

**REPORT TO THE SPECIAL COMMITTEE OF
THE NATIONAL BASKETBALL PLAYERS ASSOCIATION
CONCERNING THE LEADERSHIP AND BUSINESS PRACTICES OF THE NBPA**

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This Report presents the results of the investigation commissioned by a Special Committee of the National Basketball Players Association (the “NBPA” or the “Union”) concerning the current leadership of the NBPA.

Our investigation has concluded that the facts do not show that the Union’s Executive Director, G. William (“Billy”) Hunter, engaged in criminal acts involving embezzlement or theft of Union funds. Nevertheless, in our judgment, the facts do show that, at times, Mr. Hunter’s actions were inconsistent with his fiduciary obligations to put the interests of the Union above his personal interests. Further, Mr. Hunter did not properly manage conflicts of interest. We also find that the NBPA’s Board of Player Representatives never properly approved Mr. Hunter’s current employment contract with the Union as required by the Union’s Constitution and By-Laws, that Mr. Hunter was aware that his current contract was never properly approved and that he knowingly failed to disclose this information to the Executive Committee and the Player Representatives. Based on the findings of this report, the NBPA should consider whether Mr. Hunter should remain as the Union’s Executive Director and whether new and more effective controls should be enacted to govern the NBPA, its Foundation and its Executive Director, whoever that may be.

Executive Summary

A. Background

On April 15, 2012, NBPA President Derek Fisher called for an inquiry into the Union’s business practices. Although the NBPA’s Executive Committee did not proceed with the inquiry Mr. Fisher proposed, its members nevertheless recognized the need for a review of some kind.

Shortly thereafter, *The New York Times*, Bloomberg News and Yahoo! Sports published articles about Mr. Hunter and the NBPA. (Exs. 1-3) These articles discussed, among

other things, allegations of nepotism, conflicts of interest and the potential misuse of Union funds. For instance, *Bloomberg* reported that the Union employed Mr. Hunter's daughter Robyn and his daughter-in-law Megan Inaba; that Mr. Hunter's son Todd worked for the Union's outside financial advisor, Prim Capital Corp.; and that Mr. Hunter's daughter Alexis worked for law firms that Mr. Hunter had engaged to represent the Union, namely, Howrey LLP and Steptoe & Johnson LLP. The *Yahoo! Sports* story claimed that Mr. Hunter had considered using NBPA funds to invest in a failing bank—Interstate Net Bank or “ISN Bank”—at a time when Mr. Hunter's son Todd served on its Board of Directors. The *New York Times* article featured an interview of Mr. Hunter, who responded to the allegations.

These articles generated significant additional media attention. On April 25, the United States Attorney for the Southern District of New York issued a subpoena to the Union calling for the production of financial and other business records. The issuance of the subpoena led to further media coverage of the Union's practices and Mr. Hunter's involvement in them. (Exs. 4 and 5)

This combination of events—Mr. Fisher's request, the news articles and the subpoena—led the NBPA Executive Committee to decide that, to enable the Union to move forward with the trust of its members and confidence in its Executive Director, the Union must conduct a comprehensive and independent investigation. On April 26, the Executive Committee created a six-member Special Committee to oversee both the independent internal investigation and the Union's response to the subpoena. James Jones, NBPA Secretary-Treasurer, was selected to serve as chairman.

The following day, the NBPA announced that the Special Committee had retained the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP to conduct the internal

investigation and respond to the subpoena. The NBPA press release states: “Paul, Weiss will report directly to the Special Committee. NBPA Executive Director Billy Hunter has pledged his full cooperation with the internal inquiry, although he has recused himself from the process to ensure that it is an independent one.” (Ex. 6)

Shortly thereafter, Deloitte Financial Advisory Services LLP was retained by Paul, Weiss to assist with the internal investigation and work under its direction. Neither Paul, Weiss nor Deloitte has any pre-existing professional relationship with the NBPA or its employees, including Mr. Hunter, the members of the Special Committee, or their representatives.

B. Summary of Conclusions

In keeping with the Special Committee’s instructions, our investigation initially concentrated on the issues the media raised. Over the course of the investigation, however, we also considered questions brought to our attention by NBPA members, Union employees and others whom we interviewed, as well as other matters that emerged through our review of Union documents. We focused primarily on certain decisions that Mr. Hunter made as the NBPA’s Executive Director, but we also considered, to a lesser extent, the actions of other individuals both inside and outside of the Union.

Our first objective was to identify potential criminal wrongdoing. After an exhaustive review of tens of thousands of pages of documents, including years of Union financial records and emails, and after evaluating statements made by more than three dozen witnesses, we conclude that the evidence does not show that Mr. Hunter embezzled or stole money from the NBPA. But our inquiry was not confined to criminal misconduct. We have concluded that, at times, Mr. Hunter took actions that were inconsistent with his fiduciary obligations to the NBPA, displayed poor judgment, paid little attention to the appearance of

impropriety that his conduct could foreseeably create and did not properly manage conflicts of interest. We cannot say that he alone was responsible in all instances for these missteps, for we believe that the NBPA lacked important systemic controls involving basic principles of corporate governance, including the management of self-dealing transactions, and that other Union representatives did not always satisfy their own responsibilities. Yet as the chief executive officer of the Union, Mr. Hunter stands responsible for ensuring that such controls be put in place. In this important task he failed.

The federal laws that govern labor unions, and the laws of the State of Delaware (where the NBPA is incorporated) that govern officers and directors, impose certain duties on Mr. Hunter as the Union's Executive Director. Specifically, in that capacity, Mr. Hunter occupies a position of trust, and thereby owes duties of loyalty, candor and care to the NBPA. Each is important. The duty of loyalty obligates Mr. Hunter to put the Union's interests ahead of his own, and prohibits him from using his office to obtain benefits for himself, his family or his friends at the expense of the Union, and certainly not without the well-informed disinterested consent of others in the organization following full disclosure of the facts. The duty of loyalty requires Mr. Hunter to make decisions regarding the NBPA objectively, unburdened by personal considerations, to obtain advance permission from independent officers and directors and to abstain from participating in decisions in which his relationships could impair his objectivity. The duty of candor is closely related; it requires Mr. Hunter to be honest in his dealings with the Union and to disclose to the NBPA all material information about business decisions that could potentially provide benefits to him, his family or his friends. The duty of care obligates Mr. Hunter to discharge his responsibilities as Executive Director in good faith, and with a reasonable degree of diligence, attention and skill.

Evaluating Mr. Hunter's adherence to these fiduciary obligations requires inspection of his approach to actual or perceived conflicts of interest, a term we use throughout this Report to refer both to actual conflicts of interest in which parties are obviously adverse by reason of their differing interests, as well as situations that needlessly create the appearance of divided loyalties. We sought to determine whether Mr. Hunter was aware of conflicts that arose during his tenure, and whether he appropriately managed such conflicts, including by disclosing them to the NBPA's Executive Committee and/or Board of Player Representatives (the Union's officers and directors, respectively) and implementing sufficient internal controls.

