

University of Hawaii

Response to Notice of Allegations

Case No. 00202

William H. King, III
William H. Brooks
Lightfoot, Franklin & White, LLC
The Clark Building
400 20th Street North
Birmingham, AL 35203

INTRODUCTION

The University of Hawai‘i at Manoa (the “University”) had its last infractions case nearly 40 years ago and is proud of its long-standing record of commitment to compliance. In this case, the University does not contest that violations of NCAA legislation occurred as set out in the Notice of Allegations (the "Notice"). In response, the University has addressed these violations with appropriate corrective measures and meaningful self-imposed penalties tailored to the violations.¹

The investigation of the issues presented in the Notice began with the University’s discovery and prompt self-reporting of a violation involving a then assistant men’s basketball coach. From the outset of the investigation, the University worked closely with the enforcement staff and cooperated fully. Although the University is disappointed to find itself in this position, it offers no excuses for these violations. The University certainly regrets that any of these violations occurred, but it is convinced that it will emerge from this process stronger and more committed to rules compliance than ever before.

The violations alleged in the Notice are limited to a single sport – men’s basketball. For the most part, these violations involve either intentional or careless failure to follow well-known bylaws that members of the men’s basketball coaching staff understood but failed to obey.² The coaches compounded the adverse impact of these poor decisions when they (1) failed to report to the University’s compliance department their own or other violations in the program, (2) instructed or encouraged staff members and student-athletes to conceal or not report the

¹ The University does not agree that the violations set out in Allegation 4 should be classified as Level II violations. Although the University agrees that the violations occurred, it believes they should be classified as Level III violations.

² The University’s rules education materials regarding the specific issues set out in the Notice are attached as Exhibit A.

violations; or (3) provided false or misleading information during this investigation rather than admit the violations occurred.

In particular, two violations arose out of limited and manageable situations the impact of which became much more serious and wide-ranging because the coaches involved did not handle them appropriately. First, former head men's basketball coach Gib Arnold learned of the events (a student-athlete's impermissible use of a booster's automobile) giving rise to Allegations 3 and 6, in part, at the time they occurred. The University believes that it was clear to Arnold that a violation likely occurred involving either an impermissible extra benefit or preferential treatment, either of which compromised the student-athlete's eligibility. Arnold's undisputed reaction to the situation suggests he reached the same conclusion. Multiple witnesses with personal knowledge of the events giving rise to the violation have stated that Arnold immediately demanded that the student-athlete give him the keys to the vehicle and stop using it. Arnold also spoke to the entire team and reiterated that they could not accept gifts or benefits from anyone, particularly someone who was much older. Several student-athletes at this meeting recalled Arnold referring to the situation as an NCAA rules violation; others recalled Arnold instructing them to keep the matter "in-house" and not to discuss the student-athlete's use of the vehicle with anyone outside the program.

Arnold admitted that he did not report to or otherwise consult with the University's interim athletics director or compliance office to determine whether a violation occurred. Arnold reported that he instead contacted the former athletics director, who was working for the University outside athletics at the time, to discuss whether the person who owned the vehicle was a booster or otherwise connected to the University. Arnold stated that, based upon the former

athletics director's statements during that conversation, and his discussion with the individual whose vehicle the student-athlete had used, he concluded that no violation occurred.

The former athletics director has a significantly different recollection of his conversation with Arnold. He stated that Arnold asked him if, hypothetically, it would be permissible for a student-athlete to use his girlfriend's vehicle. He did not recall Arnold mentioning the booster at all during the conversation nor did he recall Arnold stating that the student-athlete had used the man's vehicle for two days.

The University is particularly frustrated over this situation. The University expects its coaches to report to compliance if they should learn that a student-athlete has free use of a car belonging to a significantly older adult with no logical connection to the student-athlete. Had Arnold reported the situation to compliance so it could have conducted an appropriate investigation of the University's relationship with the person in question, he would have confirmed that this individual was, in fact, a booster under NCAA legislation. Moreover, by failing to report the matter to compliance, Arnold deprived the University of its opportunity to determine, before the student-athlete competed again, whether the circumstances constituted a preferential treatment violation that made him ineligible, which it likely would have based upon available information. Instead, the student-athlete participated while ineligible throughout the 2012-13 and 2013-14 seasons. The enforcement staff valued the extra benefit at \$560, and had Arnold handled the situation correctly, it is likely the student-athlete would have had his eligibility restored early in the 2012-13 season. Instead, because Arnold and other coaches who were aware of the situation failed to report the matter to compliance, a student-athlete competed while ineligible for two seasons when the violation and the student-athlete's resulting ineligibility easily could have been resolved in the fall of 2012.

The second example relates to former assistant men's basketball coach Brandyn Akana and his provision of an extra benefit to then men's basketball student-athlete ██████ in December 2012. Although Akana has steadfastly denied any wrongdoing, the information gathered during the investigation strongly indicates that Akana provided an iPad to ██████ in December 2012, and continued to allow him to compete while ineligible for the remainder of the 2012-13 season and the entire 2013-14 season.

Together, Akana and ██████ made a manageable situation significantly worse by not reporting the violation and then failing to tell the truth in multiple interviews as part of this investigation. Initially, Akana and ██████ denied completely the substance of the allegation. As additional information was obtained during the investigation, each of their stories changed significantly but were not consistent. Ultimately, in his third interview, ██████ provided yet another significantly different story and admitted that he lied during his previous interviews. ██████ also confirmed in his third interview that Akana had, in fact, provided him free use of an iPad for 2013 and part of 2014; this confirmation is at odds with Akana's testimony.

Once the University was satisfied that Akana likely provided an impermissible benefit to ██████ it declared ██████ ineligible. Shortly after his third interview, ██████ left the University to pursue a professional career rather than seek reinstatement. The University believes the impermissible extra benefit Akana provided otherwise might have been permissible had the University provided it under the Student-Athlete Assistance Fund. Moreover, even though no intentional violation should be excused, the University finds it regrettable that an extra benefit violation of approximately \$400 led to the current situation.

The remaining violations set out in the Notice occurred and involved well-known bylaws. With respect to the violations involving non-coaching personnel engaged in coaching activities

and tryout violations (Allegations 1 & 2), the University is satisfied that the violations were intentional and known.

This overview covers many of the negatives discovered during this investigation. On the positive side, the enforcement staff concluded, and the University agrees, that the University was not guilty of a failure to monitor or other institutional charges and that a number of mitigating factors are present. The University has maintained its strong commitment to compliance at all times, and the violations at issue are not indicative of the way the University administers its athletics department. The University neither knew nor should have known about the violations, and testimony from former University employees and student-athletes suggests that members of the coaching staff took affirmative steps to prevent the University from learning about them.

The University cooperated completely at every stage of the investigation, providing all information relevant to the investigation and assisting the enforcement staff. Upon discovery of the violations, the circumstances surrounding them, and the enforcement staff's views, the University took decisive and appropriate actions, including terminating the employment of Arnold and Akana³ just days before the start of the 2014-15 regular season.

The University has self-imposed meaningful penalties that correspond directly to the violations where possible. The University attempted to balance the four violations against it (Allegations 1-4) in arriving at these sanctions, as well as taking into account the conduct of its former coaches in regard to the violations and failure to report or otherwise address them properly in a timely manner.

For example, the University will reduce the total number of scholarships awarded for men's basketball from 13 to 12 for the 2015-16 and 2016-17 academic years. The University

³ As stated in Allegation 5, Akana admitted that he altered a financial admissions document relating to an international student-athlete transferring from another institution.

also took appropriate measures to punish itself for the violations where the then director of operations for men's basketball impermissibly engaged in coaching activities; going forward, the operations director will be prohibited from attending any men's basketball team practices during the 2015-16 season. Given the University's limited financial resources and resulting fewer non-coaching staff members, this penalty will have a significant, negative impact on practices. The University has also prohibited its coaches from evaluating prospects during play with current student-athletes during the first five official visits of the 2015-16 season, which, under recently enacted NCAA legislation, would be permissible. Given the University's remote location and the attendant difficulty its coaches encounter in viewing prospects outside Hawaii compete in person, this sanction has serious consequences for the program. The remaining self-imposed corrective measures and penalties, including a monetary fine and probation, are discussed in this Response.

NOTICE OF ALLEGATIONS

A. Processing Level of Case.

Based on the information contained within the following allegations, the NCAA enforcement staff believes that this case should be reviewed by a hearing panel of the NCAA Division I Committee on Infractions pursuant to procedures applicable to a severe breach of conduct (Level I violation).⁴

B. Allegations.

1. [NCAA Division I Manual Bylaws 11.7.1.2-(b) and 13.1.3.4.1 (2010-11); and 11.7.1.1.1.1 and 11.7.4 (2010-11 and 2011-12)]

It is alleged that throughout the 2010-11 and 2011-12 academic years, the then men's basketball directors of operations participated in on-court coaching and other instructional activities with men's basketball student-athletes at the instruction of Gib Arnold (Arnold), then head men's basketball coach. Additionally, at times during the 2010-11 academic year, the then men's

⁴ Pursuant to NCAA Bylaw 19.7.7.1 (2014-15), if violations from multiple levels are identified in the notice of allegations, the case shall be processed pursuant to procedures applicable to the most serious violation(s) alleged.

basketball director of operations made recruiting telephone calls to men's basketball prospective student-athletes at Arnold's instruction. As a result, the institution exceeded the permissible number of countable men's basketball coaches during the 2010-11 and 2011-12 academic years. Specifically:

- a. Throughout the 2010-11 academic year, Scott Fisher (Fisher), then men's basketball director of operations participated in on-court coaching during practice and opponent scouting during team meetings with men's basketball student-athletes at Arnold's instruction. Additionally, at times, Fisher made recruiting telephone calls to men's basketball prospects at Arnold's instruction. [NCAA Bylaws 11.7.1.1.1.1.1, 11.7.1.2-(b), 11.7.4 and 13.1.3.4.1 (2010-11)]
- b. Throughout the 2011-12 academic year, Kerry Rupp (Rupp), then men's basketball director of operations participated in on-court coaching during practice and opponent scouting during team meetings with men's basketball student-athletes at Arnold's instruction. [NCAA Bylaws 11.7.1.1.1.1.1 and 11.7.4 (2011-12)]

Level of Allegation No. 1:

The NCAA enforcement staff believes that the hearing panel of the NCAA Division I Committee on Infractions could determine that Allegation No. 1 is a significant breach of conduct (Level II) because the circumstances surrounding this allegation (1) were intended to, and did, provide more than a minimal recruiting, competitive or other advantage; (2) do not rise to a Level I violation but are more serious than a Level III violation; and (3) were not inadvertent, isolated or limited in nature. [NCAA Bylaws 19.1.2 and 19.1.2-(a) (2014-15)]

Factual Information (FI) on which the enforcement staff relies for Allegation No. 1:

FI1: June 16, 2014 – Interview transcript of Fisher. This includes, but is not limited to, Fisher's statements that throughout the 2010-11 academic year when he served as men's basketball director of operations, he participated in on-court coaching during practice with men's basketball student-athletes at Arnold's instruction. Additionally, Fisher stated that, at times, he participated in opponent scouting during team meetings with men's basketball student-athletes, as well as made recruiting telephone calls to men's basketball prospects, at Arnold's instruction. Further, Fisher stated that throughout the 2011-12 academic year when Rupp served as men's basketball director of operations, Rupp participated in on-court coaching during practice and opponent scouting during team meetings with men's basketball student-athletes at Arnold's instruction. Last, Fisher stated that Arnold instructed him and Rupp to cease coaching during practice if media were present, as well as to refrain from reporting their participation in

these activities to the compliance office, in order to conceal the violations.
(SFisher_TR_061614_Hawaii_00202)

- FI2: June 23, 2014 – Interview transcript of Chris McMillian (McMillian), former men's basketball director of operations. This includes, but is not limited to, McMillian's statements that he served as a non-coaching staff member with the men's basketball program during the 2010-11 through 2013-14 academic years, including men's basketball director of operations during the 2012-13 and 2013-14 academic years. Additionally, McMillian stated that throughout the 2010-11 academic year, Fisher participated in on-court coaching during practice and, at times, participated in opponent scouting during team meetings with men's basketball student-athletes at Arnold's instruction. Further, McMillian stated that throughout the 2011-12 academic year, Rupp participated in on-court coaching during practice and opponent scouting during team meetings with men's basketball student-athletes at Arnold's instruction.
(CMcMillian_TR_062314_Hawaii_00202)
- FI3: June 24, 2014 – Interview transcript of Lyn Nakagawa (Nakagawa), assistant athletic trainer. This includes, but is not limited to, Nakagawa's statements that she served as assistant athletic trainer for the men's basketball program from October 2007 through September 2013 and regularly attended practice in that capacity. Additionally, Nakagawa stated that throughout the 2011-12 academic year, Rupp participated in on-court coaching during practice with men's basketball student-athletes. Further, Nakagawa stated she could not recall whether Fisher participated in on-court coaching during practice during the 2010-11 academic year.
(LNakagawa_TR_062414_Hawaii_00202)
- FI4: July 1, 2014 – Interview transcript of Rupp. This includes, but is not limited to, Rupp's statements that throughout the 2011-12 academic year when he served as men's basketball director of operations, he participated in on-court coaching during practice and opponent scouting during team meetings with men's basketball student-athletes at Arnold's instruction.
(KRupp_TR_070114_Hawaii_00202)
- FI5: August 28, 2014 – Interview transcript of [REDACTED] ([REDACTED] former men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that throughout the 2011-12 academic year, Rupp participated in on-court coaching during practice and opponent scouting during team meetings with men's basketball student-athletes at Arnold's instruction.
([REDACTED]_TR_082814_Hawaii_00202)
- FI6: October 17, 2014 – Interview transcript of Arnold. This includes, but is not limited to, Arnold's statements that he did not recall instructing Fisher

or Rupp to participate in on-court coaching during practice with men's basketball student-athletes when each served as men's basketball director of operations. Additionally, Arnold stated he did not recall instructing Fisher to make recruiting telephone calls to men's basketball prospects during the 2010-11 academic year, nor does he have any knowledge of Fisher doing so. Last, Arnold stated he personally conducted opponent scouting sessions with men's basketball student-athletes during team meetings and denied instructing Fisher or Rupp to lead the scouting sessions.

(GArnold_TR_101714_Hawaii_00202)

FI7: December 5, 2014 – Interview transcript of Amanda Paterson (Paterson), director of compliance. This includes, but is not limited to, Paterson's statements that she had no knowledge, nor reason to suspect, that Fisher or Rupp participated in coaching activities with men's basketball student-athletes when each served as men's basketball director of operations except for a single instance during the spring of 2012 in which Rupp was observed coaching from the bench during the Western Athletic Conference tournament.

(APaterson_TR_120514_Hawaii_00202)

FI8: December 10, 2014 – Arnold's written statement. This includes, but is not limited to, Arnold's statements that he did not instruct Fisher or Rupp to participate in coaching activities with men's basketball student-athletes during practice when each served as men's basketball director of operations, nor did he instruct Fisher to make recruiting telephone calls to men's basketball prospects. Additionally, Arnold stated he personally conducted opponent scouting sessions with men's basketball student-athletes during team meetings and denied instructing Fisher or Rupp to lead the scouting sessions.

