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AFFIDAVIT OF AUBREY BRADY

STATE OF TENNESSEE)
) ss.
County of Knox)

Aubrey Brady, first duly sworn, under oath, states as follows:

1. I was born and raised in Tennessee. Sports were a very important part of my life growing up. My daddy played football for the University of Montana Grizzlies long before I was born. For as long as I can remember, my family has attended every home game. Nothing can compare to that experience – thousands of maroon-clad fans packed into the stadium and tailgating with Griz fans. It was a foregone conclusion that I would be attending UM. I couldn’t wait to become a part of the Grizzly tradition.

2. I earned my Bachelor of Science degree in exercise science in 1985 from the University of Montana. I obtained my teaching certificate, and immediately began teaching physical education at Borgman High School in Kalispel. Borgman has a long tradition of academic excellence, but the Bulldog Athletic Department also is an important part of the Borgman experience. Borgman’s philosophy is that an excellent athletic program in itself can be a meaningful learning experience. This philosophy was instilled in me as a young teacher, and it convinced me that I made the right career choice. I really loved my job as a teacher and the significant influence that I had as a teacher on my students’ lives. While I was teaching, I continued with my education at UM during my spare time. I ultimately earned my Masters of Science in Sport Management in 1991.

3. As much as I love attending the Grizz’ football games, football is not my sport. Instead, I grew up playing soccer. When I started teaching at Borgman High, there was an opening for an assistant coach on the soccer team. I took the position, and then I became the head coach three years later. I served as the head soccer coach until 1995, when I was promoted to assistant principal in charge of discipline and athletics.

4. I wasn’t fortunate enough to get an athletic scholarship to UM, so I had to take out student loans to get through school. Everyone knows that teachers don’t make much money and often have to come out of pocket to buy school supplies, so it’s no surprise that I had to take out

1 more loans to get through graduate school. By the time I was done, it was hard to pay all of my
2 living expenses as well as make my student loan payments. Even with the increase in pay that
3 came with my promotion to assistant principal, I still was not making any headway. So, as much
4 as I enjoyed my job, I had to find a way to make more money. Then, I read an article somewhere
5 that mentioned something about how much consultants charge for their services. All I had to do
6 was find an area in which I could consult. Not long after that I started developing my consulting
7 practice. I have been consulting full-time for about seven years now. During that time, I've
8 found that the challenge in building a successful consulting practice is doing whatever it takes to
9 give your clients what they want, so that they will hire you for repeat engagements. It's all about
10 the repeat engagements.

11 5. I consult in the areas of sports management and administration. Much of my time is
12 spent reading articles and reports published in various periodicals and journals around the
13 country, so that I can keep up to date in what is a very fast-paced environment. I specialize in
14 preparing compliance programs to ensure that the athletic organization adheres to the rules and
15 regulations of the governing bodies to which it belongs. I found that to be one of the more
16 lucrative areas of consulting, and more importantly, an area that is prime for repeat engagements.
17 I consult for both professional and amateur athletic organizations in Tennessee and the southeast
18 region.

19 6. Within the last year, I began expanding my consulting services to serve clients
20 nationwide. I was pleased when I received a call from the lawyers for Terry Swift and Eastside
21 High School to consult in this case. The southwest region is a natural area for expansion of my
22 practice, and I hope to do more work in this region. Accordingly, I am charging a discount flat
23 fee of \$5,000 for my services in this case, which include reviewing the statements of the other
24 witnesses and all exhibits, speaking with the defense counsel, preparing this affidavit setting forth
25 my opinions and testifying at trial.