Our inquiry disclosed certain instances in which, in our judgment, Mr. Hunter acted in a manner inconsistent with his fiduciary obligations to the NBPA. As a result, at times he entangled the Union in actual or potential conflicts of interest, failed adequately to disclose those conflicts and took inappropriate advantage of his position as Executive Director. Of most concern, Mr. Hunter:

- Never told the Union's Executive Committee or Player Representatives that his current employment contract, which was executed in 2010, was not properly approved under the Union's By-Laws, even though by at least November 2011 outside counsel to the Union had told Mr. Hunter that the necessary approval had not occurred and remained necessary;
- Obtained the Union's agreement to pay him \$1.3 million for accrued but allegedly unused vacation time (146 days) without adequate independent review of underlying records and without securing independent advice for the Union on its obligation to make the payment;
- Involved family and friends in Union business as employees or vendors without full disclosure and the disinterested approval of the Union's officers and directors; and
- Created an atmosphere at the NBPA that discouraged challenges to his authority, including by allowing the Union's former General Counsel, Gary Hall, to stop former Secretary-Treasurer Pat Garrity from speaking freely about conflicts of interest to the Executive Committee.

Of somewhat lesser concern, but still important, are instances in which Mr. Hunter made decisions that reflect poor judgment, display insensitivity to conflicts of interest, call into question his stewardship of Union resources or raise serious doubts about his interest in the policies and procedures that protect the Union in the orderly conduct of its affairs.

For example, Mr. Hunter:

- Considered what would have been a risky investment of millions of dollars in ISN Bank, a failing financial institution, without disclosure to the Executive Committee that his son Todd was then a director of the bank, and spent more than \$80,000 in due diligence expenses before abandoning the transaction;
- Approved a payment by the Union of approximately \$28,000 to cover personal legal fees incurred by Charles Smith, the former Executive Director of the National Basketball Retired Players Association (“NBRPA”);
- Made questionable choices when charging travel expenses to the Union, which at a minimum create the appearance that he has taken undue advantage of the discretion he possesses to travel to destinations of his choosing;
- Pursued speculative and, for the Union, atypical business ventures as potential investments;
- Spent Union funds on luxury gifts for Executive Committee members, including nearly \$22,000 for a watch he gave to Derek Fisher in June 2010;
- Failed to observe principles of proper governance at the Union, including by neglecting to ensure that the NBPA’s By-Laws were followed and appropriate systems were put in place to safeguard against possible misuse of Union funds, conflicts and similar risks; and
- Ran the NBPA Foundation (the “Foundation”), a separate entity through which the Union supports various charitable organizations, without regard for its by-laws or governance standards applicable to non-profit entities.

Conflicts of Interest

Mr. Hunter's Current Employment Contract

Mr. Hunter's existing employment contract with the Union is dated June 23, 2010. (Ex. 10) According to Mr. Hunter, although his prior employment contract, from 2005, did not end until July 2011, he sought a new agreement in early 2010 because he did not want to enter the upcoming collective bargaining negotiations against the NBA without his own new contract. Mr. Hunter got what he wanted. In June 2010, Mr. Hunter and Derek Fisher, on behalf of the Executive Committee, signed a new multi-year contract that increased Mr. Hunter's annual salary from \$2.3 million to \$3 million starting in July 2011. This agreement was worth a total of at least \$12 million (and up to \$18 million) depending on whether the contract extends to 2015 or 2017.

There was nothing wrong with Mr. Hunter seeking a new contract before the expiration of his old one, or with the reason he requested a new one. Nor does every provision of the resulting contract appear facially unreasonable or unfair to the Union. We are concerned about the circumstances surrounding the negotiation of the contract, and the failure to comply with the Union's By-Laws on contract approval. Although others involved in these matters bear some blame, we believe Mr. Hunter should have ensured that the contract negotiation process was fair and that the Union's interests were adequately protected. This he did not do.

Mr. Hunter's interest in obtaining another multi-year, multi-million dollar agreement placed him on the opposite side of the bargaining table from the Union: his interests and the Union's interests were adverse. In contrast to many Executive Committee members, who lack legal training and extensive experience in contract negotiations, and have limited time for Union matters during the NBA season, Mr. Hunter possessed superior knowledge and sophistication about legal and financial matters, especially owing to his distinguished

background as an attorney and his long tenure as Executive Director. Even were that not the case, Mr. Hunter had a duty to recognize that a conflict infected his contract negotiations against the Union. To manage that conflict, the Union needed unbiased and independent advice from professionals acting solely in the Union's interests without the fact or appearance that Mr. Hunter could influence the exercise of their judgment.

This surely could not be a surprise to Mr. Hunter. One of his primary responsibilities as Executive Director is to assure that the NBPA's members are adequately represented in their contract negotiations with NBA teams. In addition, he must have known that his new contract would involve a significant and ongoing financial liability for the NBPA. Mr. Hunter should have appreciated that in the contract negotiations the Union was entitled to independent professional advice.

Instead, our inquiry shows that the late Gary Hall, then the Union's General Counsel, served as the only lawyer in the contract negotiations. It is not unusual for a general counsel to represent an organization in negotiating contracts with its employees, but in such cases the organization reasonably expects that it will receive the general counsel's undivided loyalty. Here, Mr. Hall's allegiance to the Union was compromised by his close 30-year personal relationship with Mr. Hunter, who considered Mr. Hall his best friend and as close as a brother. More troubling, the facts show that Mr. Hunter alone hired Mr. Hall (without a search for other candidates); Mr. Hunter alone determined his salary; and Mr. Hunter alone supervised him. This meant that Mr. Hunter—the supposedly adverse party—controlled the position, the income, and the duties of the lawyer supposedly negotiating against him. And the record shows, as more fully explained below, that in the past Mr. Hall had wrongly protected Mr. Hunter when

Pat Garrity attempted to bring legitimate concerns about Mr. Hunter's conduct and conflicts to the Executive Committee.

It is thus not surprising that Mr. Hall appeared to some as biased in Mr. Hunter's favor. Derek Fisher and James Jones each felt that, during the negotiations for Mr. Hunter's employment agreement, Mr. Hall seemed to be representing Mr. Hunter more than the Union. According to Mr. Jones, Mr. Hall "made the case" that Mr. Hunter deserved a salary increase—in other words, Mr. Hall, the Union's lawyer, was Mr. Hunter's advocate. Mr. Fisher considered the negotiations to be "one-sided," and reported that the interests of the Executive Committee were not represented "in a fair manner." In addition, in April 2010 Hall sent the Executive Committee an email that purportedly contained comparative salary information for the current and former Executive Directors of the NFLPA. We do not know the source of Hall's information, but it may have been incorrect. The numbers Hall provided to the Committee for DeMaurice Smith and Gene Upshaw are higher than the salary information that was publicly reported in the LM-2 forms for the NFLPA at the time.

These facts show that the blame for the one-sided negotiations does not rest on Mr. Hunter alone. Mr. Hall had a professional obligation to assure that his client the Union had the benefit of independent legal representation and accurate information. And as the Union's President, Mr. Fisher also owes fiduciary duties to the NBPA. If he believed that Mr. Hall was not adequately representing the Committee's interests during the negotiations, he should have said so and sought a different lawyer. But these lapses do not excuse Mr. Hunter's own obligation to assure a fair process of contract negotiation.

One provision of that contract says that the Executive Committee "had the unrestricted opportunity to be represented by independent legal counsel of [its] choice" in the

contract negotiations. Although this provision is perhaps very narrowly true in the most technical sense that the Executive Committee had the “opportunity” to select independent counsel, arguably that statement was not really true in these circumstances, because no one gave the Executive Committee the meaningful chance. No one advised the Executive Committee to hire independent outside counsel. It is difficult not to wonder whether that provision was included in the contract as an insurance policy to defend against the awkward circumstance of Mr. Hall negotiating with Mr. Hunter. Had the Committee been represented by independent counsel, the Committee might have been advised that it should consider a contract extension of a shorter duration, perhaps only one year, so that the NBPA’s members could evaluate Mr. Hunter’s performance in the upcoming collective bargaining negotiations with the NBA before agreeing him to give him another multi-year contract at a significant salary increase.