(GArnold_InterviewSupplement_121014_Hawaii_00202)

The enforcement staff incorporates by reference all other information from FIs referenced in this document and all other documents posted on the secure website.

Specific to Allegation No. 1:

- a. Please indicate whether the information contained within this allegation is substantially correct and whether the institution and the involved parties identified in this allegation believe that violations of NCAA legislation occurred. Submit materials to support your response.
- b. If the institution and the involved parties believe that NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.

- c. Please indicate whether the factual information is substantially correct and whether the institution has additional pertinent information and/or facts. Submit facts in support of your response.

RESPONSE:

The University agrees (1) that the factual information contained in Allegation No. 1 is substantially correct, (2) that a violation of NCAA legislation occurred, and (3) that the violation is classified appropriately as Level II.

During the 2010-11 and 2011-12 men's basketball seasons, the directors of men's basketball operations engaged in on-court coaching activities and prepared scouting reports at the direction of the then head men's basketball coach. In addition, during the 2010-11 season, the director of men's basketball operations made impermissible recruiting telephone calls again at the direction of the then head men's basketball coach.

In his May 7, 2014, interview, Scott Fisher, the director of men's basketball operations during the 2010-11 academic year, stated that the only violations of NCAA legislation of which he was aware were small CARA overages that had been addressed. Subsequently, on June 16, 2014, Fisher corrected his prior statement. According to Fisher, he regularly participated in on-court coaching activities with men's basketball student-athletes at the instruction of then head men's basketball coach Gib Arnold. Fisher also stated that, again at the direction of Arnold, he scouted opponents for two games during team meetings. Fisher also stated that Arnold told him to cease coaching any time the media was present during practice because the activity was an NCAA violation. Finally, Fisher stated that he was told by Arnold to "keep it secret" because it was a violation. Accordingly, Fisher did not report this activity to the University's compliance office.

Fisher also admitted that he engaged in recruiting activities during the 2010-11 season. Fisher stated that Arnold directed him to contact by telephone coaches and players in Australia for recruiting purposes. According to Fisher, Arnold also instructed him not to say anything about his recruiting activities and not to use any University telephones or e-mail accounts for those activities.

Fisher, who is no longer employed by the University, became an assistant men's basketball coach in the 2011-12 academic year. At that time, Kerry Rupp became the director of men's basketball operations. Fisher stated that Rupp was regularly involved in assisting him with coaching the "biggs" or bigger, interior players at practice and that Arnold also instructed Rupp to stop coaching if the media was present at practice. Fisher also stated that Rupp was responsible for scouting Idaho, Louisiana Tech, where Rupp previously had been head coach, and other opponents as well.

Rupp, who also is no longer employed by the University, stated that he prepared approximately 24 or 25 video scouting reports during the 2011-12 season, which represented approximately 80 percent of that season's games. Initially, Rupp led a discussion of a video scouting report at team meetings for three or four games but was then instructed by Arnold not to do so any more. According to Rupp, Arnold said that the compliance office had informed him that these scouting presentations should not be a part of Rupp's duties.

Rupp did not engage in any recruiting activities. With respect to on-court coaching activities, Rupp stated that Arnold instructed him to engage in certain coaching activities, primarily with the scout team, throughout the year. Rupp also corroborated Fisher's statement regarding his involvement with coaching the "biggs" during practices. Finally, Rupp

characterized his responsibilities as those that would normally be reserved for a coach rather than a director of men's basketball operations.

As a result of this violation, the University has self-imposed a prohibition against the presence of the director of men's basketball operations in any capacity at practice for the 2015-16 season.

2. [NCAA Division I Manual Bylaws 17.1.6.2-(a) (2010-11); 13.11.1⁵ (2010-11 and 2011-12); 17.1.6.2.2 and 17.1.6.3.4 (2010-11 through 2012-13); and 13.11.2.1-(a) and 13.11.2.1-(h) (2012-13)]

It is alleged that on three occasions between April 30 and November 5, 2011, Gib Arnold (Arnold), then head men's basketball coach, conducted impermissible tryouts of five then men's basketball prospective student-athletes during their official paid visits. Additionally, between April 20 and 21, 2012, Arnold conducted an impermissible on-campus evaluation of a then men's basketball prospect during his official paid visit. Last, on multiple occasions between April 30, 2011, and April 20, 2013, Arnold violated NCAA countable athletically-related activities (CARA) legislation during the tryouts and on-campus evaluations he conducted of visiting men's basketball prospects. Specifically:

- a. Between April 30 and May 1, 2011, Arnold conducted impermissible tryouts of [REDACTED] ([REDACTED] and [REDACTED] ([REDACTED] then men's basketball prospects, when he and other men's basketball staff members evaluated them during a basketball scrimmage. Additionally, Arnold required then men's basketball student-athletes to play in the scrimmage but did not record the time associated with the activity in the men's basketball CARA logs. Last, the scrimmage exceeded the maximum number of four men's basketball student-athletes who could permissibly participate at a time. [NCAA Bylaws 13.11.1, 17.1.6.2.2 and 17.1.6.3.4 (2010-11)]
- b. Between May 5 and 7, 2011, Arnold conducted an impermissible tryout of [REDACTED] ([REDACTED] then men's basketball prospect, when he and other men's basketball staff members evaluated [REDACTED] during a basketball scrimmage. Additionally, Arnold required then men's basketball student-athletes to play in the scrimmage but did not record the time associated with the activity in the men's basketball CARA logs. Further, the scrimmage occurred outside the men's basketball playing season and within one week of final exams, as well as exceeded the maximum

⁵ On January 14, 2012, the NCAA Division I Board of Directors adopted Division I Proposal 2012-2, which permitted Division I men's basketball programs to conduct on-campus evaluations of prospects.

number of four men's basketball student-athletes who could permissibly participate at a time. [NCAA Bylaws 13.11.1, 17.1.6.2-(a), 17.1.6.2.2 and 17.1.6.3.4 (2010-11)]

- c. Between November 4 and 5, 2011, Arnold conducted impermissible tryouts of [REDACTED] ([REDACTED]) and [REDACTED] ([REDACTED]) then men's basketball prospects, when he and other men's basketball staff members evaluated them during individual workouts and a basketball scrimmage. [NCAA Bylaw 13.11.1 (2011-12)]
- d. Between April 20 and April 21, 2012, Arnold conducted permissible on-campus evaluations of [REDACTED] ([REDACTED]) and [REDACTED] ([REDACTED]) then men's basketball prospects, when he and other men's basketball staff members evaluated them during a basketball scrimmage. Even though the evaluations were permissible, Arnold required then men's basketball student-athletes to play in the scrimmage but did not record the time associated with the activity in the men's basketball CARA logs. Further, the scrimmage exceeded the maximum number of four men's basketball student-athletes who could permissibly participate at a time. [NCAA Bylaws 13.11.1, 17.1.6.2.2 and 17.1.6.3.4 (2011-12)]
- e. Between September 21 and 22, 2012, Arnold conducted an impermissible on-campus evaluation of [REDACTED] ([REDACTED]) then men's basketball prospect, when he and other men's basketball staff members evaluated [REDACTED] during a basketball scrimmage. At the time of the evaluation, [REDACTED] had not exhausted his high school basketball eligibility. Additionally, Arnold required then men's basketball student-athletes to play in the scrimmage but did not record the time associated with the activity in the men's basketball CARA logs. [NCAA Bylaws 13.11.2.1-(a), 13.11.2.1-(h) and 17.1.6.3.4 (2012-13)]
- f. Between April 3 and 4, 2013, Arnold conducted permissible on-campus evaluations of [REDACTED] ([REDACTED]) and [REDACTED] ([REDACTED]) then men's basketball prospects, when he and other men's basketball staff members evaluated them during a basketball scrimmage. Even though the evaluations were permissible, Arnold required then men's basketball student-athletes to play in the scrimmage but did not record the time associated with the activity in the men's basketball CARA logs. [NCAA Bylaws 13.11.2.1-(h) and 17.1.6.3.4 (2012-13)]
- g. Between April 12 and 13, 2013, Arnold conducted a permissible on-campus evaluation of [REDACTED] ([REDACTED]) then men's basketball prospect, when he and other men's basketball staff members evaluated [REDACTED] during a basketball scrimmage. Even though the evaluation was permissible, Arnold required then men's basketball

student-athletes to play in the scrimmage but did not record the time associated with the activity in the men's basketball CARA logs. [NCAA Bylaws 13.11.2.1-(h) and 17.1.6.3.4 (2012-13)]

- h. Between April 19 and 20, 2013, Arnold conducted a permissible on-campus evaluation of ██████████ (██████████ then men's basketball prospect, when he and other men's basketball staff members evaluated ██████████ during a basketball scrimmage. Even though the evaluation was permissible, Arnold required then men's basketball student-athletes to play in the scrimmage but did not record the time associated with the activity in the men's basketball CARA logs. Further, the scrimmage exceeded the maximum number of four men's basketball student-athletes who could permissibly participate at a time. [NCAA Bylaws 13.11.2.1-(h), 17.1.6.2.2 and 17.1.6.3.4 (2012-13)]

Level of Allegation No. 2:

The NCAA enforcement staff believes that the hearing panel of the NCAA Division I Committee on Infractions could determine that Allegation No. 2 is a significant breach of conduct (Level II) because the circumstances surrounding this allegation (1) were intended to, and did, provide more than a minimal recruiting advantage; as well as involve (2) conduct that does not rise to a Level I violation but is more serious than a Level III violation; and (3) violations that were not isolated, inadvertent or limited in nature. [NCAA Bylaws 19.1.2, 19.1.2-(a) and 19.1.2-(d) (2014-15)]

Factual Information (FI) on which the enforcement staff relies for Allegation No. 2:

- FI9: April 29, 2014 – Interview transcript of ██████████ This includes, but is not limited to, ██████████ statements that (1) he and ██████████ played in a basketball scrimmage with men's basketball student-athletes during their official paid visits; and (2) he does not recall whether men's basketball staff members were present for the scrimmage.
(██████████ TR_042914_Hawaii_00202)
- FI10: May 6, 2014 – Interview transcript of ██████████ This includes, but is not limited to, ██████████ statements that (1) he played in basketball scrimmages with ██████████ and ██████████ during their official paid visits; and (2) Arnold was present for the scrimmage involving ██████████
(██████████ TR_050614_Hawaii_00202)
- FI11: May 7, 2014 – Interview transcript of ██████████ This includes, but is not limited to, ██████████ statements that (1) he and ██████████ played in a basketball scrimmage with men's basketball student-athletes during their official paid visits; and (2) members of the men's basketball staff, including Arnold and

Benjy Taylor, (Taylor), then assistant men's basketball coach, were present for the scrimmage.

(██████████ TR_050714_Hawaii_00202)

FI12: September 18, 2014 Interview transcript of Chris McMillian (McMillian), former men's basketball director of operations. This includes, but is not limited to, McMillian's statements that (1) ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ and ██████████ participated in scrimmages with men's basketball student-athletes during their official paid visits; (2) members of the men's basketball coaching staff, including Arnold, evaluated the prospects during the scrimmages; and (3) Arnold required men's basketball student-athletes to play in the scrimmages. Additionally, McMillian stated the men's basketball staff conducted an individual workout of ██████████ during his official paid visit. (CMcMillian_TR_091814_Hawaii_00202)

FI13: September 19, 2014 – Interview transcript of Scott Fisher (Fisher), former assistant men's basketball coach. This includes, but is not limited to, Fisher's statements that (1) ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ and ██████████ participated in scrimmages with men's basketball student-athletes during their official paid visits; (2) the scrimmages were arranged by Arnold and observed by the men's basketball staff in order to evaluate the prospects; and (3) Arnold required the men's basketball student-athletes to play in the scrimmages. Additionally, Fisher stated the men's basketball staff conducted individual workouts of ██████████ and ██████████ during their official paid visits, as well as observed them during a scrimmage with men's basketball student-athletes in order to evaluate them. Further, Fisher stated that Arnold instructed the men's basketball staff to fabricate a story that the scrimmage during ██████████ official paid visit was neither arranged nor observed by the men's basketball staff and to report the story to the institution's compliance office in order to conceal the violation. (SFisher_TR_0918914_Hawaii_00202)

FI14: October 9, 2014 – Interview transcript of ██████████ This includes, but is not limited to, ██████████ statements that (1) he and ██████████ played in a scrimmage with men's basketball student-athletes during their official paid visits; and (2) at least three members of the men's basketball coaching staff, including Arnold and Taylor, observed the scrimmage. (██████████ 100914_Hawaii_00202)

FI15: October 13, 2014 – Interview transcript of Kerry Rupp (Rupp), former men's basketball director of operations. This includes, but is not limited to, Rupp's statements that (1) the men's basketball staff conducted individual workouts of ██████████ and ██████████ during their official paid visits, as well as observed them play in a scrimmage with men's basketball student-athletes; and (2) the men's basketball staff observed ██████████ ██████████

██████████ and ██████████ play in a scrimmage with men's basketball student-athletes during their official paid visits.
(KRupp_TR_101314_Hawaii_00202)

FI16: October 15, 2014 – Interview transcript of ██████████. This includes, but is not limited to, ██████████ statements that (1) he played in a scrimmage with men's basketball student-athletes during his official paid visit; and (2) the men's basketball staff was present for the scrimmage.
(██████████_TR_101514_Hawaii_00202)

FI17: October 17, 2014 – Interview transcript of Arnold. This includes, but is not limited to, Arnold's statements that he did not recall conducting impermissible tryouts of five then prospects between the spring and fall of 2011 during their official paid visits. Additionally, Arnold stated he did not require then men's basketball student-athletes to play in basketball scrimmages involving visiting prospects.
(GArnold_TR_101714_Hawaii_00202)

FI18: September 17, 2012 – Email from Chet Hesson (Hesson), then compliance coordinator, in which Hesson informs the men's basketball staff they were not permitted to conduct an on-campus evaluation of ██████████ during his official paid visit because he had not exhausted his high school basketball eligibility. Additionally, Hesson included the full text of Bylaw 13.11.2.1, which sets forth the rules for on-campus evaluations.
(OnCampusEvaluationEducation_UH2093-2100_Hawaii_00202)

FI19: May 3, 2013 – Email from ██████████ (██████████ then men's basketball student-athlete, in which ██████████ informs Amanda Paterson (Paterson), director of compliance, that the men's basketball staff (1) required men's basketball student-athletes to play in open gyms when prospects visited; and (2) attended the open gyms, including the one during ██████████ official paid visit.
(██████████_EmailReCoachesAttendingOpenGym_UH2079_Hawaii_00202)

FI20: April 15, 2014 – Violation self-report regarding the men's basketball staff observing the scrimmage during ██████████ official paid visit.
(Case548271_MBBOpenGymExceedingCARA_Hawaii_00202)

FI21: October 23, 2014 – Email from the institution confirming the official paid visit dates for ██████████ ██████████ ██████████ ██████████ and ██████████
(WKing_CO_PSAOVDatesTryoutIssue_102314_Hawaii_00202)

