his mother from Norfolk, VA to Los Angeles, CA to live with him during his first year in the NBA. The relationships between athletes and their parents is pivotal

59. *Id.*

family as well.⁶⁰ Even in the face of sharp political, cultural, and ideological differences, athletes may be some of the most family-oriented in their thinking. Much of this attitude may be attributed to the hard work and motivation associated with athletics. The discipline and inspiration lends to a more down-to-earth perspective on life and family, knowing how hard one has to work to achieve goals, and how quickly a level of expertise can slip away if not cultivated and maintained by continued discipline and hard work. Likewise, "[r]eligious tradition has predominated in the family sphere."⁶¹ Spiritual tenets held personally by the athlete may evoke even stronger family ties.⁶² Most student-athletes are concerned about and considerate of the ideas and advice of their families. The result will be, more often than not, that the family and the student-athlete will together, make the decision to move from amateur athletics to professional sports, and likewise work together on the how, when, where, why, as well as additional specifics that such a decision entails. All of this considered leads to the conclusion that the family advisor concept makes tremendous sense.

That having been said, there will inevitably be some abuses of the general concept of the family advisor and availability of legal counsel and representation. The most obvious abuse would be where the family advisor role is manipulated as a facade for contract negotiations already agreed upon between parents and/or the player. Agents masquerading as family advisors will perpetuate the problem and image of "bad agents."⁶³

The family advisor is generally not supposed to have contact with the professional team. He or she is supposed to assume the

60. Southern Methodist University is a prime example. Even in the wake of a major NCAA infractions scandal, a key SMU administrator was quoted as saying, "We—with a capital we—made a considered judgment over several months that commitments had been made and in the interest of the institution, the boys, their families and to comply with the NCAA, that the program would be phased out and that we would comply in a full sense of integrity to all the rules and regulations. Thomas, *SMU Governors Allowed Illicit Athlete Pay*, N.Y. TIMES, March 4, 1987, at A1, quoting Governor Clements.

61. HARRY D. KRAUSE, *FAMILY LAW: CASES, COMMENTS AND QUESTIONS*, (3rd ed. 1990).

62. Just to list a few examples, See A.C. GREEN, *VICTORY* (1994); DAVE DRAVECKY, *COMEBACK* (1991); MIKE SINGLETARY, *SINGLETARY ON SINGLETARY* (1991); BO JACKSON, *BO KNOWS BO* (1990); PETE MARAVICH and DARREL CAMPBELL, *PISTOL PETE: HEIR TO A DREAM* (1987); Joe Gibbs and Reggie White are two additional high profile examples.

63. See Cox, *supra* note 43, at 1157, n4 for a good definition for a "bad agent." For further reference and explanation of ethical and effective representation See generally KOHM Associates, "How To Choose A Sports Agent" (1996).

role of legal advisor for the player and his or her family only. Another abuse could occur when an advisor wrongly requests, under the guise of representing the player and his family as their family advisor, that the team only contact and negotiate with him or her to mainstream negotiations for the advisor's client, and to maximize the advisor's representation and business abilities. Under the rules that we have stated and explained herein, such a move by the advisor is neither ethical, nor permitted according to NCAA rules.

The family advisor role may indeed change with the athlete's career, from advisor to a student-athlete to agent for a pro prospect. The players and their families should still make as wise a decision as possible in selecting who will represent the student-athlete as the family advisor. Unsavory sports agents are certain to discover ways to manipulate this fine rule to their own advantage.

The benefits of a family advisor are many, and should be available to the party that is quite often the most vulnerable. A student-athlete has not only his or her college education and collegiate athletic career on the line, but his or her professional future at stake as well. Families need to work together with their student-athletes to provide for their legal needs, and to guide the student-athlete in setting out a positive methodology and plan for his or her life.

It cannot be emphasized enough that the best interests of the athlete, and the concerns of his or her family must be of paramount importance to all involved in collegiate athletics. Families who are so needy as to base their future, their livelihood and their status on their son or daughter student-athlete and the promise of a professional career must be protected, no matter how lacking in resources they may be.⁶⁴ The traveling Marburys may or may not have had a legal advisor to meet the needs of their student-athlete son, Stephon. But Stephon and his family may have benefited from the legal assistance of a family advisor. In an article suitably titled "The National Collegiate Athletic Association's No Agent And No Draft Rules: The Realities of Collegiate Sports Are Forcing Change," Thomas Kobin asserts judicial language that sums up the problem: "It may be, . . . that the NCAA's 'no draft' and 'no

64. See Jeff K. Brown, 1996 Spring Symposium: Issues Facing College Athletics: Compensation for the Student-Athlete: Preservation of Amateurism, 5 KAN. J.L. & PUB. POL'Y 147 (1996); and Timothy Davis, *Essays: African-American Student-Athletes: Marginalizing the NCAA Regulatory Structure?*, 6 MARQ. SPORTS L. J. 199 (1996).

agent' rules protect a flawed concept of amateurism. Whether an athlete who has received nothing more than two payments of expenses, or who asked a family friend to attempt to interest NFL teams in his services, would be perceived as a professional by the average citizen is debatable."⁶⁵ The family advisor concept allows the student-athlete to remain an amateur without forfeiting all legal wisdom. Moreover, the concept empowers the otherwise powerless student and his or her family with legal knowledge. Such knowledge equals power and control over one's own circumstances, even (and especially) within a tight body of rules and regulations such as the NCAA Rules.

Perhaps the NCAA wants to encourage family values in the student-athlete. It could and ought to be so virtuous. Our suggested reforms will not only enable the student-athlete to retain his or her eligibility to play college sports, but will allow the student-athlete to make the most of his or her professional potential while relying on the strength and stability of his or her own family.

65. Thomas R. Kobin, *The National Collegiate Athletic Association's No Agent And No Draft Rules: The Realities of Collegiate Sports Are Forcing Change*, 4 SETON HALL J. SPORTS L.J. 502 (1994) (quoting *Banks v. NCAA*, 977 F.2d 1081 (7th Cir. 1992), *cert denied*, 113 S. Ct. 1350 (1993)).