The circumstances surrounding the negotiation of the contract are troubling and would be relevant in any ultimate determination on the propriety and enforceability of the contract. But the failure to comply with the Union’s By-Laws in approving it is of more immediate concern. Article V, Section 1 of the NBPA’s Constitution and By-Laws (the “By-Laws”) states:

The Executive Director shall be appointed by the Board of Player Representatives and the Executive Committee of the Players Association. The appointment of an Executive Director, and the terms of his employment contract, must be approved by two-thirds (2/3) of the combined total of all Board of Player Representatives and Executive Committee members. (Ex. 7)

The Executive Committee apparently approved Mr. Hunter’s contract on or about the time of its execution, though no record of such a vote appears in the minutes of the Committee’s meeting of June 23, 2010. Mr. Hunter and Mr. Fisher each signed and dated the contract that same day. Yet the By-Laws unambiguously require two-thirds of the combined

total membership of the Executive Committee and the Board of Player Representatives—a supermajority—to approve the contract. The record is clear that the Board of Player Representatives did not vote to approve Mr. Hunter’s contract, nor did anyone tell the Player Representatives that they were required to consider whether they wanted to approve it. Mr. Hunter should have been aware of the provisions of the By-Laws governing the proper procedure for approval of his contract. The record shows, however, that Mr. Hunter did nothing to alert the Union’s Board of Player Representatives or the Executive Committee to these procedures, even after he was told that the contract had not been properly approved.

This happened in November 2011, when Steve Wheless, a partner in the law firm of Steptoe & Johnson whom Mr. Hunter had retained to assist the Union during the NBA-imposed lockout, sent an email to Mr. Hunter discussing a plan (later abandoned) of restructuring the Union as part of its collective bargaining strategy. (Ex. 15) In the email, labeled “HUNTER EYES ONLY,” Mr. Wheless recommended that Mr. Hunter take steps necessary to “ratif[y] Mr. Hunter’s] employment contract as required by the prior By-Laws, which was never done” (underlining in original). Despite this recommendation—made sixteen months after the contract should have been submitted to the Board of Player Representatives—Mr. Hunter still did not bring the matter to the attention of the Union’s Board of Player Representatives or the Executive Committee. Although no reasonable explanation exists why this was not done in June 2010, no plausible basis could exist for not doing so once Mr. Hunter was told of the flaw in November 2011. It is obvious that any fear Mr. Hunter may have had that he would lose a vote to ratify the contract would not justify a failure to comply with the By-Laws. Mr. Hunter’s silence in these circumstances placed the Union at risk by raising the prospect of a challenge to actions he took pursuant to a contract that lacked proper authorization.

When interviewed, Mr. Hunter acknowledged that the Board of Player Representatives never voted on his contract and that he should have addressed Wheeless's observation that the Board had not approved his contract. Mr. Hunter told us that he planned to put the ratification of his contract on the agenda for the Union's February 2012 meetings, but, he said, he did not do so because he anticipated that, as a result of poor attendance at All-Star Weekend, a quorum of the Board of Player Representatives would be lacking. He also said that he deferred dealing with the problem in the months following the February meetings in part because of Mr. Fisher's call for a review of the Union's business practices, and the initiation of this investigation. By Mr. Hunter's own admission, he did not mention this issue to any NBPA members until after we brought it to his lawyer's attention in October 2012.

No serious question exists, then, that Mr. Hunter's current employment contract has not been properly approved as required by the Union's By-Laws. We believe that the Board of Player Representatives and the Executive Committee should decide, going forward, whether or not Mr. Hunter should continue to occupy the position of Executive Director, and they should focus on that decision during their meetings scheduled for All-Star Weekend in February 2013. We believe that the officers and directors have two choices: (1) decline to ratify Mr. Hunter's contract retroactively, and search for a new Executive Director; or (2) permit Mr. Hunter to continue running the NBPA and properly approve a contract for him. To the extent that the Player Representatives and the Executive Committee choose the second option, however, we recommend that they consider negotiating a new agreement with Mr. Hunter, instead of simply ratifying the contract he signed in 2010, because in our view the agreement is the product of a flawed negotiating process for which Mr. Hunter bears much responsibility.

Payments to Mr. Hunter for Unused Vacation Days

In early 2009, Mr. Hunter received two disbursements from the Union that totaled approximately \$1.3 million, which compensated him for 146 vacation days that he had supposedly accrued as Executive Director but purportedly had not used. These payments also resulted from a flawed bargaining process.

The employment contracts that Mr. Hunter signed in 1999 and 2005 awarded him five and seven weeks of paid vacation per year, respectively, and did not limit the number of unused days he could carry forward from one year to the next. This contrasts with the policy applicable to all other Union employees, whose ability to accrue vacation time was strictly limited to ten days. In certain circumstances, it is not an unreasonable business decision for an organization to free its chief executive of limitations applicable to other employees. For us the question is whether in negotiating the employment contracts the parties reasonably contemplated that scores of vacation days would be accrued as contingent liabilities on the Union's balance sheet, without any cap, based solely on Mr. Hunter's self-reporting of his vacation time. Such an outcome is, to be kind, unusual and inconsistent with best practices.

Mr. Hunter's vacation time was recorded on a hand-written log that his executive assistant maintained based solely on his own determination of which workdays spent out of the office should be counted as vacation, sick or personal days. (Ex. 22) Strictly monitored, such a reporting practice might not be inappropriate. But here the practice was not monitored, and the self-reporting at times was demonstrably wrong. Equally important, the process for payment, though something that Mr. Hunter did not initiate, was rife with the stigma of self-dealing for which Mr. Hunter showed no appreciation.

In April 2008, the NBPA's Director of Finance, Theresa Messer, informed Mr. Hunter that his vacation accrual amounted to 124 days, worth more than \$1 million, and that

this amount was “a huge unsecured liability on [the Union’s] balance sheet” that was continuing to grow at a rate of \$26,500 per month. Ms. Messer suggested that the Union make a payment to Mr. Hunter to reduce this liability. For Ms. Messer to raise this issue was right; a significant contingent liability on the Union’s books needed fixing.

In October 2008, Mr. Hunter requested that the Executive Committee authorize such a payment, and it was subsequently given to him in two installments in January and March 2009.

Hunter’s request for payment of his unused vacation time starkly placed his personal monetary interest against the Union’s interest. Mr. Hunter knew or should have known that the Committee members did not receive independent advice to evaluate his claim that he deserved the payment. Had the Committee members received independent advice, from their own attorney or compensation consultant, they would have learned that Hunter’s request was far from ordinary. Such an advisor would have recognized that it was unlikely that the employment contracts had been negotiated with the expectation that so many unused vacation days would accrue at such a tremendous cost to the Union, and that the agreements were silent on whether Mr. Hunter was entitled to a monetary payment as opposed to being told to use the accrued, unused vacation days. At a minimum, an independent professional would have instantly recognized that the request raised legitimate issues that gave the Union negotiating leverage over the amount of the excess compensation that Mr. Hunter demanded.