FI22: October 28, 2014 – Email from ██████████ in which he responds to questions from the enforcement staff regarding the basketball activities he and ██████████ engaged in during their official paid visits.
(██████████_CO_RespondetoTryoutQuestions_102814_Hawaii_00202)

- FI23: December 10, 2014 – Arnold's written statement that (1) he did not require men's basketball student-athletes to play in open gyms with visiting men's basketball prospects; and (2) he did not instruct men's basketball staff members to provide false statements to the institution's compliance office regarding their presence at open gyms. Additionally, Arnold provided his recollection as to whether men's basketball prospects played in open gyms with men's basketball student-athletes and/or participated in basketball workouts during their official paid visits.
(GArnold_InterviewSupplement_121014_Hawaii_00202)
- FI24: Chart showing the dates of men's basketball official paid visits from the fall of 2010 through the spring of 2013.
(Item4_MBBOfficialVisitsFall2010-Spring2013_040814_Hawaii_00202)
- FI25: Institution's academic calendar for the spring 2011 semester showing final exams began May 9, 2011.
(Spring2011SemesterAcademicCalendar_Hawaii_00202)
- FI26: Men's basketball CARA logs from August 23, 2010, through May 4, 2013, including Page Nos. 43, 44, 87, 88, 97, 98, 129 and 131 through 133, which cover the time periods for the official paid visits referenced in this allegation.
(MBBCARALog_UH2078_Hawaii_00202)
- FI27: NCAA Division I Proposal 2012-2 permitting on-campus evaluations for men's basketball prospects.
(Proposal2012-2_OnCampusEvaluation_Hawaii_00202)
- FI28: Official paid visit itineraries for [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED]
(OVItneraries_UH2101-2117_Hawaii_00202)
- FI29: Official paid visit itineraries for [REDACTED] and [REDACTED]
(OVItnerary_[REDACTED]UH2401_Hawaii_00202)
- FI30: Official paid visit itineraries for [REDACTED] [REDACTED] [REDACTED] and [REDACTED]
(OVItnerary_[REDACTED]UH2400_Hawaii_00202;
OVItnerary_[REDACTED]UH2399_Hawaii_00202;
OVItnerary_[REDACTED]UH2397_Hawaii_00202;
OVItnerary_[REDACTED]UH2398_Hawaii_00202)
- FI31: Air travel itineraries for [REDACTED] [REDACTED] [REDACTED] and [REDACTED]
(OVTravel_[REDACTED]UH2396_Hawaii_00202;
OVTravel_[REDACTED]UH2395_Hawaii_00202;
OVTravel_[REDACTED]UH2393_Hawaii_00202;
OVTravel_[REDACTED]UH2394_Hawaii_00202)

The enforcement staff incorporates by reference all other information from FIs referenced in this document and all other documents posted on the secure website.

Specific to Allegation No. 2:

- a. Please indicate whether the information contained within this allegation is substantially correct and whether the institution and the involved parties identified in this allegation believe that violations of NCAA legislation occurred. Submit materials to support your response.
- b. If the institution and the involved parties believe that NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.
- c. Please indicate whether the factual information is substantially correct and whether the institution has additional pertinent information and/or facts. Submit facts in support of your response.

RESPONSE:

The University agrees (1) that the factual information contained in Allegation No. 2 is substantially correct, (2) that a violation of NCAA legislation occurred, and (3) that the violation is classified appropriately as Level II.

This allegation involves evaluations of five (5) prospective student-athletes during their official visits in 2011 by one or more members of the men's basketball coaching staff, which, if they occurred today, would be permissible. The allegation also involves the failure from April 2011 to April 2013 to record as countable athletically related activity the time that existing members of the men's basketball team spent participating with prospective student-athletes spent on seven (7) occasions. Finally, this allegation involves an impermissible evaluation in 2012 of a single prospective student-athlete whose high school eligibility had not yet been exhausted.

From April to November 2011, members of the men's basketball coaching staff, including Arnold, observed three prospects – (1) [REDACTED] (2) [REDACTED] and (3) [REDACTED] – playing in pick-up games on their official visits with existing men's

basketball student-athletes during “open gym” sessions.⁶ Further, in November 2011, according to Fisher, prospective student-athletes ██████ and ██████ were put through individual workouts in the presence of members of the men’s basketball coaching staff. Chris McMillian, who was a graduate assistant during the 2011-12 season and became the director of men’s basketball operations during the 2012-2013 season, stated that he and Arnold were present for ██████ workout, which ██████ stated lasted approximately 30 minutes. ██████ also stated that ██████ went through a workout with coaches present at the same time, and that he and ██████ played 2 on 2 with two existing members of the men’s basketball team during his official visit.⁷ Kerry Rupp, former men’s basketball director of operations confirmed that ██████ and ██████ went through individual workouts and played with then existing members of the men’s basketball team.

██████ and ██████ are the only prospects that were put through individual workouts in the presence of members of the coaching staff. The remaining prospects indicated the presence of coaches during pickup games for various lengths of time. None of the prospects stated that any member of the coaching staff was present for an extended period of time or that they saw any member of the coaching staff taking notes or otherwise memorializing the activity.

Effective January 14, 2012, following the enactment of new NCAA legislation, the University is permitted to conduct an evaluation of a prospective men’s basketball student-athlete on its campus or at a site at which it normally conducts practice or competition. In light of the violations preceding the effective date of this legislation, the University has prohibited its coaches from conducting otherwise permissible evaluations of prospects during play with current student-athletes for the first five official visits of the 2015-16 season. This self-imposed penalty

⁶ ██████ and ██████ made their official visits on April 30, 2011, and played in a single pick-up game together, while ██████ made his official visit on May 5, 2007.

⁷ In his October 17, 2014, interview, ██████ stated that he did not play at all in front of any coach or with any existing members of the men’s basketball team.

has meaningful consequences because of the University's unique location, which makes it more difficult for its coaches to see prospects compete in person.

Between April 2012 and April 2013, members of the men's basketball coaching staff, including Arnold, conducted permissible on-campus evaluations of eight prospects: (1) [REDACTED] (2) [REDACTED] (3) [REDACTED] (4) [REDACTED] (5) [REDACTED] (6) [REDACTED] (7) [REDACTED] and (8) [REDACTED]. These evaluations took place on five (5) different occasions while one or more of the prospects played in pick-up games on their official visits during "open gym" sessions with existing men's basketball student-athletes.

According to Fisher, when a prospect came to campus on an official visit, current members of the men's basketball team were expected to play during open gym with the recruit. Fisher stated that this message came from Arnold. McMillian agreed that it was "understood" among existing men's basketball student-athletes that if a prospect was on campus, the team was required to play with the prospect during open gym. According to McMillian, the instruction or expectation that student-athletes participate in open gym came down from Arnold. McMillian did not recall, however, that any student-athlete was ever punished or penalized for missing open gym. Former men's basketball student-athlete [REDACTED] also stated that, while coaches were not usually present during open gym, they mandated players' presence at open gym when a recruit was in town and coaches were, in fact, present at open gym during [REDACTED] official visit. Arnold denies that he required existing student-athletes to participate in open gym with recruits.

Lastly, members of the men's basketball coaching staff conducted an on-campus evaluation of [REDACTED] during his official visit on September 21-11, 2012. At the time of

the evaluation, however, ██████ had not yet exhausted his high-school eligibility. Accordingly, this evaluation was not permissible under Bylaw 13.11.2.1(a).⁸

With respect to the seven occasions when existing men's basketball student-athletes participated in pick-up games with prospects during their official visits and where coaches were present, the time involved in those activities, which was an hour or less in each instance, was not properly counted toward the applicable hourly and weekly limitations on countable athletically related activities.⁹ Accordingly, the University has self-imposed a reduction in countable athletically related activities by one hour per week for the 19 weeks of the 2015-16 men's basketball season, which exceeds the 2:1 ratio often used to determine an appropriate penalty for similar violations.

3. [NCAA Division I Manual Bylaws 14.11.1, 16.11.2.1 and 16.11.2.3-(c) (2012-13); and 14.10.1 (2013-14)]

It is alleged that in the fall of 2012, ██████ (██████) a representative of the institution's athletics interests, provided ██████ (██████) then men's basketball student-athlete, with an impermissible benefit in the form of complimentary use of an automobile. Specifically, ██████ loaned his 2004 Porsche Cayenne to ██████ for approximately two days at no cost. The value of the impermissible benefit ██████ received was approximately \$560. Additionally, Gib Arnold (Arnold), then head men's basketball coach, knew ██████ was in possession of ██████ vehicle at the time, but did not report the matter to the institution's athletics administration, which is addressed in Allegation No. 6-(c). Subsequently, ██████ competed while ineligible during the 2012-13 and 2013-14 academic years.

⁸ On September 17, 2012, prior to ██████ official visit, the University's then compliance coordinator Chet Hesson emailed the men's basketball coaching staff to remind them that ██████ could not participate in an on-campus evaluation during his official visit because his high school eligibility had not been exhausted. Hesson included a copy of Bylaw 13.11.2.1 as part of his email.

⁹ On April 15, 2014, the University self-reported a violation regarding the men's basketball staff observing ██████ participation during his official visit in a scrimmage with existing men's basketball student athletes but failing to record the time in the CARA log. In addition, then assistant men's basketball coach Scott Fisher stated that Arnold instructed members of the coaching staff to "form a story" to tell compliance regarding the extent to which coaches were present during ██████ pick-up game and the reasons for their presence such that it would not appear that the scrimmage was arranged or observed by members of the coaching staff.

Level of Allegation No. 3:

The NCAA enforcement staff believes that the hearing panel of the NCAA Division I Committee on Infractions could determine that Allegation No. 3 is a significant breach of conduct (Level II) because the circumstances surrounding this allegation (1) include more than a minimal impermissible benefit; and (2) do not rise to a Level I violation but are more serious than a Level III violation. [NCAA Bylaws 19.1.2 and 19.1.2-(a) (2014-15)]

Factual Information (FI) on which the enforcement staff relies for Allegation No. 3:

- FI32: April 8, 2014 – Interview transcript of [REDACTED] ([REDACTED] former men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that (1) during the summer of 2012, [REDACTED] was driving a booster's vehicle; (2) Arnold learned of this and became very angry with [REDACTED] as a result; and (3) Arnold instructed the men's basketball team not to discuss the issue with anyone because it was something the men's basketball coaches "could lose their jobs over." ([REDACTED] TR_040814_Hawaii_00202)
- FI33: April 15, 2014 – Interview transcript of [REDACTED] ([REDACTED] former men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that (1) during the fall of 2012, there was an issue involving a men's basketball student-athlete driving another individual's vehicle; and (2) Arnold addressed the men's basketball team about the issue at the time and instructed them not to accept such things. ([REDACTED] TR_041514_Hawaii_00202)
- FI34: April 23, 2014 – Interview transcript of [REDACTED] ([REDACTED] former men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that Arnold (1) addressed the men's basketball team at practice regarding [REDACTED] driving a Porsche that did not belong to him; (2) instructed [REDACTED] to return the vehicle because using it was "against the rules;" and (3) instructed the men's basketball team not to discuss the issue with anyone. ([REDACTED] TR_042314_Hawaii_00202)
- FI35: April 28, 2014 – Interview transcript of [REDACTED] This includes, but is not limited to, [REDACTED] statements that (1) he borrowed [REDACTED] 2004 Porsche Cayenne for approximately two days; (2) Arnold learned he had the vehicle and said he was not allowed to drive it; and (3) Arnold addressed the men's basketball team about the issue. ([REDACTED] TR_042814_Hawaii_00202)

- FI36: May 5, 2014 – Interview transcript of [REDACTED] ([REDACTED] men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that (1) during the second week of classes in the fall of 2012, there was an issue involving [REDACTED] driving a Porsche that belonged to a man named Brian; (2) Arnold learned [REDACTED] was driving the Porsche and took it away; and (3) Arnold instructed the men's basketball team to keep the matter "in house" and not discuss it with anyone outside the men's basketball program.
([REDACTED] TR_050514_Hawaii_00202)
- FI37: May 6, 2014 – Interview transcript of [REDACTED] ([REDACTED] men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that (1) Arnold addressed the men's basketball team regarding [REDACTED] driving a booster's vehicle and told them not to accept such things because it was an NCAA rules violation; and (2) Arnold told the men's basketball team to keep the matter "in house."
([REDACTED] TR_050614_Hawaii_00202)
- FI38: May 6, 2014 – Interview transcript of [REDACTED] ([REDACTED] former men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that (1) in the fall of 2012, there was an issue involving [REDACTED] driving a vehicle that did not belong to him; and (2) Arnold instructed the men's basketball team not to accept such things from anyone.
([REDACTED] TR_050614_Hawaii_00202)
- FI39: May 6, 2014 – Interview transcript of [REDACTED] ([REDACTED] men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that (1) Arnold addressed the men's basketball team regarding [REDACTED] driving a vehicle that did not belong to him; and (2) Arnold told the team not to accept such things because it was an NCAA rules violation.
([REDACTED] TR_050614_Hawaii_00202)
- FI40: May 7, 2014 – Interview transcript of Scott Fisher (Fisher), then assistant men's basketball coach. This includes, but is not limited to, Fisher's statements that (1) [REDACTED] told him he was driving [REDACTED] Porsche; (2) he reported the matter to Benjy Taylor (Taylor), assistant men's basketball coach; (3) Taylor said [REDACTED] driving the vehicle was an NCAA rules violation; and (4) the men's basketball staff instructed [REDACTED] to stop driving the vehicle.
(SFisher_TR_050714_Hawaii_00202)
- FI41: May 17, 2014 – Interview transcript of [REDACTED] This includes, but is not limited to, [REDACTED] statements that (1) [REDACTED] borrowed his 2004 Porsche Cayenne in the fall of 2012; and (2) Arnold contacted him about this

matter.

