

Sports Litigation Alert

Reprinted from *Sport Litigation Alert*, Volume 8, Issue 18, September 9, 2011. Copyright © 2011 Hackney Publications.

Miami's Dealings with Al Golden Provide Lessons for Negotiating Coaching Contracts

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In the wake of Charles Robinson's report for Yahoo! Sports alleging widespread violations of NCAA rules by the University of Miami ("Miami"), an interesting side note came to light regarding Miami's lack of candor with new head football coach Al Golden.

During the interview process with Golden, a rising star in the coaching ranks, Miami was reportedly aware of former booster Nevin Shapiro's allegations that he provided millions of dollars in impermissible benefits to at least 72 athletes from 2002 through 2010. However, Miami never informed Golden of the brewing scandal.

Last month, Golden reportedly addressed the topic, stating that Miami had a responsibility to inform him of the potential scandal "[i]f they knew it was percolating." In fact, Miami may have had a legal duty to inform Golden of the allegations concerning the football program based upon the covenant of good faith and fair dealing, which is implied in all contracts. Nevertheless, Golden stated that he is happy to be in Miami and appears, at least publicly, willing to ride out the storm.

College coaches should take note of Golden's predicament and consider the following points when negotiating a new coaching contract:

- A coach should inquire as to whether the university is aware of any potential or existing NCAA violations or ongoing investigations before accepting a job.
- A coach should attempt to negotiate escape clauses that are triggered by certain levels of NCAA sanctions resulting from violations that occurred before the coach was hired.

- A coach should attempt to negotiate "reverse morals clauses" in his or her contracts which would permit the coach to terminate the contract if the university's actions cause the coach embarrassment, damage the coach's reputation, or diminish the value of the job.

For coaches who are under contract when a scandal involving a previous regime is exposed, such as Golden, they should seek contractual concessions from the university, including the following:

- A contract extension, long enough to allow the coach to clean up the program, endure any sanctions against the program and the accompanying adverse effects on recruiting, and recruit and develop the coach's own players.
- The elimination of any buyout provision that may be included in the original contract, allowing the coach to leave the university without financial penalty.
- The addition of an escape clause, if such a clause was not included in the original contract, allowing the coach to leave the university if it is found to have committed major NCAA violations and is sanctioned accordingly.

College coaches would be wise to consider Golden's situation when entering into a new contract and ensure that the contract includes provisions to protect the coach should unforeseen circumstances arise. As for Golden, we may never learn the details of his contract, as Miami is a private university. However, coaches in the same position as Golden should seek to revisit their contract to protect themselves from the consequences of violations committed during a previous administration.



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