An independent advisor would likely also have appreciated that it was necessary to review the records that Mr. Hunter’s assistant maintained to assess their accuracy. No one conducted such a contemporaneous review. Our own review of the by-now-dated records proved that they were, to some extent, unreliable and inaccurate. We identified several erroneous entries

that, upon review, Mr. Hunter conceded were mistakes. We also discovered multiple potentially inaccurate entries that stemmed from Mr. Hunter's at times questionable self-reporting of his vacation time. For example, in December 2006 and January 2007, Mr. Hunter spent approximately two weeks at his home in Oakland, California during the Christmas and New Year's holiday period. By email, he told a friend:

I spent Christmas and New Year's Eve in Oakland with Janice and Alexis. Robyn, Todd, [and] Megan were here in NYC. The weather on the west coast [was] not too good so I was sequestered most of the time at home. Did get to see a lot of movies over the holidays and view a lottttt of television. God willing, next Christmas will be spent in Jamaica or some similar spot. (Ex. 26)

Yet he did not report taking a single vacation day during this period. (Ex. 22) Even after reviewing this email, and being asked to consider whether his reporting of vacation time was accurate, Mr. Hunter did not concede that any changes were necessary to the vacation log for this time period.

If Mr. Hunter knowingly chose not to report taking vacation on days that he spent enjoying leisure at home and not working on any Union business, and thereafter sought reimbursement with the intent that the Union would rely on his reporting to reimburse him, then he could be found to have defrauded the Union in the amount of tens of thousands of dollars. Our analysis of whether Mr. Hunter did so was ultimately inconclusive, however, largely because of the passage of time and the incomplete nature of the relevant records. At the same time, and for the same reasons, we cannot establish that his reporting for the days he spent away from the office was accurate and appropriate, much less that the records support his request for a huge payout of accrued vacation time.

A number of the Committee members who approved the payment to Mr. Hunter for unused vacation time reported that they felt that they had no choice but to accede to

Mr. Hunter's request, although, according to one former member of the Committee, "no one loved the idea." Had they received independent advice, they would likely have learned that they had options for negotiating with Mr. Hunter, and it was possible that a compromise could have been reached in which Mr. Hunter received a significantly smaller payment than the one he had requested.

Employee Hiring and Vendor Retention Decisions

As news stories published in April 2012 alleged, Mr. Hunter has engaged in a pattern of involving his family and friends in Union business. He hired his daughter Robyn, his nephew Hal Biagas and his best friend Gary Hall to work directly for the Union, and permitted Megan Inaba to remain a Union employee after she became his daughter-in-law. Mr. Hunter has also chosen to retain or continue to use as Union vendors companies that employ his children. This last category includes Prim Capital, where Mr. Hunter's son Todd is a Director. Although the NBPA's relationship with Joe Lombardo, Prim's owner and Managing Director, predates Todd's employment, Mr. Hunter expanded Prim's role with the Union and authorized substantial fee increases for Prim after Todd joined the firm in 2002. Another example in the same category is Mr. Hunter's retention of two law firms that employed his daughter Alexis as an attorney, including one for critical work relating to collective bargaining and the lockout in 2011. Each of these decisions by Mr. Hunter presented actual or potential conflicts of interest and Mr. Hunter should have obtained the unbiased and independent review of the Union's officers or directors before making such decisions. He did not do so.

Each of the foregoing has its own story, and so our objections to them vary with the facts. Yet all share common objectionable features. Each of Hunter's relatives employed by the Union currently reports directly and only to him and he alone determines their compensation. He has the final say on whether the Union uses key vendors such as Prim Capital and Steptoe &

Johnson, and how much they are paid. Of particular note is that Mr. Hunter and his son communicated about Prim Capital’s request for fee increases, which Mr. Hunter admitted to us was inappropriate.

When asked to explain the decision to involve his family in Union business, Mr. Hunter asserted that the Union’s By-Laws did not prohibit the hiring of his relatives, and claimed that each of them was well-qualified, talented and loyal. We do not contest that Mr. Hunter’s relatives were qualified for their jobs, and our analysis suggests that they were not paid excessive compensation. We accept that the NBPA By-Laws are silent on whether the Executive Director may hire family members. Yet silence in by-laws does not supplant the ordinary operation of federal and Delaware law on self-dealing transactions and the proper management of conflicts of interests. A law degree is not needed to recognize that hiring relatives raises issues when a person occupies a position of trust and owes duties to others. Common sense is enough to see that nepotism is a problem. It appears that an unacceptable pattern of nepotism in the Union’s hiring and procurement decisions emerged over many years. Over time, it seems to us, Mr. Hunter developed a blind spot for how his decisions to involve family and friends in Union business would be perceived, and failed to see the adverse consequences these decisions could have on the operation and culture of the Union.

Doubtless Mr. Hunter has arguments that try to justify each such decision. No matter the explanation, when viewed collectively, his choices created the appearance that he operated the Union in part for the benefit of his family and friends. It was not possible to determine precisely when a tipping point was reached, but at some point in time, NBPA employees concluded that Mr. Hunter was running the Union as a “family business” and, in the word of one, felt “surrounded” by Hunter family members.

The appearance of favoritism has damaged the Union. Mr. Hunter’s pattern of involving friends and family in Union business contributed to a deep rift among the NBPA staff. Multiple witnesses reported that the Union’s employees have grown divided into two camps: those who are loyal to the Hunter family and those who are regarded as opposed. It appears that the NBPA’s office is currently unable to operate as effectively as it should owing to unnecessary hostility and mistrust between the rival sides. In addition, staff morale has been hurt because multiple employees have come to believe, rightly or wrongly, that Hunter family members get preferential treatment from him. Such is the inevitable result of nepotism, and the reason that proper corporate governance rules so strongly frown on the practice.

That is not all. Nepotism in a public organization attracts unwanted attention. When Mr. Hunter’s hiring and vendor decisions eventually came to light in the press, the allegations of nepotism undermined the Union’s reputation, led to this investigation and may also have contributed, at least in part, to the ongoing federal criminal investigation. These negative consequences were both costly and foreseeable. Mr. Hunter admitted that he anticipated that certain of his decisions concerning family members might result in public criticism. He should have also recognized that involving so many relatives and friends in Union business would inevitably be perceived as—and turned out to be—inconsistent with his obligation to put the Union’s interests first.

As set forth in the recommendations below, to address nepotism concerns, we encourage the Union to adopt a more comprehensive conflicts of interest policy. In addition, the Union should consider not continuing to use the services of Prim Capital, not only because Prim employs Mr. Hunter’s son, but also because in our opinion Prim failed to cooperate fully with the investigation.

In the course of this investigation, after initially agreeing to cooperate, Prim subsequently refused to comply with requests for documents and information concerning important questions. For example, Prim refused to disclose the amount of fees it may have made from referring NBPA members, and possibly the NBPA itself, to certain financial institutions, even though its Chief Operating Officer had informed us that such data could easily be compiled in a spreadsheet and provided to us. As a result of Prim's refusal to give us highly relevant information, we are not able to provide analysis or findings about the propriety of Prim's relationship with the Union. Because Prim is the Union's financial advisor, it is important that the Union have full trust in Prim and a complete understanding of its relationship with Prim. We believe that in failing to cooperate fully with our investigation, Prim has not acted appropriately.

Even more alarming than Prim's abrupt refusal to cooperate with this investigation is that on January 15, 2013, two days before this Report was released, we received directly from Prim a document resembling a letter agreement for services between Prim and the Union, which was purportedly executed in early March 2011. We had never seen this document previously. When interviewed, neither Mr. Hunter nor any Prim employees reported that a contract between Prim and the Union had been signed in 2011. During the course of our investigation, Theresa Messer, the NBPA's Director of Finance, told us that the last known existing contract between Prim and the Union was a 2005 agreement, which had expired after one year, according to its terms, and we analyzed the Union's relationship with Prim in light of that document. Indeed, when asked during his interview whether he would agree that there was currently no written contract in place with Prim, Hunter stated, "I'm not aware of one," and added, "I would say if [the 2005 agreement] doesn't continue, we have an oral contract."