(██████ TR_051714_Hawaii_00202)

FI42: June 10, 2014 – Interview transcript of Brandyn Akana (Akana), then assistant men's basketball coach. This includes, but is not limited to, Akana's statements that (1) he learned ██████ was driving a vehicle that did not belong to him; and (2) Arnold was angry with ██████ as a result. (BAkana_TR_061014_Hawaii_00202)

FI43: June 10, 2014 – Interview transcript of Arnold. This includes, but is not limited to, Arnold's statements that (1) in the fall of 2012, he learned ██████ was driving ██████ Porsche Cayenne; (2) he instructed ██████ and the men's basketball team not to accept such things; (3) he spoke with ██████ and Jim Donovan (Donovan), former director of athletics, regarding this matter and determined after those conversations the matter was not an NCAA rules violation; and (4) he did not report the matter to the compliance office. (GArnold_TR_061014_Hawaii_00202)

FI44: June 10, 2014 – Interview transcript of Taylor. This includes, but is not limited to, Taylor's statements that (1) Arnold and the men's basketball staff learned ██████ was driving a booster's vehicle; (2) Arnold instructed ██████ to return it and admonished him not to accept such things; and (3) he believed the issue could have been an NCAA rules violation. (BTaylor_TR_061014_Hawaii_00202)

FI45: June 13, 2014 – Interview transcript of Donovan. This includes, but is not limited to, Donovan's statements that (1) he was removed from his position as the institution's director of athletics around July 9, 2012; (2) he does not recall speaking with Arnold at any point about ██████ and his relationship to the institution; (3) he does not recall an issue involving ██████ driving a booster's vehicle; and (4) he does not recall a conversation with Arnold in which they discussed men's basketball student-athletes receiving extra benefits. (JDonovan_TR_061314_Hawaii_00202)

FI46: June 17, 2014 – Interview transcript of Donovan. This includes, but is not limited to, Donovan's statements that (1) after his June 13, 2014, interview, he recalled a telephone conversation in the fall of 2012 with a coach he believes to have been Arnold, in which they discussed a hypothetical question as to whether it was permissible for a student-athlete to drive a vehicle belonging to the student-athlete's girlfriend; (2) at no point during that conversation was the name ██████ mentioned; (3) at no point during that conversation was the subject of a booster loaning a student-athlete a vehicle discussed; and (4) this conversation is the only

thing he could recall that would be relevant as to whether he and Arnold discussed [REDACTED] driving a booster's vehicle.
(JDonovan_TR_061714_Hawaii_00202)

FI47: December 5, 2014 – Interview transcript of Ben Jay (Jay), director of athletics. This includes, but is not limited to, Jay's statements that (1) he had no knowledge of this issue prior to the NCAA investigation commencing; and (2) he and Arnold never communicated regarding [REDACTED] providing men's basketball student-athletes with impermissible benefits.
(BJay_TR_120514_Hawaii_00202)

FI48: December 5, 2014 – Interview transcript of Amanda Paterson (Paterson), director of compliance. This includes, but is not limited to, Paterson's statements that she first learned of this issue during the NCAA investigation.
(APaterson_TR_120514_Hawaii_00202)

FI49: Arnold's cellular telephone call and text message records from August 8 through November 7, 2012.
(GArnold_PhoneCallTextRecords_808-366-4965_080812-110712_Hawaii_00202)

FI50: December 10, 2014 – Arnold's written statement that (1) after learning [REDACTED] was driving [REDACTED] vehicle, he immediately took the keys and inquired whether [REDACTED] was a booster for the institution; (2) after speaking with [REDACTED] and others, he concluded [REDACTED] was not a booster and that an NCAA rules violation did not occur; and (3) in retrospect, he wished he would have reported the matter to compliance.
(GArnold_InterviewSupplement_121014_Hawaii_00202)

FI51: December 23, 2014 – Email from the institution containing information that the incident involving [REDACTED] driving [REDACTED] vehicle possibly occurred around September 3, 2012.
(WKing_CO_Fall2012OccasionalMealForm_Non-Bates_122314_Hawaii_00202)

FI52: Documentation regarding [REDACTED] financial contributions to the institution's athletics program.
(MemoRe[REDACTED]FinancialContributions_Hawaii_00202;
[REDACTED]BoosterDocumentation_Hawaii_00202)

FI53: Occasional meal request form for a team meal at Arnold's residence on September 3, 2012.
(Fall2012MBBOccasionalMeal_UH2386_Hawaii_00202)

FI54: Pricing information for a two-day luxury sports utility vehicle rental in Honolulu, Hawaii over a weekend in the month of August. (██████████SUVRentalValue_Hawaii_00202)

The enforcement staff incorporates by reference all other information from FIs referenced in this document and all other documents posted on the secure website.

Specific to Allegation No. 3:

- a. Please indicate whether the information contained within this allegation is substantially correct and whether the institution and the involved parties identified in this allegation believe that violations of NCAA legislation occurred. Submit materials to support your response.
- b. If the institution and the involved parties believe that NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.
- c. Please indicate whether the factual information is substantially correct and whether the institution has additional pertinent information and/or facts. Submit facts in support of your response.

RESPONSE:

The University agrees (1) that the factual information contained in Allegation No. 3 is substantially correct, (2) that a violation of NCAA legislation occurred, and (3) that the violation is classified appropriately as Level II.

This allegation involves an impermissible benefit that a men's basketball student athlete received in the fall of 2012 in the form of the free use for approximately 48 hours of an 8 year-old sport utility vehicle that belonged to a local real estate agent. Despite knowledge among the men's basketball coaching staff that the student-athlete was driving another individual's vehicle, the matter was not reported to the University's compliance department and other members of the men's basketball team have stated that Arnold told them that they could not accept such benefits from other individuals, but instructed them to keep the matter "in-house." If a timely report had been made to the University's compliance department, the violation could have been dealt with expeditiously at that time.

██████████ a former men's basketball student-athlete, introduced then men's basketball student-athlete ██████████ to ██████████ a local real estate agent in Honolulu. ██████████ did not attend the University but in April 2012, he purchased two seats at the men's basketball banquet for \$200, and in May 2012, he made a \$60 donation to the Rainbow Basketball Support Group, which is affiliated with the University of Hawaii Foundation. The University has concluded that ██████████ was a representative of its athletics interests when ██████████ used his vehicle.

██████████ stated that, in the fall of 2012, ██████████ asked ██████████ to drop him off at the airport and permitted ██████████ to use ██████████ 2004 Porsche Cayenne SUV for two days until he returned. According to ██████████ his girlfriend allowed ██████████ to use the car without ██████████ knowledge after they dropped ██████████ off at the airport. Arnold learned that ██████████ was driving the vehicle and told ██████████ that he should not use the vehicle any more. According to ██████████ after Arnold learned that ██████████ was using ██████████ vehicle, he made ██████████ immediately cease his use of the vehicle. ██████████ said Arnold also addressed the team about the incident and instructed them to be careful about accepting things from people. ██████████ also stated that Arnold did not tell him or any members of the team not to discuss the matter with anyone else.

Statements from others are not entirely consistent with that of ██████████ regarding the substance of Arnold's remarks to the team. Other current and former men's basketball student-athletes, including ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ and ██████████ all stated that, in the fall of 2012: (1) they were aware of an issue involving ██████████ driving another individual's vehicle, (2) that Arnold addressed the team about the matter and (3) Arnold told them that accepting such a benefit was improper. Four of these student-athletes (██████████ ██████████ ██████████ and ██████████) also stated that Arnold told them to keep the matter "in house" and not to discuss it with anyone else outside

the basketball program. The issue was not, in fact, reported to either the University's compliance staff or to the then interim athletics director at that time.

In his June 10, 2014, interview, Arnold stated that he spoke with [REDACTED] shortly after learning that [REDACTED] was driving [REDACTED] car. According to Arnold, he advised [REDACTED] not to loan anything to any player and said he did not want [REDACTED] to even be around any players. Arnold stated that he addressed the team regarding this issue and told them that, if a booster had been involved, this situation would have been a violation of NCAA rules. Arnold said he did not report the issue to compliance, however, because he learned through his investigation that [REDACTED] was a friend of [REDACTED] and satisfied himself that [REDACTED] was not a booster. Arnold did not recall ever telling any member of the team not to report the issue to compliance.

Arnold also stated that he spoke with his former athletics director, Jim Donovan, and asked whether Donovan knew [REDACTED]. Arnold did not recall whether he told Donovan that [REDACTED] had used [REDACTED] automobile. Arnold stated that Donovan, who was removed from the position of athletics director on or about July 9, 2012, nearly two months prior to the incident, stated that he did not know who [REDACTED] was and that he did not recognize [REDACTED] as a season ticket holder. After speaking with Donovan and [REDACTED] Arnold determined that the matter was not a violation, which, he says, is why he did not report the matter to compliance.

Donovan's recollection of these events differs significantly from that of Arnold. Initially, in his June 13, 2014, interview, Donovan stated that he had no recollection of any conversations with Arnold regarding [REDACTED] or any conversations in which Arnold expressed concerns about a booster or an individual becoming involved with his student-athletes in such a way that made him feel uncomfortable. Donovan also stated that he does not know anyone named [REDACTED]

Shortly after his June 13, 2014, interview, Donovan notified the enforcement staff that he recalled a conversation he had with Arnold. During his subsequent interview, which occurred four days later, on June 17, 2014, Donovan stated that he recalled a conversation with Arnold in which Arnold relayed a “hypothetical” situation involving a player whose girlfriend allowed him to use her car. According to Donovan, he stated that such an arrangement likely would constitute an impermissible extra benefit in the absence of a pre-existing relationship.

In his October 14, 2014, interview, Arnold confirmed that when he contacted Donovan after learning of ██████ use of the vehicle, he knew that Donovan was the former athletics director. Arnold stated that he decided to consult with Donovan because Donovan hired him and was someone Arnold trusted.¹⁰ Arnold did not recall posing a hypothetical question to Donovan and stated that he just happened to run into Donovan around campus and asked him a couple of questions.

Finally, on December 10, 2014, Arnold submitted a written supplemental statement in which he stated that he concluded from speaking with ██████ and “those directly involved” that neither ██████ nor his girlfriend was a booster. Arnold agreed that, in hindsight, he would have preferred to have reported the matter to compliance for review.

The University acknowledges that ██████ competed while ineligible during the 2012-13 and 2013-14 seasons due to this violation. Accordingly, the University will vacate all wins from those seasons in which ██████ participated and reduced the number of men’s basketball scholarships from 13 to 12 for the 2015-16 and 2016-17 academic years.

¹⁰ Rockne Freitas succeeded Jim Donovan as the University’s interim athletics director. Arnold did not have any conversations with Freitas regarding ██████ or ██████

4. [NCAA Division I Manual Bylaws 13.2.1, 13.6.6 and 16.11.2.1 (2013-14)]

It is alleged that between August 28 and December 19, 2013, Gib Arnold (Arnold), then head men's basketball coach, and Brandyn Akana (Akana), then assistant men's basketball coach, arranged impermissible recruiting inducements in the form of hotel concierge lounge access that was not generally available to all hotel guests for three then men's basketball prospective student-athletes and one men's basketball student-athlete during the prospects' official paid visits. The total value of the benefits was approximately \$422. Specifically:

- a. Between August 28 and 31, 2013, Arnold and Akana arranged for [REDACTED] ([REDACTED] then men's basketball prospect, to receive two days' use of the Leahi Room at the Sheraton Hotel Waikiki Beach (Sheraton) in Honolulu, Hawaii. The value of the benefit was approximately \$200. [NCAA Bylaws 13.2.1 and 13.6.6 (2013-14)]
- b. Between October 3 and 6, 2013, Arnold and Akana arranged for [REDACTED] ([REDACTED] then men's basketball prospect, to receive one day's use of the Leahi Room. The value of the benefit was approximately \$100. [NCAA Bylaws 13.2.1 and 13.6.6 (2013-14)]
- c. Between December 17 and 19, 2013, Arnold and Akana arranged for [REDACTED] ([REDACTED] then men's basketball prospect, to receive one day's use of the Leahi Room. The value of the benefit was approximately \$100. Additionally, [REDACTED] [REDACTED] ([REDACTED] men's basketball student-athlete, accompanied [REDACTED] to the Leahi Room and received a free meal valued at approximately \$22. [NCAA Bylaws 13.2.1, 13.6.6 and 16.11.2.1 (2013-14)]

Level of Allegation No. 4:

The NCAA enforcement staff believes that the hearing panel of the NCAA Division I Committee on Infractions could determine that Allegation No. 4 is a significant breach of conduct (Level II) because the circumstances surrounding this allegation (1) were intended to, and did, provide more than a minimal recruiting advantage; and (2) do not rise to a Level I violation but are more serious than a Level III violation. [NCAA Bylaws 19.1.2, 19.1.2-(a) and 19.1.2-(d) (2014-15)]

Factual Information (FI) on which the enforcement staff relies for Allegation No. 4:

FI55: April 1, 2014 – Interview transcript of Akana. This includes, but is not limited to, Akana's statements that (1) at Arnold's instruction, he contacted the Sheraton and requested that Leahi Room access be added to the hotel reservations for [REDACTED] [REDACTED] and [REDACTED] during their official paid

visits; (2) the compliance office was not consulted as to whether this was permissible; and (3) the purpose for requesting Leahi Room access was to make the prospects' visits more enjoyable.

(BAkana_TR_040114_Hawaii_00202)

FI56: April 1, 2014 – Interview transcript of [REDACTED] This includes, but is not limited to, [REDACTED] statements that he stayed at the Sheraton during his official paid visit and visited the Leahi Room on one occasion.
([REDACTED] TR_040114_Hawaii_00202)

FI57: April 23, 2014 – Interview transcript of [REDACTED] This includes, but is not limited to, [REDACTED] statements that (1) Akana made the travel and lodging arrangements for his official paid visit; (2) he and his mother stayed at the Sheraton; and (3) he and his mother visited the Leahi Room on one occasion.
([REDACTED] TR_042314_Hawaii_00202)

FI58: July 22, 2014 – Interview transcript of [REDACTED] This includes, but is not limited to, [REDACTED] statements that (1) he and [REDACTED] visited the Leahi Room during [REDACTED] official paid visit on one occasion; and (2) the December 19, 2013, Twitter posting of a photograph showing him overlooking Waikiki Beach was taken during his and [REDACTED] visit to the Leahi Room.
([REDACTED] TR_072214_Hawaii_00202)

FI59: July 28, 2014 – Interview transcript of [REDACTED] This includes, but is not limited to, [REDACTED] statements that (1) he and his mother stayed at the Sheraton for his official paid visit; and (2) they visited the Leahi Room on two occasions.
([REDACTED] TR_072814_Hawaii_00202)

FI60: September 14, 2010 – Educational Column stating that lodging provided to prospects on official paid visits must be standard and not include any upgrades or special amenities not generally available to guests.
(Bylaw13.6.6EdColumn_HotelLodgingonOV_091410_Hawaii_00202)

FI61: December 17 and 18, 2013 – Emails between Akana and the Sheraton in which they discuss adding Leahi Room access to [REDACTED] hotel reservation.
(BAkana_EmailRe [REDACTED] OV Hawaii_00202;
BAkana_EmailReLeahi [REDACTED] Hawaii_00202)

- FI62: July 21, 2014 – Email from Paterson containing the dates in which [REDACTED] and [REDACTED] stayed at the Sheraton during their official paid visits.
(APaterson_CO_PSASheratonStays_072114_Hawaii_00202)
- FI63: December 19, 2013 – Twitter posting of a photograph taken by [REDACTED] during his visit to the Leahi Room with [REDACTED]
([REDACTED]Hawaii_00202)
- FI64: Chart showing the dates of [REDACTED] and [REDACTED] official paid visits.
(Item4_MBBOfficialVisits2013-14_040814_Hawaii_00202)
- FI65: Description of the Leahi Room.
(SheratonWaikikiHotelLeahiLounge_032514_Hawaii_00202)
- FI66: [REDACTED] official paid visit documentation, including documentation of his hotel accommodations and meals.
(Item2a_[REDACTED]OfficialVisitDocs_040814_Hawaii_00202;
Item3_PSAHotelReceipt_[REDACTED]040814_Hawaii_00202)
- FI67: [REDACTED] official paid visit documentation, including documentation of his hotel accommodations and meals.
(Item2b_[REDACTED]OfficialVisitDocs_040814_Hawaii_00202)
- FI68: [REDACTED] official paid visit documentation, including documentation of his hotel accommodations and meals.
([REDACTED]OVDdocumentation_032714_Hawaii_00202)

The enforcement staff incorporates by reference all other information from FIs referenced in this document and all other documents posted on the secure website.