26 7. As assistant principal in charge of athletics at Borgman, I became actively involved with
27 the Montana Secondary School Athletic Association ("MSSAA"), which is the governing body
28 for high school athletics in Montana. Part of my job was to ensure Bearden's compliance with

1 the MSSAA's rules and regulations. The MSSAA Bylaws and regulations do not contain any
2 provisions relating to drug or steroid use. Rather, the local school boards in Montana are free to
3 make their own regulations regarding drug and steroid use. I tried to get the MSSAA to establish
4 rules and regulations regarding drug and steroid use, because: (i) I believe that implementation
5 and enforcement of a uniform statewide standard is the most effective way to control drug and
6 steroid use; and (ii) steroid use in football is particularly high. According to a 2001 study by the
7 Centers for Disease Control and Prevention, 11.2% of high school boys surveyed in Louisiana
8 and 5.7% of high school girls surveyed in Montana reported using steroids at least once. Those
9 numbers are astounding. Fortunately, the numbers are not nearly as high in other parts of the
10 country, including in Oregon. In a recent nationwide survey, only 3.5% of high school seniors
11 reported using steroids at least once. The bad news is that those results are up from
12 approximately 2% reported about a decade ago.

13 8. Regardless of what rules are implemented statewide, a local school or school district
14 always has the ability to conduct itself at a higher standard. That being said, it simply is cost-
15 prohibitive for most high schools to institute any kind of effective steroid testing program. The
16 cost for an initial test is reported to range anywhere from \$80 to \$100. This does not take into
17 account the cost of conducting secondary testing on positive results or the significant legal costs
18 that schools face when their testing programs are challenged in the courts.

19 9. A report published in August 2003 by the National Federation of State High School
20 Associations ("NFSHSA"), the National Interscholastic Athletic Administrators Association
21 ("NIAAA") and the National Center for Drug Free Sport, Inc. indicated that approximately 13%
22 of the nation's high schools have a drug-testing policy in place. Of those schools, only 29% test
23 for steroids.

24 10. Many high schools do use an NCAA-approved test to monitor their athletes for use of
25 marijuana, cocaine, amphetamines and methamphetamine. The reason is that many certified
26 laboratories offer standard screening packages for these drugs at a reasonable cost, sometimes as
27 low as \$20 per test. Although these affordable tests are better than no testing at all, the problem
28 with these tests is that they do not screen for use of alcohol and tobacco, which are the drugs most

1 commonly used by high school students, or steroids. Moreover, even if a school had the financial
2 resources to pay the significant cost of testing its athletes for steroid use, the tests likely would
3 screen only for anabolic steroids. It is inconceivable that a high school testing program could
4 screen for all steroids that might be used by student athletes, including human growth hormone
5 and erythropoietin (“EPO”).

6 11. Although a random drug-testing program cannot be 100% effective in detecting actual
7 drug use, these programs can have an important deterrent effect. I read an article in the local
8 newspaper about the random drug-testing program in the Paradise Valley Unified School District,
9 which at the time was the only district in Oregon with such a program. According to the article,
10 Paradise Valley High School officials reported that “very few” athletes have tested positive for
11 steroids since the program was implemented in 1991, and no athlete has tested positive in the last
12 five years. The local experience is consistent with the experiences reported in my area of the
13 country. In this regard, the Lauderdale County, Alabama school district, which implemented its
14 program in 1990, reported only “a handful” of positive test results in the first five years of its
15 program. Similarly, in an article appearing in the Interscholastic Athletic Administration
16 magazine, an unidentified Montana high school principal is quoted as saying: “This school has
17 never recorded a positive test in 10 years of testing. It is absolutely a deterrent.”

18 12. Since the Paradise Valley School District implemented testing, other schools in Oregon
19 have implemented random drug testing. The most recent are the three high schools in the
20 Mountain Unified School District, which (according to an October 21, 2008 article) announced a
21 random drug testing program to commence in January 2008 for all students participating in
22 athletic and non-athletic programs sponsored by the Oregon Interscholastic Association (the
23 “OIA”). Significantly, the program is being funded by a three-year \$718,000 grant awarded by
24 the U.S. Department of Education.

25 13. The Mountain Unified School District program tests for alcohol, amphetamines,
26 marijuana, cocaine, Ecstasy, PCP and anabolic steroids. It does not test for EPO. The first
27 positive test results in an eight-week loss of eligibility for OIA events; the second positive test
28 results in loss of eligibility for the remainder of the school year; and the third positive test results

1 in a permanent ban from OIA activities. Positive test results have no academic consequences, and
2 they are not turned over to law enforcement.