When we brought the document that we received from Prim two days ago to the attention of Ms. Messer, who manages the Union’s use of Prim and meets with Prim representatives regularly, she was shocked to see it, and confirmed that she had not been aware of its existence. She explained that in prior years, in response to requests from the Union’s outside auditors, who believe that the Union should have valid contracts with key vendors, she has asked Prim for its most up-to-date agreement with the Union. No document other than the 2005 contract was ever provided in response.

Unlike each of the previous agreements between Prim and the Union, which allowed for termination by either party without cause, the 2011 letter calls for a five-year term, stretching from the date of execution, that “cannot be cancelled or revoked while in effect for any reason by the NBPA,” at a cost of \$602,000 per year. In our opinion, this provision is highly unusual and inconsistent with normal business practices. In addition, although the By-Laws require contracts for greater than \$25,000 to be approved by the Executive Committee, we are aware of no evidence to suggest that the letter was approved by the Executive Committee.

For these reasons and others, we have significant concerns about the validity of this document. Although we were not able to investigate these concerns before the release date of this Report, we will continue to do so and will quickly provide our findings to the Special Committee. We have already discussed this matter with the U.S. Attorney’s Office.

Mr. Hunter’s Stifling of Criticism

The presence of an unchecked dominant personality can interfere with the effective functioning of an organization. Recognizing the need for accountability, wise managers do not discourage communications of concern about their leadership.

At the NBPA, not only did Mr. Hunter allow or ignore conflicts of interest, he suppressed criticism of such conflicts and other threats to his authority. We are especially

distressed by Mr. Hunter’s response to former NBPA Secretary-Treasurer Pat Garrity’s legitimate questions about conflicts of interest involving Mr. Hunter and his family. Prior to All-Star Weekend in 2009, Mr. Garrity learned that Mr. Hunter had hired his daughter Robyn without a formal search and that Mr. Hunter’s son Todd had been a director of ISN Bank when the Union was considering a multi-million dollar investment in the bank. Mr. Garrity also had concerns about the vacation payment Mr. Hunter had requested.

To act on these concerns, in early February 2009 Mr. Garrity sent a series of emails to Mr. Hunter and other members of the NBPA staff requesting additional information about Robyn’s hiring and ISN Bank. (Ex. 36) Mr. Hunter tried to deflect Mr. Garrity’s valid inquiries about conflicts of interest by accusing Garrity of “manufacturing issues,” and by stating that he was “not inclined to respond to [a] fishing expedition.” To his credit, Mr. Garrity responded by sending another email to Mr. Hunter requesting time to discuss his concerns with the Executive Committee privately during its All-Star Weekend meeting. According to Mr. Garrity, he met with Mr. Hunter the night before the scheduled meeting and raised the three issues he wanted to discuss with the Committee the next day. In response, Mr. Hunter asserted that Mr. Garrity, being retired, was no longer entitled to be involved in the Committee’s supervision of Union business. According to Mr. Garrity, Mr. Hunter nevertheless agreed to let him speak to the Committee.

Mr. Hunter claimed that he does not recall speaking with Mr. Garrity that night. Regardless, whether Mr. Garrity’s recollection of Mr. Hunter’s agreement is correct or not, what matters is what happened next. When Mr. Garrity attempted to speak to the Committee the next day, Mr. Hunter’s friend Mr. Hall shouted him down. Echoing Mr. Garrity’s recollection of what Mr. Hunter had told him, Mr. Hall insisted that Mr. Garrity was prohibited from addressing

the Committee because he had retired, even though no Union By-Law or rule bars retired players from speaking to the Committee. Mr. Hall threatened to call security if Mr. Garrity did not leave the meeting voluntarily, and Mr. Garrity ultimately left without engaging in the discussion with the Committee that he had sought. Mr. Hunter reported to us that, rather than intervene on Mr. Garrity's behalf, he remained "mute" during the confrontation, and admitted that he approved Mr. Hall's efforts to prevent the Executive Committee from hearing Mr. Garrity's concerns. One witness stated that in a conversation a few hours after the meeting, Mr. Hunter bragged about shutting down Mr. Garrity's attempt to speak to the Committee (Mr. Hunter claims no recollection of this remark).

By standing by as Mr. Hall silenced Mr. Garrity, Mr. Hunter put his personal interest in discouraging criticism of his conduct ahead of the Union's interests in hearing and addressing the concerns of a person who had served the NBPA faithfully and diligently for many years. Mr. Hunter's conduct in this episode also reflected poor judgment. Had Mr. Hunter allowed Mr. Garrity to explain his concerns to the Executive Committee without interference, the Union might have begun to address years earlier many of the issues this Report now covers. When we interviewed him, Mr. Hunter conceded that he should have permitted Mr. Garrity to speak to the Committee and that doing so might have obviated the need for this investigation. According to Derek Fisher, the episode had a chilling effect on future challenges to Mr. Hunter's authority by Committee members.

Questionable Uses of Union Resources

Mr. Hunter's actions have also called into question his stewardship of Union resources, reflected poor judgment or raised serious doubts about his interest in policies and procedures to protect the Union's interests.

Mr. Hunter’s Consideration of a Union Investment in ISN Bank

In 2007 and 2008, Mr. Hunter considered making a multi-million dollar investment of Union money in ISN Bank, a failing financial institution based in Cherry Hill, New Jersey. At the time, Mr. Hunter’s son Todd was a director of the bank and Joe Lombardo, who has served as the Union’s chief outside financial advisor at Prim Capital for over a decade, had a financial interest in the bank. This potential transaction, although ultimately abandoned, is of notable concern because it was fraught with conflicts of interest that Mr. Hunter failed to disclose.

Starting in 2005, Mr. Hunter devoted substantial time and energy to developing plans for the Union to establish, acquire or invest in a bank or other financial institution. One of the banks he considered was ISN, which had focused on loans for home construction projects and by late 2007 was financially crippled due to the collapse of the housing market that caused national and international turmoil within a year. Mr. Lombardo had previously organized a group of investors in the bank and guaranteed their investment, and thus stood to lose a substantial amount of money if ISN failed—as much as \$1 million, according to him.

In December 2007, the president and other representatives of ISN Bank came to the Union’s headquarters to make a pitch for an NBPA investment. Mr. Lombardo and Todd Hunter were present. The materials ISN Bank provided at that meeting warned that the bank was teetering on the edge of collapse, that the FDIC was preparing to impose a cease-and-desist order on it, and that even the capital infusion of \$5 to \$7 million requested from the Union could not ensure the bank’s survival. Mr. Lombardo stated that he told Mr. Hunter that because his son Todd and another Prim employee were on the board of ISN Bank, Mr. Hunter needed to be cautious and “lawyer up.” A few weeks later, Roger Klein, a partner at Howrey who was serving

as outside counsel to the Union in connection with the potential deal, advised Mr. Hunter that the potential investment was “toxic.”

Nevertheless, in early 2008 Mr. Hunter authorized the expenditure of Union funds for additional due diligence for a Union investment in ISN Bank. He subsequently received a report confirming Mr. Klein’s advice, which stated that ISN Bank had “a number of significant problems with respect to regulatory relations, management, capital, profitability, loan quality, deposits, and litigation.” On April 1, 2008, Mr. Hunter informed the Executive Committee that it would be “foolhardy” to pursue the deal any further. By that time, however, he had already spent more than \$80,000 in Union funds on fees for the lawyers and consultants who evaluated the potential investment.