Specific to Allegation No. 4:

- a. Please indicate whether the information contained within this allegation is substantially correct and whether the institution and the involved parties identified in this allegation believe that violations of NCAA legislation occurred. Submit materials to support your response.
- b. If the institution and the involved parties believe that NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.
- c. Please indicate whether the factual information is substantially correct and whether the institution has additional pertinent information and/or facts. Submit facts in support of your response.

RESPONSE:

The University agrees (1) that the factual information contained in Allegation No. 4 is substantially correct and (2) that a violation of NCAA legislation occurred. The University does not agree, however, that the Panel should determine that Allegation No. 4 is a significant breach of conduct that is appropriately classified as a Level II violation. Rather, the circumstances surrounding this allegation (1) were not intended to, and did not, provide more than a minimal recruiting advantage; (2) were isolated or limited in nature; (3) provided no more than a minimal recruiting, competitive or other advantage; and (4) did not include more than a minimal impermissible benefit. Accordingly, the University believes this violation is more appropriately treated as a Level III violation.

The Leahi Room is an area located at the top of the Sheraton Waikiki Hotel where a complimentary continental breakfast, snacks, newspapers and similar amenities are available. Such areas are commonly referred to as a “club lounge” or “concierge lounge.” The University has regularly used the Sheraton Waikiki for lodging for a prospective student-athlete on an official visit. The University has a trade account with the Sheraton, which is a University sponsor and provides rooms to the University for a prospect’s official visit, on occasion, at no charge. According to Akana, at Arnold’s instruction, he requested the Sheraton to add Leahi Room access to the room reservations for the official visits of men’s basketball prospects [REDACTED] [REDACTED] and [REDACTED] in 2013.

[REDACTED] stated that he and his mother ate from the continental breakfast buffet in the Leahi Room after they arrived at the hotel and on the morning of their departure. On one of those occasions, they ate with Arnold. From [REDACTED] perspective, the Leahi Room was “a public room” and the only requirement for access was that you were staying in the hotel.

██████████ stated that he and his mother ate breakfast in the Leahi Room on one occasion with Arnold and Akana. ██████ viewed the room as a “restaurant type thing” and never returned during his visit.

Finally, ██████████ stated that he and ██████████ a then men’s basketball student-athlete, went to the Leahi Room on one occasion and took a picture in front of a window overlooking the beach. Apparently, ██████████ ate breakfast in the Leahi Room but ██████████ denied eating there and also stated that he did not return to the area during the remainder of his official visit.

None of the prospects stated that they were told they had special or unlimited access to the Leahi Room. From their perspective, it was simply a restaurant in the hotel.

Because access to the Leahi Room is not provided automatically to all guests of the hotel, the University acknowledges that providing this minimal, isolated extra benefit to a prospect constitutes a violation. The only reason a violation has occurred, however, is because the University did not pay for the prospect’s meal. Importantly, the allegation involves a benefit, i.e., food, which, if the University had paid for separately at a local restaurant, would have been entirely permissible under Bylaw 13.6.7.7. In other words, if the University simply had taken the prospects to any other restaurant in the area and paid for the meal during the prospect’s official visit, there would be no violation. Members of the coaching staff stated that they used the Leahi Room for breakfast as a way to lower the cost of official visits because the breakfast was free, not to provide special treatment or an impermissible benefit to the prospects.

Access to a continental breakfast buffet and an ocean view cannot reasonably be said to provide anything more than a minimal recruiting advantage, if that. Moreover, there is no dispute that the provision of this benefit was isolated and limited as it involves just three

prospects and one men's basketball player who visited the Leahi Room a combined total of four times. On these facts, this violation does not fall within the definition of a Level II violation and should be classified as Level III.

5. [NCAA Division I Manual Bylaws 10.1-(c) and 16.11.2.1 (2012-13); 10.01.1 and 10.1 (2012-13 through 2014-15); and 10.1-(d) (2013-14 and 2014-15)]

It is alleged that on four occasions between December 2012 and August 7, 2014, Brandyn Akana (Akana), then assistant men's basketball coach, acted contrary to the NCAA principles of ethical conduct when he failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics. Specifically:

- a. In late December 2012 or early January 2013, Akana knowingly provided ██████████ (██████████ then men's basketball student-athlete, with an impermissible benefit in the form of an Apple iPad valued at approximately \$400. [NCAA Bylaws 10.01.1, 10.1, 10.1-(c) and 16.11.2.1 (2012-13)]
- b. On January 10, 2014, Akana knowingly altered the Supplementary Information Form for Undergraduate International Applicants (supplemental form) for ██████████ (██████████ then men's basketball prospective student-athlete, by increasing the amount of family financial support listed in Section C of ██████████ supplemental form and submitting it to the institution in order to facilitate ██████████ admission to the institution. [NCAA Bylaws 10.01.1 and 10.1 (2013-14)]
- c. During his June 10 and August 7, 2014, interviews with the institution and NCAA enforcement staff, Akana knowingly provided false or misleading information when he denied providing ██████████ with an iPad, as detailed in Allegation No. 5-(a). However, the factual information shows Akana knowingly provided ██████████ with an iPad in late December 2012 or early January 2013. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(d) (2013-14)]

Level of Allegation No. 5:

The enforcement staff believes that the hearing panel of the NCAA Division I Committee on Infractions could determine that Allegation No. 5 is a severe breach of conduct (Level I) because the circumstances surrounding this allegation involve (1) individual unethical or dishonest conduct; and (2) intentional violations or showing reckless indifference to the NCAA constitution and bylaws. [NCAA Bylaws 19.1.1, 19.1.1-(d) and 19.1.1-(h) (2014-15)]

Factual Information (FI) on which the enforcement staff relies for Allegation No. 5:

FI on which the enforcement staff relies for Allegation Nos. 5-(a) and 5-(c):

- FI69: April 8, 2014 – Interview transcript of [REDACTED] ([REDACTED] former men's basketball student-athlete. This includes, but is not limited to, [REDACTED] statements that (1) he saw [REDACTED] with a new iPad after returning to campus for the spring 2013 semester; and (2) [REDACTED] said he received the iPad from Akana as a Christmas gift.
([REDACTED] TR_040814_Hawaii_00202)
- FI70: May 7, 2014 – Interview transcript of [REDACTED]. This includes, but is not limited to, [REDACTED] statements that (1) when he returned to campus for the spring 2013 semester, he told [REDACTED] that Akana gave him a new iPad as a Christmas gift; (2) the statement he made to [REDACTED] was a lie in order to make [REDACTED] jealous of his relationship with Akana; (3) Akana was not involved with respect to him acquiring the iPad; (4) he purchased the iPad himself at an Apple Store in Honolulu, Hawaii with money he received from his family for Christmas; and (5) the serial number of the iPad he purchased was DKVM60CYDFHW.
([REDACTED] TR_050714_Hawaii_00202)
- FI71: June 9, 2014 – Interview transcript of [REDACTED]. This includes, but is not limited to, [REDACTED] statements that (1) he purchased an iPad from an Apple Store on Waikiki Beach in Honolulu in the spring of 2014 because the original iPad he purchased around Christmas 2012 had a broken screen; the iPad he brought to his May 7 interview with serial number DKVM60CYDFHW was the iPad he purchased in the spring 2014; and he did not have any record of the original iPad he purchased around Christmas 2012.
([REDACTED] TR_060914_Hawaii_00202)
- FI72: June 10, 2014 – Interview transcript of Akana. This includes, but is not limited to, Akana's statements that (1) he did not give [REDACTED] an iPad around Christmas 2012; (2) he does not know how [REDACTED] acquired an iPad; and (3) he does not have any information regarding a potential NCAA rules violation regarding [REDACTED] obtaining an iPad.
(BAkana_TR_061014_Hawaii_00202)
- FI73: July 26, 2014 – Email from [REDACTED], senior manager at the Apple Store Royal Hawaiian in Honolulu, regarding Akana's request for the sales receipt for the iPad that Joselyn Akana (J. Akana), Akana's wife, purchased on December 24, 2012.
([REDACTED] _CO_AppleiPadReceiptRequest_072614_Hawaii_00202)

- FI74: August 7, 2014 – Interview transcript of Akana. This includes, but is not limited to, Akana's statements that (1) J. Akana purchased an iPad on December 26, 2012, as a gift for their young son; (2) he gave the iPad to ██████ in late March 2014 at no cost because the device had a broken screen; and (3) he did not report this during his previous interview because he interpreted the questions to be whether he gave ██████ an iPad around Christmas 2012, not whether he had ever given ██████ an iPad.
(BAkana_TR_080714_Hawaii_00202)
- FI75: August 8 and August 13, 2014 – Emails from the enforcement staff to Akana's counsel confirming J. Akana declined to provide the staff with a copy of the sales receipt for the iPad she purportedly purchased on December 24, 2012.
(MSheridan_CO_JoselynAkanaDecliningCooperation_080814_Hawaii_00202;
MSheridan_CO_JoselynAkanaDecliningCooperation_081314_Hawaii_00202)
- FI76: September 15, 2014 – Email from ██████ describing the purported circumstances in which he obtained the iPad.
(WKing_CO_████████████████████091614_Hawaii_00202)
- FI77: October 17, 2014 – Interview transcripts of ██████ This includes, but is not limited to, ██████ statements that (1) in December 2012, he took possession of an iPad that belonged to the Akana family with their permission and had exclusive use of the device until the spring 2014; (2) in the spring 2014, he took the Akana family's iPad to an Apple Store in Honolulu because its screen was broken; and (3) at that time, he purchased a replacement iPad for himself because the Akana family's iPad was irreparable. Additionally, ██████ stated (1) he lied during his previous interviews in saying he purchased an iPad from an Apple Store in Honolulu around Christmas 2012; and (2) he actually purchased another brand of tablet around Christmas 2012 but took possession of the Akana family's iPad at that time because he preferred it to his tablet.
(████████TR_101714_Hawaii_00202)
- FI78: Pricing information for an iPad 2 around Christmas 2012.
(iPad2PriceHistory_Hawaii_00202; iPad2PriceHistory2_Hawaii_00202)
- FI79: Documentation from Apple showing (1) ██████ requested a work order for the iPad with serial number DYVJVDF0DFHW because it had a broken screen; (2) at that time, ██████ purchased an iPad with serial number DKVM60CYDFHW to replace the iPad with the broken screen; and (3) the iPad with serial number DYVJVDF0DFHW was originally purchased on December 24, 2012.
(████████iPadWorkOrder_Hawaii_00202)

FI80: [REDACTED] Bank of Hawaii account statement showing a \$260.73 purchase at an Apple Store in Honolulu on April 19, 2014.

([REDACTED] BankofHawaiiStatementiPadPurchaseUH2091_Hawaii_00202)

FI81: Sales receipt showing [REDACTED] purchased an iPad 2 on April 19, 2014, for \$260.73.

([REDACTED] iPadReceiptUH2092_Hawaii_00202)

FI82: Screen shot of the serial number (DKVM60CYDFHW) for the iPad in [REDACTED] possession during his May 7, 2014, interview.

([REDACTED] iPadSerialNumber_Hawaii_00202)

FI on which the enforcement staff relies for Allegation No. 5-(b):

FI83: May 7, 2013 – Email from Kalei Miyahana, administrative assistant, containing the May 7, 2013, department of athletics newsletter reminding all coaches that their incoming prospects must be able to pay their educational expenses if they will not receive an athletics scholarship.

(KMiyahana_EmailMay2013UHAthleticsNewsletter_UH2360_050713_Hawaii_00202;

UHAthleticsNewsletter_UH2361_050713_Hawaii_00202)

FI84: December 30, 2013 – Email from Serenda Valdez (Valdez), assistant director of student affairs, stating she informed Akana that [REDACTED] supplemental form, accompanying bank statement and other documentation were due by January 3, 2014.

(SValdezDec30EmailRe [REDACTED] AdmissionStatus_UH2090_Hawaii_00202)

FI85: January 7, 2014 – Email from Akana to [REDACTED] which includes a blank supplemental form as well as instructions on how to complete it.

(BAkana_EmailTo [REDACTED] SupplementalForms_010714_Hawaii_00202)

FI86: January 8, 2014 – Email from Akana to Stacey Price (Price), director of student-athlete affairs, in which he forwards Price an email from [REDACTED] containing a supplemental form showing \$500 of yearly financial support.

(BAkana_EmailToPrice [REDACTED] SupplementalForm\$500_010814_Hawaii_00202; [REDACTED] SupplementalFormCFI\$500_032414_Hawaii_00202)

FI87: January 8 and 9, 2014 – Emails between Akana and [REDACTED] in which they discuss the amount of yearly financial support [REDACTED] needed to show on the supplemental form to be admitted to the institution.