3 14. Although the anecdotal evidence suggests that random drug-testing programs have a
4 great deterrent effect, there are several other possible explanations. For instance, it is possible
5 that: (i) students who actually used steroids were not randomly selected for testing; (ii) students
6 used a type of steroid that is not detected by the test used by the school; (iii) the steroids actually
7 had passed through the system by the time of the test; and/or (iv) students who actually used
8 steroids found ways to mask their steroid use. Accordingly, I do not believe that a random drug-
9 testing program is the most effective way of addressing the serious problem of steroid abuse by
10 high school athletes.

11 15. Education is the key to detecting and eliminating the use of steroids by high school
12 athletes. First, student athletes must be educated about the dangers and consequences of using
13 steroids and other performance-enhancing substances. Second, parents must be educated about:
14 (i) how to monitor their children for signs of steroid and other drug abuse; (ii) steps that can be
15 taken to prevent their children from using steroids; and (iii) what to do if they suspect that their
16 children are using steroids or other drugs. Finally, coaches and administrators must be educated
17 in: (i) how to monitor student athletes for signs of steroid and other drug abuse; (ii) what to do
18 when they suspect that a student is using steroids or other drugs; (iii) how to communicate
19 appropriate messages about steroids and other drugs to their student athletes; and (iv) how to
20 avoid sending inconsistent messages regarding steroids and other drugs. To be effective, the
21 education for students, parents, coaches and administrators cannot be a one-time event. The
22 message has to be reinforced repeatedly, especially to students.

23 16. I am familiar with the OIA's Bylaws. Paragraph 14.13 of the Bylaws contains the OIA's
24 Position Statement on supplements, drugs and performance-enhancing substances. The OIA's
25 approach is education-based. In this regard, the OIA: (i) has taken a strong stance against the use
26 of steroids and other drugs; and (ii) requires its member schools at least annually to communicate
27 to its student athletes the OIA's Position Statement regarding the use of steroids and other drugs.

28 17. It appears that Eastside and Coach Swift are in compliance with the OIA's requirement

1 regarding the Position Statement. In this regard, the school has its student athletes sign a copy of
2 the Position Statement, which the school keeps on file. Eastside's files contain a copy of a
3 Position Statement with Jordan's name on it, but it is not signed. Coach Swift confirmed that
4 Jordan received a copy of the Position Statement, but could not explain why the copy retained in
5 the files did not have Jordan's signature.

6 18. I believe that the OIA's approach to steroid and other drug abuse is good, but like any
7 policy, it could be stronger. For instance, I would recommend that the OIA actually set forth a
8 statewide standard regarding the use of steroids and other substances. In this regard, rather than
9 being "strongly opposed" to the use of substances on the World Anti Doping Agency's Prohibited
10 List, the OIA could ban the use of the substances on the Prohibited List and mandate certain
11 penalties for violation of the policy. In addition, the OIA's policy might be more effective, if the
12 OIA required that both students and parents actually receive and sign a copy of the OIA's
13 Position Statement.

14 19. Although the OIA has not adopted statewide penalties for the use of steroids and other
15 drugs by student athletes, Eastside High School has adopted its Zero Tolerance Policy. In
16 addition, Eastside requires all of its freshmen students to take a Health course, which includes a
17 weeklong segment on the use of drugs. I believe that this is a reasonable response to the serious
18 problem of steroid and other drug abuse by high school student athletes.

19 20. As set forth above, parents, coaches and administrators need to be educated in how to tell
20 that a student is using steroids or other drugs. Most of the literature available in this regard
21 focuses on the signs of anabolic steroid abuse, which can be quite obvious. It is much more
22 difficult to detect the use of a glycoprotein hormone like EPO, but with the proper education it
23 often is possible to tell that an athlete is using a banned substance. For instance, although there
24 are no pronounced physical changes like those associated with anabolic steroid abuse, an athlete
25 who abuses EPO suddenly will develop unexplained nosebleeds and become ill for unexplained
26 reasons much more frequently than before using EPO. In addition, an athlete who begins abusing
27 EPO often will change their personal habits. The athlete suddenly may start associating with
28 different people, or withdraw and seek extreme levels of privacy. By way of another example,