Prior to spending Union funds to investigate the investment, Mr. Hunter never disclosed to the Executive Committee the conflicts of interest enmeshed in the potential ISN Bank deal: that Prim Capital’s Mr. Lombardo had a financial interest in the bank, that Todd sat on the bank’s board of directors, and that both would likely have personally benefitted from a Union investment. Mr. Hunter claimed that Mr. Klein had advised him that it was not necessary to disclose the conflicts of interest until after preliminary due diligence had been conducted. The record is unclear whether Mr. Klein in fact gave such advice to Mr. Hunter. In any event, we respectfully disagree with such guidance. To us, the exceptionally risky nature of the investment—known before any significant Union resources were committed to evaluating the deal—heftened the need for Mr. Hunter to make the Executive Committee aware of the conflicts of interest early in the process. The far better practice would have been for Mr. Hunter to alert the Committee to the conflicts before spending substantial Union funds on due diligence to confirm what Mr. Klein had already told him. At a minimum, an unbiased observer would

legitimately ask whether Mr. Hunter would have taken the next steps absent his son's presence on the ISN board.

Mr. Hunter's Payment of Charles Smith's Legal Fees

Mr. Hunter authorized a payment of fees for personal legal services provided to Charles Smith, the former Executive Director of the NBRPA. In 2010, the NBRPA board of directors dismissed Mr. Smith, after which he sought a settlement for wrongful termination. In May 2011, Mr. Hunter agreed to commit between \$8,000 and \$10,000 of Union funds to Mr. Smith's legal battle with the NBRPA. In December 2011, Mr. Hunter authorized a payment of approximately \$28,000 to a law firm on Smith's behalf, disregarding concerns raised by the Finance Department that it was not appropriate for the Union to pay Mr. Smith's personal legal fees.

The payment was returned to the NBPA in March 2012, shortly after Mr. Hunter learned that a reporter was preparing to publish a story about it. When interviewed, Mr. Hunter claimed that he had supported Mr. Smith with Union funds because Mr. Smith had done a good job providing medical and educational programs to retired players. However true this assessment may be, we fail to see how this justifies Mr. Hunter's decision to make the Union contribute to Mr. Smith's personal legal expenses. And although Mr. Hunter claimed that Mr. Smith had agreed to reimburse the Union, we are skeptical of this assertion and did not find support for it in the evidence available for review. Significantly, the Finance Department did not treat the payment as a loan; instead, the Finance Department regarded it as a legal expense, reported it as taxable income to Smith and issued the appropriate IRS form.

Mr. Hunter's Travel Expenses

It was challenging to review Mr. Hunter's travel expenses because, in contravention of the NBPA's Travel and Entertainment Policy, he did not consistently submit

expense reports, receipts or other supporting documentation for his business travel, and also because he has enjoyed substantial and largely unregulated discretion on where or when he can visit different cities. Nevertheless, we discovered a pattern of visits by Hunter on alleged Union business to the San Francisco Bay Area, where only two NBA teams are located but where Mr. Hunter happened to live for decades and still maintains a residence.

The records reviewed during this investigation indicate that, during the time period from February 2007 through July 2012, approximately one-third of the flights Mr. Hunter charged to the Union either started or ended in the Bay Area. Mr. Hunter asserted that his personal and professional background in the Bay Area led him to conduct more Union business there than in other places. He also acknowledged that he used Bay Area airports as a “hub” for his business travel to other Western cities because of his residence in Oakland. This practice, however, has resulted in the Union paying for more flights than would be necessary if he traveled directly to his ultimate destination. Mr. Hunter attempted to justify this practice by claiming that he did not charge the Union for hotel stays or food when traveling to the Bay Area, which in his view might have resulted in a net cost savings for the Union.

Overall, the incomplete records available to us and the passage of time do not allow us fairly to conclude that Mr. Hunter’s practice constitutes either an abuse of travel expenses or an appropriate practice.

Mr. Hunter’s Consideration of Speculative Business Deals

Typically, to protect its assets, an organization places some constraints on the ability of its executives to spend money on pursuing investments, and on the types of investments deemed suitable for its aims. The NBPA does not appear to have such limits. Again, even when an organization does not have clear rules, a fiduciary must use reasonable

business judgment and common sense. We found instances in which these principles seem to have eluded Mr. Hunter.

Mr. Hunter devoted substantial time, energy, and Union funds to consider investments for the NBPA in a variety of business ventures, many of which appear both atypical for players' unions and risky for any enterprise. By his own account, a desire to make the NBPA "more than a traditional sports labor association" animated Mr. Hunter to seek out such speculative pursuits. We were surprised to hear Mr. Hunter tell us that no potential deal would be so risky on its face that he would not consider it for the Union.

As noted above, Mr. Hunter focused for several years on a Union investment in a bank or other financial institution. He also considered investments in real estate developments, restaurants, an energy drink and Pride Fighting Championships, a mixed martial arts fighting league based in Japan. The evidence suggests that he viewed himself as a venture capitalist in the market for a blockbuster deal. Mr. Hunter's own words show that his pursuit of risky investments came at a significant cost, both in terms of time and money. In a September 2009 email to a friend, he wrote:

Yesterday, I spent the entire day reviewing a proposal from a nationally chartered community bank.... I have been slow to pull the trigger because the more I learn about banking the less I seem to know. I need to spend more time familiarizing myself with the cost(s) associated with the daily administration of a bank, since there are many nuances that cause me concern.... My situation is compounded by the expense of doing business. Since I know so little about the business and cannot devote my day to learning about it – I must rely on others for advice and instruction at significant cost. Over the past two months, I have spent nearly \$100K in legal fees on one deal and am [nowhere] near the finish line. (Ex. 43)

Based on records reviewed in the course of this investigation during the August 2007 to December 2010 time period, Mr. Hunter spent at least \$300,000 in Union funds to conduct due

diligence on non-traditional investments, and although he often informed the Executive Committee that he was considering such opportunities, it appears that he failed to disclose to the Committee many of the costs related to exploring them. We recommend that the Board of Player Representatives and the Executive Committee give careful consideration to the costs and risks of the Union's pursuit of potential investments and set standards governing the kinds of transactions that are appropriate for the Union and its Executive Director to consider.

Mr. Hunter's Gifts to Executive Committee Members

Corporate executives who have unfettered authority to use corporate funds to provide personal gifts of their choosing may have the temptation to use such gifts to advance their personal agendas, or may be wasteful or unnecessarily extravagant with the organization's money. This is why corporate policies often regulate the giving and receipt of gifts. Here, the Union has no policies that apply to gifts the Executive Director may bestow on Executive Committee members. Here, again, the absence of policies does not displace the duties of loyalty, candor and care.

Over the past ten years, Mr. Hunter has spent more than \$100,000 in Union funds to purchase luxury items as gifts for members of the Executive Committee. On some occasions, he gave presents such as alligator belts, gold cuff links and Louis Vuitton bags to members of the Committee, and he established a tradition of giving expensive watches (each costing more than \$13,000) to NBPA Presidents when they retired from serving the Union.

In June 2010, Mr. Hunter gave Derek Fisher a \$22,000 Patek Philippe watch. At that time, Mr. Fisher was finishing the first year of a four-year term as President, and had not expressed plans to retire. According to Mr. Hunter, he told Mr. Fisher in June 2010 that, if a lockout occurred the following year, Fisher "might never get his watch," and asked whether Fisher preferred to "take his chances" on the results of the collective bargaining or accept the

watch at a time when it was guaranteed. Mr. Hunter also claimed that “it would have been harder to give him the watch leading up to the lockout; politically it would have been different. ... Players would have objected, they wanted to hold back money.” Mr. Hunter asserted that when presented with a choice, Mr. Fisher opted to accept the watch right away.