(BAkana_EmailTo [REDACTED] SupplementalFormAmount_010914_Hawaii_00202)

- FI88: January 9, 2014 – Email from ██████ to Akana, which includes a supplemental form showing \$1,000 of yearly financial support.
(██████EmailToAkanaSupplementalForm\$1000_010914_Hawaii_00202)
- FI89: January 9, 2014 – Email from Akana to Price, which includes a supplemental form showing ██████ would receive \$1,000 of yearly financial support from his family.
(BAkana_EmailToPrice██████SupplementalForm\$1000_010914_Hawaii_00202)
- FI90: January 9, 2014 – Email from Price to Akana in which Price states (1) the supplemental form showing ██████ would receive \$1,000 of yearly financial support from his family was insufficient; (2) ██████ would need to demonstrate yearly financial support of \$42,612 (full cost-of-attendance) to be admitted to the institution; and (3) the deadline to submit the supplemental form reflecting that amount was noon January 10, 2014.
(SPrice_EmailToAkanaRe██████SupplementalFormInsufficient_010914_Hawaii_00202)
- FI91: January 10, 2014 – Email from Akana to Price in which Akana states "Looks like they got it" in reference to ██████ showing sufficient yearly financial support on the supplemental form to be admitted to the institution.
(BAkana_EmailToPrice██████SupplementalForm_011014_Hawaii_00202)
- FI92: January 13, 2014 – Email from Price to Gib Arnold (Arnold), then head men's basketball coach, in which she states (1) ██████ was not admissible to the institution for the spring 2014 semester because he failed to demonstrate sufficient yearly financial support; and (2) the supplemental form submitted on January 10 was altered.
(SPrice_EmailToArnoldRe██████Admissions_011314_Hawaii_00202)
- FI93: January 29, 2014 – Email from Amanda Paterson, director of compliance, to the enforcement staff reporting the violation involving Akana altering ██████ supplemental form.
(MajorSelfReport_012914_Hawaii_00202)
- FI94: February 10, 2014 – Letter from Ben Jay (Jay), director of athletics, to Akana regarding Akana being suspended due to altering ██████ supplemental form.
(BAkana_NoticeofSuspension_021014_Hawaii_00202)

- FI95: February 25, 2014 – Letter from Jay to [REDACTED], Akana's union agent, regarding a grievance Akana filed due to the institution suspending him for 30 days due to altering [REDACTED] supplemental form.
(BAkana_HGEAMemoReGrievanceDecision_022514_Hawaii_00202)
- FI96: March 31, 2014 – Violation self-report regarding Akana altering [REDACTED] supplemental form on January 10, 2014.
(InstitutionSelfReport_021214_IncludesAttachments_Hawaii_00202)
- FI97: March 31, 2014 – Interview transcript of Jay. This includes, but is not limited to, Jay's statements that (1) he, Akana and Tammy Kuniyoshi (Kuniyoshi), director of human resources, met on January 21, 2014, during which time Akana admitted to "forging" [REDACTED] supplemental form by writing the number "4" in front of the number "1" to show [REDACTED] would receive \$41,000 of yearly financial support from his family rather than \$1,000.
(BJay_TR_033114_Hawaii_00202)
- FI98: March 31, 2014 – Interview transcript of Kuniyoshi. This includes, but is not limited to, Kuniyoshi's statements that she, Jay and Akana met on January 21, 2014, during which time Akana admitted to writing the number "4" on [REDACTED] supplemental form to increase the amount of yearly financial support he would receive from his family. Additionally, Kuniyoshi stated Akana altered the document in order to "buy more time" for [REDACTED] to submit the paperwork necessary for admission to the institution.
(TKuniyoshi_TR_033114_Hawaii_00202)
- FI99: March 31, 2014 – Interview transcript of Price. This includes, but is not limited to, Price's statements that (1) as the liaison between the department of athletics and admissions, she assists coaches with prospect admissions; (2) coaches are educated on the admissions process for international prospects, including that the prospect must demonstrate sufficient finances to attend the institution; (3) the men's basketball program recruits international prospects heavily and is aware of this financial requirement; (4) [REDACTED] supplemental form packet was submitted four times; (5) the amount of yearly financial support on [REDACTED] first two supplemental forms was \$500 and \$1,000, respectively, which was insufficient for admission to the institution; (6) after the second submission, she spoke with Akana and learned that [REDACTED] would not receive an athletics scholarship for the spring 2014 semester; (7) at that time, she informed Akana that [REDACTED] needed to show yearly financial support sufficient to pay the full cost of attendance; (8) the following day, she received a fax from a Marriott in California containing [REDACTED] third supplemental form; (9) someone altered the supplemental form in the third submission to

show a larger amount of yearly financial support; and (10) she suspected Akana altered the document.
(SPrice_TR_033114_Hawaii_00202)

FI100: March 31, 2014 – Interview transcript of Valdez. This includes, but is not limited to, Valdez's statements that (1) when she received [REDACTED] third supplemental form submission on January 10, 2014, she noticed someone altered the amount of yearly financial support by writing the number "4" in front of the number "1" so as to show \$41,000 rather than \$1,000; and (2) she immediately reported the matter to the institution's compliance office.
(SValdez_TR_033114_Hawaii_00202)

FI101: April 1, 2014 – Interview transcript of Akana. This includes, but is not limited to, Akana's statements that on January 10, 2014, he intentionally wrote the number "4" in front of the number "1" on Section C of [REDACTED] supplemental form to show [REDACTED] would receive \$41,000 of yearly financial support from his family rather than \$1,000. Additionally, Akana stated he faxed the altered supplemental form to the institution in hopes of receiving an extension for [REDACTED] to submit the paperwork necessary to be admitted for the spring 2014 semester.
(BAkana_TR_040114_Hawaii_00202)

FI102: April 1, 2014 – Interview transcript of Arnold. This includes, but is not limited to, Arnold's statements that Akana admitted that he altered [REDACTED] supplemental form by writing the number "4" in front of the number "1" to show the amount of yearly financial support [REDACTED] would receive from his family to be \$41,000 rather than \$1,000.
(GArnold_TR_040114_Hawaii_00202)

FI103: Exhibit SJ1. This includes, but is not limited to, the altered supplemental form Akana submitted to the institution on January 10, 2014.
(BAkana_040114InterviewExhibitSJ1_Hawaii_00202;
[REDACTED]InterviewExhibitSJ1_040114_Hawaii_00202)

FI104: Notes taken by Kuniyoshi during her January 21, 2014, meeting with Jay and Akana in which they discussed the circumstances surrounding Akana altering [REDACTED] supplemental form and submitting it to the institution.
(TKuniyoshi_BAkanaConfessionMeetingNotes_012114_Hawaii_00202)

FI105: Timeline created by Valdez detailing her communications with Akana regarding [REDACTED] admission to the institution for the spring 2014 semester.
(SValdez_InterviewExhibitsSV1-SV2_Timelines_Hawaii_00202)

The enforcement staff incorporates by reference all other information from FIs referenced in this document and all other documents posted on the secure website.

Specific to Allegation No. 5:

- a. Please indicate whether the information contained within this allegation is substantially correct and whether the institution and the involved parties identified in this allegation believe that violations of NCAA legislation occurred. Submit materials to support your response.
- b. If the institution and the involved parties believe that NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.
- c. Please indicate whether the factual information is substantially correct and whether the institution has additional pertinent information and/or facts. Submit facts in support of your response.

RESPONSE:

The University agrees (1) that the factual information contained in Allegation No. 5 is substantially correct, (2) that a violation of NCAA legislation occurred, and (3) that the violation is classified appropriately as Level I.

██████████ **iPad**

Former men's basketball student-athlete ██████████ was ██████████ roommate.

██████████ stated that, in January 2013, ██████████ returned to their dorm room with a new iPad, which ██████████ said Akana had given him.

██████████ statements during the investigation regarding how he came to be in possession of the iPad have not been consistent. First, in his May 7, 2014, interview, ██████████ stated that he bought an iPad in December 2012 with money that he received as a Christmas present. ██████████ brought an iPad to the interview and provided the serial number (DKVM60CYDFHW) for the device. He made no mention of having ever replacing this iPad that he claimed to have bought for himself in December 2012. A work order from Apple, however, established that this iPad replaced an iPad with the serial number of DYVJVDF0DFHW, which was purchased on December 24, 2012.

In his June 9, 2014, interview, [REDACTED] repeated that he bought the iPad himself, but added that the device later broke and he exchanged it (along with an additional payment) for a replacement in the spring of 2014, which was the device [REDACTED] brought to his earlier interview.

[REDACTED] account continued to evolve. In an email to Compliance Director Amanda Paterson on September 15, 2014, [REDACTED] maintained again that he bought an iPad in December 2012, but discarded it when it stopped functioning due to a broken screen. He said that he later obtained a different, broken iPad that Akana discarded in April 2014, which [REDACTED] then exchanged for a new device (with an additional payment).

Finally, in his October 17, 2014, interview, [REDACTED] admitted that he never actually purchased an iPad, but the one he used came from Akana. [REDACTED] stated that the Akanas purchased the device as a birthday gift for their nine-year-old son. According to [REDACTED] during a team practice around Christmas 2012, the Akana's young son voluntarily lent [REDACTED] the iPad, which [REDACTED] kept for "80-90% of the time" thereafter until the spring of 2014. In April 2014, when that iPad stopped functioning altogether, [REDACTED] stated that Akana gave it to him to do with as he pleased. [REDACTED] exchanged the broken device at the Apple Store (together with a payment of \$250 plus tax) for a new iPad with an estimated value of approximately \$500. During the course of this final interview, [REDACTED] admitted that he knowingly and deliberately lied in earlier interviews stating that he had originally purchased the iPad from the Apple Store in December 2012.

In his June 10, 2014, interview, Akana stated that he did not purchase an iPad for [REDACTED] in December 2012, and did not know how [REDACTED] acquired an iPad at all. In his August 7, 2014, interview, Akana stated that his wife, Jocelyn, purchased an iPad on December 26, 2012, as a Christmas/birthday gift for their nine year-old son. Akana said that after the device stopped functioning in February 2014, he decided not to have it repaired and put it with other trash to be

disposed of in his office. According to Akana, in late March 2014, [REDACTED] stopped by, noticed the iPad in the trash and asked if he could have the device to see if he could get it fixed. Akana agreed he could take it.

Shortly after his October 17, 2014, interview, [REDACTED] left the University and did not compete during the 2014-15 season. As a result of the violation and [REDACTED] competition while ineligible during much of the 2012-13 season and all of the 2013-14 season, the University will vacate all wins in which [REDACTED] participated during those seasons and reduced the number of men's basketball scholarships from 13 to 12 for the 2015-16 and 2016-17 academic years.

Supplementary Information Form for [REDACTED]

The circumstances surrounding this portion of the allegation are set out fully in the University's February 12, 2014, self-report of the violation. [REDACTED] an international student, transferred to the University from the University of Missouri in January 2014. Because the men's basketball program had no scholarships available for the spring 2014 semester, [REDACTED] was required to pay for his educational and living expenses that semester. As part of the transfer process, [REDACTED] was required to submit a Supplementary Information Form for Undergraduate International Applicants (the "supplemental form"). Section C of the supplemental form is the Confidential Financial Information ("CFI") form, which demonstrates that the student's family has sufficient means to support the student while studying in the United States. The CFI form is necessary for the student to complete the process to obtain a student visa.

On January 10, 2014, Akana altered [REDACTED] CFI form by placing the number "4" in front of the number "1" on the form so that it appeared [REDACTED] had \$41,000 in annual support from his uncle. The University discovered that the form was altered almost immediately after

Akana submitted it and promptly notified the Big West Conference. On January 21, 2014, Akana admitted to the University's athletics director and director of human resources that he had altered the supplemental form. On January 27, 2014, the University notified the enforcement staff of a violation involving Akana's alteration of the supplemental form. On February 10, 2014, the University suspended Akana without pay until March 11, 2014. In an April 1, 2014, interview with the enforcement staff, Akana again admitted that he altered the supplementary form on January 10, 2014.

6. [NCAA Division I Manual Constitution 2.8.1 (2012-13); NCAA Division I Manual Bylaws 10.01.1, 10.1 and 10.1-(d) (2010-11 through 2012-13); and 11.1.2.1 (2010-11 through 2012-13)]

It is alleged that on multiple occasions between the fall of 2010 and summer of 2013, Gib Arnold (Arnold), then head men's basketball coach, acted contrary to the NCAA principles of ethical conduct when he failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics when he knowingly influenced others to provide the institution with false or misleading information, or to conceal information, regarding their knowledge of and/or involvement in violations of NCAA legislation. Additionally, between the fall of 2010 and spring of 2013, Arnold violated the NCAA legislated responsibilities of a head coach when he failed to promote an atmosphere of compliance within the men's basketball program when he intentionally committed and/or failed to report violations of NCAA legislation. Specifically:

- a. As detailed in Allegation No. 1, throughout the 2010-11 and 2011-12 academic years, Arnold instructed the then men's basketball directors of operations to participate in on-court coaching and other instructional activities with men's basketball student-athletes knowing it was a violation. Additionally, at times during the 2010-11 academic year, Arnold instructed the then men's basketball director of operations to make recruiting telephone calls to men's basketball prospective student-athletes knowing it was a violation. Last, throughout these two academic years, Arnold knowingly influenced the then directors of operations to conceal their participation in these activities from the institution in order to conceal the violations. [NCAA Bylaws 10.01.1, 10.1, 10.1-(d) and 11.1.2.1 (2010-11 and 2011-12)]

- b. As detailed in Allegation No. 2, on three occasions between April 30 and November 5, 2011, Arnold conducted impermissible tryouts of five then men's basketball prospects knowing it was a violation. Additionally between September 21 and 22, 2012, Arnold knowingly conducted an impermissible on-campus evaluation of a then men's basketball prospect. Further, during two of the impermissible tryouts, as well as on five occasions in which Arnold conducted on-campus evaluations between April 20, 2012, and April 20, 2013, Arnold required the participation of then men's basketball student-athletes but did not record the time associated with the activities in the men's basketball countable athletically-related activity (CARA) logs, even though he knew it was required. Last, between the spring and summer of 2013, Arnold knowingly influenced then men's basketball staff members to report false or misleading information to, or conceal information from, the institution's compliance office regarding whether the men's basketball staff arranged or observed the on-campus evaluation that occurred between April 19 and 20, 2013. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(d) (2012-13); and 11.1.2.1 (2010-11 through 2012-13)]

- c. As detailed in Allegation No. 3, during the fall of 2012, Arnold failed to report his knowledge of a possible violation of NCAA legislation involving a then men's basketball student-athlete receiving complimentary use of a vehicle owned by an individual who was determined to be a representative of the institution's athletics interests. Additionally, Arnold knowingly influenced at least four then men's basketball student-athletes to refrain from reporting the matter to anyone outside the men's basketball program in order to conceal the violation. [NCAA Constitution 2.8.1 (2012-13); and NCAA Bylaws 10.01.1, 10.1, 10.1-(d) and 11.1.2.1 (2012-13)]

Level of Allegation No. 6:

The NCAA enforcement staff believes that the hearing panel of the NCAA Division I Committee on Infractions could determine that Allegation No. 6 is a severe breach of conduct (Level I) because the circumstances surrounding this allegation involve (1) individual unethical or dishonest conduct; (2) a Bylaw 11.1.1.1 violation by a head coach resulting from underlying Level I violations in the men's basketball program; and (3) intentional violations or showing reckless indifference to the NCAA constitution and bylaws. [NCAA Bylaws 19.1.1, 19.1.1-(d), 19.1.1-(e) and 19.1.1-(h) (2014-15)]

Factual Information (FI) on which the enforcement staff relies for Allegation No. 6:

The enforcement staff incorporates by reference the factual information referenced in Allegations Nos. 1, 2 and 3 and all other documents posted on the secure website.