Mr. Fisher, however, did not agree with this account. To the contrary, he stated that he did not recall discussing the timing or reasons for the gift with Mr. Hunter. According to Mr. Fisher, he did not have an understanding at the time he received the watch as to whether it had been purchased with Union funds, although Mr. Hunter disagreed with that claim. Mr. Fisher also maintained that he was uncomfortable with the gift at the time he received it, and that, with the benefit of hindsight, he felt the watch may have been a gesture aimed at winning his loyalty to Mr. Hunter during the upcoming collective bargaining negotiations. In our view, Mr. Hunter should bear the brunt of the responsibility for any curious appearance that arises from this gift, and Mr. Fisher’s decision to question Mr. Hunter’s conduct and call for an internal inquiry into Union business practices in April 2012 fortifies this opinion.

Although Union policies did not prohibit Mr. Hunter from giving a gold-watch good-bye to outgoing Presidents, his purchases of such luxury gifts raise concerns about whether he spent Union funds in a prudent manner or for the benefit of all NBPA members. We recommend that the Union develop guidelines to govern such expenditures.

Governance Deficiencies

Proper governance matters. Mr. Hunter has not recognized the imperative of proper corporate governance for the NBPA. He has failed to ensure that the Union operates in accordance with its By-Laws. For example, the By-Laws require the Executive Committee to approve contracts for amounts greater than \$25,000, but Mr. Hunter admitted that he has rarely, if ever, sought such approval. In addition, Mr. Hunter has failed to rectify concerns raised by the

Union's auditor, Calibre CPA Group, PLLC ("Calibre"), during annual audits. Among other things, Calibre has repeatedly recommended that the Union maintain minutes of all Executive Committee and Player Representative meetings, including those that take place by telephone, but the Union did not follow that recommendation adequately until recently, after this investigation began.

Mr. Hunter has also failed to ensure proper governance at the NBPA Foundation. We do not question that the Foundation has donated money to worthy organizations and has supported important causes; for example, the NBPA recently pledged \$500,000 in Foundation funds to relief efforts in the wake of Hurricane Sandy. We have also seen no evidence that Mr. Hunter has misappropriated Foundation funds. Nevertheless, Mr. Hunter has administered the organization throughout his 16-year tenure in a manner inconsistent with its By-Laws and incompatible with statutes and standards governing non-profit organizations, including guidance from the New York Attorney General's Office, which has jurisdiction over the Foundation.

The Foundation, which today holds approximately \$26 million in assets, has no properly appointed directors or officers, and has not held annual, if any, board meetings. It neither creates nor maintains adequate records. The Foundation operates without clear policies and procedures for grant applications or approvals, does not conduct sufficient due diligence on grant applicants and does not have a conflict of interest policy. Mr. Hunter typically makes decisions concerning the use of Foundation funds largely on his own, with little effective supervision, even though he may not have been properly authorized to do so. Indeed, Mr. Hunter described his process for disbursing Foundation funds as "ad hoc," and on certain occasions, he has made gifts to organizations of which he is a director or that have personal connections to him, without disclosing those affiliations and recusing himself from the decision-making

process. In sum, Mr. Hunter's virtually unlimited control of the Foundation has resulted in little transparency or accountability.

Mr. Hunter's Future with the Union

Among the most significant conclusions of this Report are that Mr. Hunter's 2010 contract was never properly approved under the Union's By-Laws and that Mr. Hunter knowingly kept this information from the Executive Committee and the Player Representatives. As a result, we believe that the Board of Player Representatives and the Executive Committee must now decide:

Should Mr. Hunter remain as Executive Director?

The Player Representatives and the Executive Committee could decide that it is possible for Mr. Hunter to rectify the problems he has created and serve as an effective Executive Director in the future despite the issues of the past. Should they decide to permit Mr. Hunter to continue leading the Union, they may wish to retain independent counsel to negotiate a new employment contract with him in light of the tainted negotiation process that resulted in the agreement signed in 2010. Of course, they could also decide if they wish to approve Mr. Hunter's current contract without any changes.

But the Union need not keep Mr. Hunter. If the NBPA's Player Representatives and Executive Committee members decide for any reason that the Union deserves a fresh start, they are free to do so. They may choose not to ratify or renegotiate Mr. Hunter's employment agreement, appoint an acting Executive Director and authorize a search for a new Executive Director. Although we cannot guarantee that a court would agree, in our judgment the Union has no obligation to accept Mr. Hunter's current contract as valid or enforceable. We believe that the circumstances of the contract's formation and the lack of proper approval cast serious doubt on Mr. Hunter's ability to enforce it.

Litigation Risk

That does not mean that Mr. Hunter will leave without resistance. A decision by the Player Representatives and Executive Committee members not to keep Mr. Hunter could lead to litigation between the NBPA and Mr. Hunter. In that event, we think that the Union would have powerful arguments that Mr. Hunter's current contract was never properly approved as required by the By-Laws and applicable law. Mr. Hunter has admitted that the Player Representatives never voted on the contract, and has acknowledged that he believed, in accordance with advice from Steptoe & Johnson, that the contract needed to be brought to the Player Representatives for ratification, and that he planned do so in early 2012. In addition, the Union may have claims against him on the grounds that certain of the conduct highlighted in this Report constitutes breaches of his fiduciary duties of loyalty, candor and care, coupled with claims for the return of at least a portion of the compensation he has received under his existing contract and other money that could be placed at issue.

We understand that, in a legal proceeding, Mr. Hunter might contend, as he did at one point during his interview, that his contract was somehow implicitly approved. If successful, Mr. Hunter could claim that he has the right to retain his job as Executive Director or, in the alternative, to receive a payout of the remaining portion of his contract, which may currently equal approximately \$7 million, plus benefits. According to Mr. Hunter, even though the Player Representatives did not vote on his contract, its execution was announced at their meeting in June 2010 and they did not disapprove it. To begin with, it is not clear that an announcement of Mr. Hunter's employment contract was ever made at that meeting: One witness present for the meeting of the Player Representatives stated that the contract was *not* discussed, and there is no mention of the contract in the meeting minutes. More important, and for a number of reasons, we do not believe that an argument based on *implied* consent by the Player Representatives,

supposedly given to a highly sophisticated lawyer, fiduciary and longtime Executive Director, will be persuasive. The Player Representatives were never told that they were required to vote on the contract, which makes the very idea of implied consent stand on its head. Moreover, if Mr. Hunter were to attempt to rely on an implicit approval argument, the Union could contend in response that he has “unclean hands,” because he failed to notify the Player Representatives and the Executive Committee that his contract had not been properly approved after Steptoe & Johnson brought the problem to his attention in November 2011. Again, while the results of any litigation can never be guaranteed, we believe the Union’s side of this argument is far stronger.

C. Recommendations

Regardless of the NBPA’s decision with respect to Mr. Hunter’s future, the Union needs reform and renewal in many areas. In the course of our investigation, in addition to identifying specific problems attributable to Mr. Hunter’s actions, we also identified multiple internal control deficiencies and corporate governance weaknesses that Mr. Hunter should have addressed and that the Union should now address. We urge the Union to consider the following proposals, among others presented in this Report.

Executive Director

- The Board of Player Representatives and the Executive Committee should properly appoint an Executive Director and properly approve his employment contract.
- The Board of Player Representatives and the Executive Committee should have the benefit of independent legal and financial advice, especially when negotiating any employment contract with an Executive Director.
- The Executive Director should not be permitted to accrue an excessive amount of paid vacation time, if any.
- The Board of Player Representatives and the Executive Committee should exercise greater supervision over the Executive Director and should define his duties and responsibilities, including his ability to pursue investment opportunities, with greater specificity.