Additional FI on which the staff relies for Allegation No. 6-(a):

- FI106: May 12, 2010 – Email from Amanda Paterson (Paterson), director of compliance, to Arnold regarding the job duties for the director of operations.
(APaterson_EmailDOBODutiesToArnold_UH2138_051210_Hawaii_00202)
- FI107: July 27, 2010 – Email from Paterson to Scott Fisher (Fisher), then men's basketball director of operations, regarding the job duties for the director of operations.
(APaterson_EmailDOBODutiesToFisher_UH2140_072710_Hawaii_00202)
- FI108: August 11, 2010 – Email from Paterson to Fisher instructing him not to make recruiting telephone calls to prospects.
(APaterson_EmailRecruitingRestrictionsToFisher_UH2144_081110_Hawaii_00202)
- FI109: January 13, 2011 – Email from Kalei Miyahana (Miyahana), administrative assistant, containing the January 12, 2011, department of athletics newsletter with information regarding the job duties for non-coaching staff members with sports-specific responsibilities.
(KMiyahana_EmailUHAthleticsNewsletter_January2011_UH2145_011311_Hawaii_00202;
UHAthleticsNewsletter_DOBODuties_UH2158_011211_Hawaii_00202)
- FI110: August 10, 2011 – Department of athletics newsletter stating that directors of operations are not permitted to participate in practice, either as coaches or participants.
(UHAthleticsNewsletter_DOBODuties_UH2166_081011_Hawaii_00202)
- FI111: December 3, 2011 – Email from Paterson to Kerry Rupp, then men's basketball director of operations, regarding the job duties for the director of operations.
(APaterson_EmailDOBODutiesToRupp_UH2238_120311_Hawaii_00202)
- FI112: December 8, 2011 – Email from Miyahana containing the December 8, 2011, department of athletics newsletter regarding the job duties for non-coaching staff members with sport-specific responsibilities.
(KMiyahana_EmailDecember2011UHAthleticsNewsletter_UH2240_120811_Hawaii_00202;
UHAthleticsNewsletter_DOBODuties_UH2241_120811_Hawaii_00202)

- FI113: October 1, 2013 – Email from Paterson to Chris McMillian, then men's basketball director of operations, regarding the job duties for the director of operations.
(APaterson_EmailDOBODutiesToMcMillian_UH2358_100113_Hawaii_00202)
- FI114: October 8, 2013 – Email from Paterson to the institution's athletics coaches regarding the job duties for non-coaching staff members with sport-specific responsibilities.
(APaterson_EmailCountableCoachRestrictions_UH2366_100813_Hawaii_00202)
- FI115: Journal entries provided by Arnold regarding his commitment to NCAA compliance.
(Item1a_GArnoldJournals_GA1-100_072114_Hawaii_00202;
Item1a_GArnoldJournals_GA101-200_071614_Hawaii_00202;
Item1a_GArnoldJournals_GA201-300_071614_Hawaii_00202;
Item1a_GArnoldJournals_GA301-400_072114_Hawaii_00202;
Item1a_GArnoldJournals_GA401-472_071614_Hawaii_00202;
Item1a_GArnoldJournals_PromotingAtmosphereComplianceStatement_071614_Hawaii_00202)

Additional FI on which the staff relies for Allegation No. 6-(b):

- FI116: August 27, 2011 – Email from Paterson to the men's basketball staff containing the 2011-12 compliance manual which contains information on CARA legislation.
(APaterson_Email2011-12ComplianceManual_UH2176_082711_Hawaii_00202)
- FI117: June 12, 2012 – Email from Paterson to the men's basketball staff informing them of a mandatory rules education seminar by the Big West Conference on June 19, 2012.
(APaterson_EmailRulesEdSessionReminder_UH2269_061212_Hawaii_00202)
- FI118: January 7, 2013 – Email from Paterson to the institution's athletics coaches regarding CARA and common issues and violations.
(APaterson_EmailCARARulesEd_UH2345_010713_Hawaii_00202)
- FI119: April 9, 2013 – Email from Miyahana containing the April 9, 2013, department of athletics newsletter with information on CARA.
(KMiyahana_EmailApril2013UHAthleticsNewsletter_UH2350_040913_Hawaii_00202;
UHAthleticsNewsletter_April2013CARA_UH2351_Hawaii_00202)

FI120: Journal entries provided by Arnold regarding his commitment to NCAA compliance.

(Item1a_GArnoldJournals_GA1-100_072114_Hawaii_00202;
Item1a_GArnoldJournals_GA101-200_071614_Hawaii_00202;
Item1a_GArnoldJournals_GA201-300_071614_Hawaii_00202;
Item1a_GArnoldJournals_GA301-400_072114_Hawaii_00202;
Item1a_GArnoldJournals_GA401-472_071614_Hawaii_00202;
Item1a_GArnoldJournals_PromotingAtmosphereComplianceStatement_071614_Hawaii_00202)

FI121: Rules education materials presented by the Big West Conference to the men's basketball staff on June 19, 2012, including information regarding the CARA implications of involving men's basketball student-athletes in on-campus evaluations of prospects.

(BigWestRulesEdPowerpoint_June2012_UH2270_Hawaii_00202)

Specific to Allegation No. 6:

- a. Please indicate whether the information contained within this allegation is substantially correct and whether the institution and the involved parties identified in this allegation believe that violations of NCAA legislation occurred. Submit materials to support your response.
- b. If the institution and the involved parties believe that NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.
- c. Please indicate whether the factual information is substantially correct and whether the institution has additional pertinent information and/or facts. Submit facts in support of your response.

RESPONSE:

The University agrees (1) that the factual information contained in Allegation No. 6 is substantially correct, (2) that a violation of NCAA legislation occurred, and (3) that the violation is classified appropriately as Level I. The University's response to the specifics set out in subparts (a), (b) and (c) of this allegation is contained in its responses to Allegations 1, 2 and 3, respectively.

7. [NCAA Division I Manual Bylaws 10.01.1, 10.1 and 10.1-(d) (2014-15)]

It is alleged that on October 17 and December 10, 2014, Gib Arnold (Arnold), then head men's basketball coach, acted contrary to the NCAA principles of ethical conduct when he failed to deport himself in accordance with the generally recognized high standards of honesty and sportsmanship normally associated with the conduct and administration of intercollegiate athletics when he knowingly provided false or misleading information to the institution and NCAA enforcement staff regarding his knowledge of and/or involvement in the violations detailed in Allegation Nos. 1 and 2. Specifically:

- a. During his October 17, 2014, interview, as well as in a December 10, 2014, written statement, Arnold knowingly provided false or misleading information regarding his knowledge of and/or involvement in the violations detailed in Allegation No. 1 when he denied that he instructed the then men's basketball directors of operations to participate in on-court coaching, instructional and/or recruiting activities during the 2010-11 and 2011-12 academic years. The factual information for Allegation No. 1 shows Arnold knowingly instructed the then directors of operations to participate in these activities, as well as instructed them to conceal their participation in them from the institution in order to conceal the violations. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(d) (2014-15)]
- b. During his October 17, 2014, interview, as well as in a December 10, 2014, written statement, Arnold knowingly provided false or misleading information regarding his knowledge of and/or involvement in the violations detailed in Allegation No. 2 when he denied (1) conducting impermissible tryouts of five then men's basketball prospects; and (2) requiring then men's basketball student-athletes to participate in the tryouts and on-campus evaluations. The factual information for Allegation No. 2 shows Arnold knowingly conducted the tryouts, as well as required then men's basketball student-athletes to participate in the tryouts and on-campus evaluations. [NCAA Bylaws 10.01.1, 10.1 and 10.1-(d) (2014-15)]

Level of Allegation No. 7:

The enforcement staff believes that the hearing panel of the NCAA Division I Committee on Infractions could determine that Allegation No. 7 is a severe breach of conduct (Level I) because the circumstances surrounding this allegation involve (1) individual unethical or dishonest conduct; and (2) intentional violations or showing reckless indifference to the NCAA constitution and bylaws. [NCAA Bylaws 19.1.1, 19.1.1-(d) and 19.1.1-(h) (2014-15)]

Factual Information (FI) on which the enforcement staff relies for Allegation No. 7:

The enforcement staff incorporates by reference the factual information referenced in Allegations Nos. 1, 2 and 6 and all other documents posted on the secure website.

Specific to Allegation No. 7:

- a. Please indicate whether the information contained within this allegation is substantially correct and whether the institution and the involved parties identified in this allegation believe that violations of NCAA legislation occurred. Submit materials to support your response.
- b. If the institution and the involved parties believe that NCAA violations occurred, please indicate whether there is substantial agreement on the level of the violation. Submit materials to support your response.
- c. Please indicate whether the factual information is substantially correct and whether the institution has additional pertinent information and/or facts. Submit facts in support of your response.

RESPONSE:

The University agrees (1) that the factual information contained in Allegation No. 7 is substantially correct, (2) that a violation of NCAA legislation occurred, and (3) that the violation is classified appropriately as Level I. The University's response to the specific factual matters set out in subparts (a) and (b) is contained in its response to Allegations 1 and 2, respectively.

C. Potential Aggravating and Mitigating Factors.

Pursuant to NCAA Bylaw 19.7.1, the NCAA enforcement staff has identified the following potential aggravating and mitigating factors that the hearing panel may consider.

1. Institution:

a. Aggravating factor(s). [NCAA Bylaw 19.9.3 (2014-15)]

- (1) Multiple Level I violations by the institution or involved individuals. [NCAA Bylaw 19.9.3-(a) (2014-15)]

The violations referenced in Allegation Nos. 5, 6 and 7 have been identified by the enforcement staff to be Level I violations. Therefore, the enforcement staff has identified this as a potential aggravating factor.

- (2) A history of major violations by the institution. [NCAA Bylaw 19.9.3-(b) (2014-15)]
- July 2, 1976 – Improper financial aid; eligibility; questionable practice; certification of compliance.
 - May 8, 1977 – Improper entertainment, financial aid; lodging and transportation; extra benefits; complimentary tickets; improper recruiting entertainment, inducement and transportation; eligibility; unethical conduct; institutional control; certification of compliance.

- (3) Multiple Level II violations by the institution or involved individuals. [NCAA Bylaw 19.9.3-(g) (2014-15)]

The violations detailed in Allegation Nos. 1 through 4 have been identified by the enforcement staff to be Level II violations. Therefore, the enforcement staff has identified this as a potential aggravating factor.

- (4) A pattern of noncompliance within the sport program involved. [NCAA Bylaw 19.9.3-(k) (2014-15)]

The violations detailed in Allegation Nos. 1 through 7 occurred between the 2010-11 and 2014-15 academic years and involve personnel, recruiting, extra benefit, countable athletically-related activity, ethical conduct and head coach control. Therefore, due to the wide range of violations involved and the lengthy time frame over which they occurred, the enforcement staff has identified this as a potential aggravating factor.

b. Mitigating factor(s). [NCAA Bylaw 19.9.4 (2014-15)]

- (1) Prompt self-detection and self-disclosure of the violations. [NCAA Bylaw 19.9.4-(a) (2014-15)]

The institution promptly self-detected the violation detailed in Allegation No. 5-(b), which triggered the enforcement staff's investigation of this case, and reported it to the enforcement staff.

Therefore, the enforcement staff has identified this as a potential mitigating factor.

- (2) Prompt acknowledgement of the violations, acceptance of responsibility and imposition of meaningful corrective measures and/or penalties. [NCAA Bylaw 19.9.4-(b) (2014-15)]

The institution promptly acknowledged and accepted responsibility for the violations alleged in this case and imposed meaningful corrective measures and/or penalties. Specifically, the institution (1) terminated the employment of Brandyn Akana (Akana) then assistant men's basketball coach, and Gib Arnold (Arnold), then head men's basketball coach, on October 29, 2014, due to their involvement in the violations alleged in this case; (2) suspended Akana for 30 days, as well as imposed recruiting restrictions, in February 2014 for altering an admissions document and submitting it to the institution under false pretenses, as detailed in Allegation No. 5-(b); (3) increased its compliance monitoring efforts, including regularly attending practices for all sports programs, attending all on-campus evaluations of men's and women's basketball prospects during official paid visits, closely reviewing all official paid visit itineraries, requiring itemized hotel receipts showing all charges assessed to the institution and amenities provided to prospects in conjunction with official paid visits, and sending a compliance officer with the men's basketball program on all neutral-site and away competitions; and (4) increased its compliance rules education efforts, including in the areas of countable athletically-related activities, permissible entertainment during official paid visits, international prospects admissions, ethical conduct, and off-campus recruiting. Additionally the institution has increased the compliance rules education it provides to local booster clubs, particularly the area of impermissible extra benefits. Therefore, the enforcement staff has identified this as a potential mitigating factor.

- (3) Affirmative steps to expedite final resolution of the matter.
[NCAA Bylaw 19.9.4-(c) (2014-15)]

The institution was actively engaged in the investigation in this case and provided the enforcement staff with valuable assistance to expedite the final resolution of this matter, including arranging interviews, providing requested documentation in a timely manner, retaining outside counsel and using its athletics compliance staff and university general counsel. Therefore, the enforcement staff has identified this as a potential mitigating factor.

- (4) An established history of self-reporting Level III or secondary violations. [NCAA Bylaw 19.9.4-(d) (2014-15)]

From the 2010-11 through 2013-14 academic years, the institution self-reported 45 secondary/Level III violations to the enforcement staff. Therefore, the enforcement staff has identified this as a potential mitigating factor. However, the enforcement staff noted

that the men's basketball program during Arnold's term as head men's basketball coach did not self-report any secondary/Level III violations to the institution's compliance office; rather, the violations involving the men's basketball program in this case were discovered by the institution and reported to the enforcement staff.

2. **Involved party [Gib Arnold (Arnold), former head men's basketball coach]:**

a. Aggravating factor(s). [NCAA Bylaw 19.9.3 (2014-15)]

- (1) Obstructing an investigation or attempting to conceal the violations. [NCAA Bylaw 19.9.3-(d) (2014-15)]

As detailed in Allegation No 6-(a), Arnold knowingly influenced the then directors of operations to conceal their participation in coaching, instructional and/or recruiting activities from the media and the institution in order to conceal the violations. Additionally, as detailed in Allegation No. 6-(b), Arnold knowingly influenced then men's basketball staff members to fabricate a story to report to the institution that the on-campus evaluation conducted between April 19 and 20, 2013, was neither arranged nor observed by the men's basketball staff. Last, as detailed in Allegation No. 6-(c), Arnold knowingly influenced at least four then men's basketball student-athletes to refrain from reporting the issue of a then men's basketball student-athlete having impermissible use of a vehicle with anyone outside the men's basketball program in order to conceal the violation. Therefore, the NCAA enforcement staff has identified this as a potential aggravating factor.

- (2) Unethical conduct. [NCAA Bylaw 19.9.3-(e) (2014-15)]

As detailed in Allegation No. 6, Arnold knowingly influenced others to furnish to the institution false or misleading information, or to conceal information, regarding the violations detailed in Allegation Nos. 1, 2 and 3. Additionally, as detailed in Allegation No. 7, Arnold knowingly provided false or misleading information to the institution and enforcement staff regarding his knowledge of and/or involvement in the violations detailed in Allegation Nos. 1 and 2. Therefore, the enforcement staff has identified this as a potential aggravating factor.

- (3) Multiple Level II violations by the institution or involved individual. [NCAA Bylaw 19.9.3-(g) (2014-15)]

The violations detailed in Allegation Nos. 1 through 4 have been identified by the enforcement staff to be Level II violations in which Arnold had direct knowledge and/or involvement.

Therefore, the enforcement staff has identified this as a potential aggravating factor.

- (4) Persons of authority condoned, participated in or negligently disregarded the violation or related wrongful conduct. [NCAA Bylaw 19.9.3-(h) (2014-15)]

Arnold was the institution's head men's basketball coach during the time period in which the violations detailed in Allegation Nos. 1 through 4, 6 and 7 occurred. Due to his position as head coach and knowledge of and/or involvement in the violations, the enforcement staff has identified this as a potential aggravating factor.

- (5) A pattern of noncompliance within the sport program involved. [NCAA Bylaw 19.9.3-(k) (2014-15)]

The violations detailed in Allegation Nos. 1 through 4, 6 and 7 occurred during the 2010-11 through 2014-15 academic years and involve personnel, recruiting, countable athletically-related activity, ethical conduct and head coach control violations. Therefore, due to the wide range of violations involved, the lengthy time frame over which they occurred, and Arnold's knowledge and/or involvement, the enforcement staff has identified this as a potential aggravating factor.

- (6) Intentional, willful or blatant disregard for the NCAA constitution and bylaws. [NCAA Bylaw 19.9.3-(m) (2014-15)]

Arnold committed the violations detailed in Allegation Nos. 1, 2, 3, 6 and 7 intentionally. Therefore, the enforcement staff has identified this as a potential aggravating factor

- b. Mitigating factor(s). [NCAA Bylaw 19.9.4 (2014-15)]

The enforcement staff has not identified any mitigating factors applicable to Arnold.

3. **Involved party [Brandyn Akana (Akana), former assistant men's basketball coach]:**

- a. Aggravating factor(s). [NCAA Bylaw 19.9.3 (2014-15)]

- (1) Unethical conduct. [NCAA Bylaw 19.9.3-(e) (2014-15)]

As detailed in Allegation No. 5, Akana knowingly provided a then men's basketball student-athlete with an Apple iPad. Additionally,

Akana knowingly altered an admissions document of a then men's basketball prospect and submitted the document to the institution to facilitate the prospect's admission. Last, Akana knowingly provided the institution and NCAA enforcement staff with false or misleading information when he denied providing the then student-athlete with an iPad despite the factual support showing he had provided the iPad. Therefore, the enforcement staff has identified this as a potential aggravating factor.

- (2) Intentional, willful or blatant disregard for the NCAA constitution and bylaws. [NCAA Bylaw 19.9.3-(m) (2014-15)]

Akana committed the violations detailed in Allegation No. 5 intentionally. Therefore, the enforcement staff has identified this as a potential aggravating factor.

- b. Mitigating factor(s). [NCAA Bylaw 19.9.4 (2014-15)]

The enforcement staff has not identified any mitigating factors applicable to Akana.

D. Request for Supplemental Information.

1. Provide mailing and email addresses for all necessary parties to receive communications from the NCAA Division I Committee on Infractions related to this matter.

RESPONSE: Chancellor Robert Bley-Vroman, vroman@hawaii.edu
University of Hawai'i at Mānoa
2500 Campus Road
Hawai'i Hall 202
Honolulu, HI 96822

William H. King, wking@lightfootlaw.com
Lightfoot, Franklin & White, L.L.C.
400 20th Street North
Birmingham, Alabama 35203

2. Indicate how the violations were discovered.

RESPONSE: As explained in its response to Allegation 5 (c), on January 10, 2014, the University discovered that then assistant men's basketball coach Brandyn Akana had altered a Supplementary Information Form for then prospective men's basketball student-athlete [REDACTED]

██████████ The remaining violations were discovered during the course of the investigation that began at that point.

3. Provide a detailed description of any corrective or punitive actions implemented by the institution as a result of the violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any corrective or punitive actions were implemented.

RESPONSE: As a result of the violations acknowledged in this Response, the University has taken the following corrective measures and self-imposed the following penalties:

- As a result of the violations set out in Allegations 3 and 5 (a), the University will vacate 36 wins for the men’s basketball program from the 2012-2013 and 2013-2014 seasons in which ██████████ and ██████████ participated while ineligible;
- As a result of the violations set out in Allegations 3 and 5 (a), the University will reduce by a total of two the number of the total grants-in-aid over a two-year period covering the 2015-16 and 2016-17 academic years as follows:
 - A reduction of one from the total grants-in-aid for the 2015-16 academic year;
 - A reduction of one from the total grants-in-aid for the 2016-17 academic year;
- As a result of the violations set out in Allegation 2, the University will reduce the maximum number of Countable Athletically Related Activities (“CARA”) hours by one hour per week during the 2015-16 men’s basketball. The University estimated the total time of the CARA violations in Allegation 2 to be between five and seven and one-half hours. The self-imposed reductions will total 19 hours, which exceeds the 2:1 ratio often used in determining an appropriate penalty for similar violations;
- As a result of the violations set out in Allegation 1, the University will restrict the Director of Basketball Operations for the men’s basketball program from being present during the team’s practices for the 2015-16 season;
- As a result of the violations set out in Allegation 2, the University will prohibit members of the men’s basketball coaching staff from conducting on-campus evaluations of prospects for the first five official visits of the 2015-16 academic year in which an on-campus evaluation would otherwise be permissible;
- As a result of the violations set out in Allegations 1 and 2, the University has devoted additional resources to monitoring practice and CARA of its men’s basketball program. A member of the compliance staff is present at random practices for all sports for at least part of each practice, generally at least 30 minutes, to observe, with an

emphasis on:

(a) Insuring that the staff complies with NCAA legislation prohibiting non-coaching staff members from engaging in coaching activities; and

(b) Insuring that the program complies with NCAA legislation regarding which activities constitute CARA, requiring that CARA be logged accurately, and limiting of the number of student-athletes that may train at the same time during the off-season while a staff member is present.

- As a result of the violations set out in Allegation 2, the University's compliance staff will be available and present during any open gyms or tryouts involving men's or women's basketball prospects during their official visits. The compliance staff has instructed the coaching staffs for both sports to list all open gym, tryouts or other evaluation activities on official visit itineraries submitted to the compliance office prior to official visits.
- The University has modified its policy regarding lodging documentation required during official visits for all sports. A hotel chain has served as a sponsor of the University in the past, and as part of the sponsorship, has provided rooms to the University at no charge. The hotel also, on occasion, provided access to its concierge level dining facility at no charge during official visits; normal guests are required to pay for this access. When a prospect on an official visit stayed in one of these no-charge rooms in the past, no documentation or folio was generated when the prospect checked out of the hotel at the end of the visit. The University and enforcement staff encountered difficulty during the investigation obtaining documentation for such visits. As a result, the University now requires a receipt or folio showing for each such visit, including all incidental charges or other amenities made available to the prospect during his stay at the hotel, to ensure compliance with NCAA legislation regarding official visits. University coaches and non-coaching staff were educated on these changes at a rules education presentation on May 14, 2014, and the PowerPoint slide addressing the policy is attached as Exhibit B.
- The University's compliance staff held an International Admissions Workshop since the investigation began. The Workshop was mandatory for all coaches and included rules education on the admissions process for international prospects, including NCAA legislation that governs these prospects. The Workshop presenters included University employees from the compliance, admissions, and international student services offices. A copy of the PowerPoint presentation from this Workshop is attached as Exhibit C.
- During the 2014-15 men's basketball season, an athletics administrator and a member of the compliance staff accompanied the men's basketball team to all neutral and away competitions.
- As a result of the violation set out in Allegation 3, the University's compliance staff has continued its attendance at local booster club meetings and increased its

communications with these groups. A compliance staff member has spoken at these events and provided general rules education to those in attendance. The compliance staff also plans to work with the club to distribute rules education materials electronically or by mail, with an emphasis on extra benefit legislation in light of the violation in Allegation 3 discovered during this investigation.

- In its rules education presentation to incoming student-athletes, the University's compliance staff has added a discussion of the ethical conduct obligation of all student-athletes and the ramifications of unethical conduct. A copy of the new PowerPoint slide addressing this topic is attached as Exhibit D.
- The University compliance staff will conduct rules education sessions with all returning student-athletes near the end of the 2014-15 academic year, with an emphasis on extra benefits and preferential treatment legislation.
- The University will meet with [REDACTED] the representative of its athletics interests identified in Allegation 3, to review the reasons for that violation as well as pertinent NCAA legislation regarding recruiting, extra benefits and preferential treatment. Following this meeting, the University will determine whether any additional steps should be taken related to its relationship with [REDACTED]
- The University will pay a monetary fine of \$10,000 as a result of two men's basketball student-athletes competing while ineligible during the 2012-13 and 2013-14 seasons;
- The University will impose one year of probation beginning on the date the Committee on Infractions releases the Public Report for this case.

4. Provide a detailed description of all disciplinary actions taken against any current or former athletics department staff members as a result of violations acknowledged in this inquiry. In that regard, explain the reasons the institution believes these actions to be appropriate and identify the violations on which the actions were based. Additionally, indicate the date that any disciplinary actions were taken and submit copies of all correspondence from the institution to each individual describing these disciplinary actions.

RESPONSE: On February 10, 2014, the University suspended, without pay, then assistant men's basketball coach Brandyn Akana for 30 days as a result of his conduct in altering a document and submitting it to the University admissions office under false pretenses (discussed in Allegation 5). *See* Exhibit E. In addition, Akana's duties and responsibilities were modified for the majority of the duration of his employment at the University including a restriction from

recruiting. *See* Exhibits F and G. On October 28, 2014, the University terminated Akana's employment. *See* Exhibit H.

On October 28, 2014, the University terminated the employment of then-head men's basketball coach Gib Arnold. *See* Exhibit I.

5. Provide a short summary of every past Level I, Level II or major infractions case involving the institution or individuals named in this notice. In this summary, provide the date of the infractions report(s), a description of the violations found by the Committee on Infractions, the individuals involved, and the penalties and corrective actions. Additionally, provide a copy of any major infractions reports involving the institution or individuals named in this notice that were issued by the Committee on Infractions within the last 10 years.

RESPONSE: The University has had two previous major infractions cases. The Committee issued its report in the first case on July 2, 1976. The violations occurred in the men's basketball program and involved seven student-athletes who permitted the use of their photographs for advertisement/promotion of a commercial product; two student-athletes who received per diem expenses from the University when they returned home for personal purposes during a team road trip; four student-athletes who were allowed to participate while ineligible; and members of the University's athletic department staff who were allowed by the University to sign the University's 1975-1976 certification of compliance form on behalf of several coaching staff members. The COI imposed a public reprimand on the University.

The University's second major infractions case occurred in 1977 and involved the sports of men's basketball and football. The violations included:

- Impermissible travel expenses for an ineligible men's basketball student-athlete to accompany the basketball team to its postseason tournament.
- Excessive complimentary basketball and football tickets for student-athletes.
- Former coaches provided or arranged for representatives of the University's athletics interests to provide free airline travel, free medical and dental services, cash,

free or reduced cost housing, free use of or reduced cost vehicles, free meals and other impermissible benefits to student-athletes or prospective student-athletes.

- Impermissible provision of institutional financial aid to three student-athletes.
- Unethical conduct findings against the former head men's basketball coach and a former assistant men's basketball coach.
- Lack of institutional control.

The COI issued its report on May 8, 1977, and the penalties imposed included a two-year postseason ban and two-year television ban for the men's basketball program. No sanctions were imposed upon the football program.

6. Provide a chart depicting the institution's reporting history of Level III and secondary violations for the past five years. In this chart, please indicate for each academic year the number of total Level III and secondary violations reported involving the institution or individuals named in this notice. Also include the applicable bylaws for each violation, and then indicate the number of Level III and secondary violations involving just the sports team(s) named in this notice for the same five-year time period.

RESPONSE: *See Exhibit J.*

7. Provide the institution's overall conference affiliation, as well as the total enrollment on campus and the number of men's and women's sports sponsored.

RESPONSE: The University is a member of the Big West Conference. Other sports belonging to the Big West Conference include Baseball, Women's Basketball, Cross Country, Men's Golf, Women's Golf, Women's Soccer, Softball, Men's Tennis, Women's Tennis, Women's Outdoor Track & Field, Women's Volleyball, Water Polo. Sports belonging to the Mountain Pacific Sports Federation Conference include Men's Swim/Dive, Women's Swim/Dive, Women's Indoor Track & Field, and Men's Volleyball. The football program competes in the Mountain West Conference. The University has an approximate enrollment of 18,283. The University sponsors seven men's sports, 13 women's sports and one co-ed sport.

8. Provide a statement describing the general organization and structure of the institution's intercollegiate athletics department, including the identities of those individuals in the athletics department who were responsible for the supervision of all sport programs during the previous four years.

RESPONSE: The Department of Athletics' organizational charts for the past four years are attached as Exhibit K.

9. State when the institution has conducted systematic reviews of NCAA and institutional regulations for its athletics department employees. Also, identify the agencies, individuals or committees responsible for these reviews and describe their responsibilities and functions.

RESPONSE: The University of Hawaii is currently undergoing an audit/risk assessment by the Big West Conference. Previous to this audit, the Western Athletic Conference conducted a compliance audit in April 2009. *See* Exhibit L. The compliance manual referenced in the WAC report is attached as Exhibit M, with subsequent versions attached as Exhibit N. In 2011, the University went through the NCAA certification process. *See* Exhibit O.

10. Provide the following information concerning the sports program(s) identified in this inquiry:
- The average number of initial and total grants-in-aid awarded during the past four academic years.

RESPONSE:

Initial and Total Grants-in-Aid (Past 4 Years)		
Academic Year	Initial Grants	Total Grants
2014-2015	13	13
2013-2014	13	13
2012-2013	13	13
2011-2012	13	13
4-Year Average	13	13

- The number of initial and total grants-in-aid in effect for the current academic year (or upcoming academic year if the regular academic year is not in session) and the number anticipated for the following academic year.

RESPONSE:

Initial and Total Grants-in-Aid (Future Years)		
Academic Year	Initial Grants	Total Grants
2014-2015	13	12
Anticipated 2015-2016	12	12

- The average number of official paid visits provided by the institution to prospective student-athletes during the past four years.

RESPONSE:

Official Visits	
Academic Year	Number of Visits
2014-2015	1
2013-2014	7
2012-2013	7
2011-2012	6
4-Year Average	5

- Copies of the institution's squad lists for the past four academic years.

RESPONSE: *See Exhibit P.*

- Copies of the institution's media guides, either in hard copy or through electronic links, for the past four academic years.

RESPONSE:

Media guides are available at the following links:

2014-15:

<http://www.hawaiiathletics.com/sports/2014/12/5/201414%20MBB%20MG.aspx>

2013-14: http://www.hawaiiathletics.com/sports/2013/12/12/MBB_1212133750.aspx

2012-13: http://www.hawaiiathletics.com/sports/2012/11/6/MBB_1106121921.aspx

2011-12: http://www.hawaiiathletics.com/sports/2011/11/11/MBB_1111112500.aspx

2010-11: http://www.hawaiiathletics.com/sports/2011/1/6/MBB_0106110544.aspx

- A statement indicating whether the provisions of NCAA Bylaws 31.2.2.3 and 31.2.2.4 apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.

RESPONSE: Yes. Accordingly, the University will vacate 36 wins from the men's basketball regular season and conference tournaments in which those student-athletes participated while ineligible in the 2012-13 and 2013-14 seasons. The University also will pay a monetary fine of \$10,000 as a result of two men's basketball student-athletes competing while ineligible during the 2012-13 and 2013-14 seasons

- A statement indicating whether the provisions of Bylaw 19.9.7-(g) apply to the institution as a result of the involvement of student-athletes in violations noted in this inquiry.

RESPONSE: Yes. Accordingly, the University will vacate 36 wins from the men's basketball regular season and conference tournaments in which those student-athletes participated while ineligible in the 2012-13 and 2013-14 seasons.

Any additional information or comments regarding this case are welcome.