Conflicts of Interest

- The Union should adopt a more comprehensive and stringent conflicts of interest policy.
 - The Union should consider including in such a policy a bright-line anti-nepotism rule prohibiting the employment of immediate family members of NBPA employees, directors or officers. Such a rule allows for more efficient management and easily ascertainable lines of authority and avoids perceptions of favoritism and undue influence.
 - Such a rule would prohibit the Union from continuing to employ Robyn Hunter and Megan Inaba if Mr. Hunter is retained as Executive Director.
- To the extent that the Union adopts an anti-nepotism rule, it should also consider prohibiting the use of Union vendors who employ immediate family members of NBPA employees, directors or officers, or outlining procedures for disclosing and managing such conflicts of interest.
- The Union should consider not using the services of Prim Capital.
 - Mr. Hunter's actions have contributed to the appearance that the Union's decision to continue to use Prim Capital is influenced by his son Todd's employment at that firm. One way to curtail this ongoing problem would be for the Union to look for another financial services provider.
 - Further, Prim has refused to provide the Union with requested information about supplemental fees it may receive as a result of its relationship with the NBPA, and in our opinion has not cooperated fully with this investigation.
 - When choosing whether to retain Prim or a new financial services provider, the Union should request and evaluate proposals from at least three potential vendors.

Corporate Governance

- The NBPA should revise its By-Laws to make certain that they conform to the law of Delaware (where the Union is incorporated) and to ensure that the Executive Committee is properly constituted. The Union should ensure that the By-Laws are followed carefully.

- The NBPA should adopt all of the recommendations made by its outside auditor, Calibre.
- The NBPA should set clear rules that govern the giving of gifts purchased with Union funds to officers or directors.

NBPA Foundation

- The Foundation should carefully follow its by-laws and observe laws and standards applicable to New York non-profit organizations. In particular, the Foundation should:
 - Properly appoint officers and directors, hold board meetings and keep records of such meetings.
 - Adopt clear policies and procedures for evaluating grant applicants and conduct due diligence on potential grant recipients.
 - Adopt a conflicts of interest policy.

D. Status of Investigation by the U.S. Attorney's Office

Although this internal investigation is complete, we understand that the U.S. Attorney's criminal investigation remains ongoing. The NBPA has previously announced that it will cooperate fully with that inquiry, and it will continue such cooperation. Accordingly, Paul, Weiss has been in direct communication with the U.S. Attorney's Office throughout this investigation.

We first met with the government on April 30, 2012, just days after the Special Committee retained us. Since then, in response to the government's subpoena to the Union, we have produced nearly 29,000 pages of documents, including internal Union governance documents, financial records and emails. These documents have been given both to the U.S. Attorney's Office and the U.S. Department of Labor, which is assisting in the investigation. That document production is not yet complete, and we will need to provide more Union documents to the government to satisfy outstanding requests.

In recent months, we have had multiple telephone conversations with the government about the matters under review. On January 9, 2013, we met with the prosecutors supervising the investigation for nearly four hours. During that meeting, we provided an oral summary of the key findings and conclusions of this Report, and said that, to promote transparency and accountability at the Union, we believed it important for the Report to be distributed to every member of the NBPA and also released to the public. The prosecutors regard making the Report available to every NBPA member and the public as evidence of the Union's cooperation. The prosecutors also informed us that they are looking forward to reviewing this Report in its entirety, and it is our hope that its release will hasten the conclusion of the government's investigation. Nevertheless, the prosecutors made it clear that their inquiry would continue after the Report is released.

Finally, we do not know the full scope of the issues the government may be considering. The prosecutors, who possess subpoena power that we do not have, may have access to documents we have not reviewed and may have interviewed witnesses to whom we did not speak. We can make no predictions about the eventual results of the government's investigation, or whether either the U.S. Attorney's Office or the Department of Labor will agree with the conclusions we reach in this Report.

* * *

The balance of this Report proceeds as follows. Section I describes our investigative work. Sections II and III discuss the basic factual background and the legal and policy framework, respectively, in which we conducted this review. Section IV analyzes the most significant questions raised during the course of the investigation, primarily those relating to conflicts of interest, nepotism and the potential misuse of Union funds. Section V discusses

deficiencies in the governance of both the NBPA and the NBPA Foundation, as well as related management weaknesses. Section VI sets forth recommendations for how the NBPA's officers and directors may respond to this Report and strengthen the Union going forward.

We note that this Report should not be viewed as making any findings or reaching any conclusions about matters that are not specifically addressed below. Even after thorough investigation, certain matters remain unclear. In addition, this Report is not a financial audit. Although Deloitte was retained to assist with certain financial analyses, the firm was not charged with providing audit, compilation, review or attestation services as described in the pronouncements on professional standards issued by the AICPA or any successor standards setting body and has not expressed an opinion or other form of assurance with respect to the NBPA's system of internal control over financial reporting or its compliance with laws, regulations, or other matters.

This Report stresses our belief that the Executive Committee must receive, when needed, independent professional advice, which may include legal advice, financial advice, accounting advice or advice in other areas. This is especially essential in situations in which members disagree with the Executive Director, or require advice on governance issues, or learn of the potential for conflicts. We wish equally to stress, however, that Paul Weiss does not seek and will not accept an engagement request from the Executive Committee, the Board of Player Representatives or the Union to be regular outside counsel, for our firm does not wish to call into question the independence of this Report or to permit any impression that an interest in additional legal fees motivates our strong emphasis on the importance of having independent outside counsel to assist the Executive Committee or Players Representatives when appropriate. We are available to meet with or otherwise assist the members of the Special Committee, the

Executive Committee and the Board of Player Representatives, as well as any other interested players, as they review and seek to respond to this Report, including before and during the Union's February 2013 meetings. We also expect to continue to assist the Union in responding to the ongoing investigation by the U.S. Attorney's Office. Our role should and will be limited to assisting and advising the Union, its officers and directors, and its members in addressing the current difficulties.

Finally, we understand that there are often significant constraints on the amount of time Player Representatives and Executive Committee members may have for the Union during the NBA season. Nevertheless, we urge them, to the extent possible, to devote more time and energy to fulfilling their responsibilities to the Union. The NBPA would function more effectively if the Player Representatives and the Executive Committee spent more time reviewing the Executive Director's actions and asserting their authority.

I. Overview of the Investigation

A. Selection of the Special Committee

The Special Committee is composed of six members: Matt Bonner, Matt Carroll, Ben Gordon, James Jones, Etan Thomas and Anthony Tolliver. Three members of the Special Committee (Bonner, Jones and Thomas) were serving on the NBPA's Executive Committee when they were appointed and three (Carroll, Gordon and Tolliver) served as Player Representatives for their respective teams during the 2011-12 season. Jones is acting as chairman.¹ The Special Committee was charged with supervising this internal investigation and the Union's response to the government's subpoena.

B. Engagement and Independence of Paul, Weiss and Deloitte

The Special Committee engaged Paul, Weiss as of April 26, 2012, and retained Deloitte on May 4, 2012 to assist Paul, Weiss and work under its direction.

Both firms were selected because they have extensive expertise in conducting the type of review requested by the Special Committee. In addition, neither Paul, Weiss nor Deloitte had any pre-existing professional relationship with Billy Hunter, any of his family members, the NBPA, any member of the Special Committee or their representatives.² Hunter did not direct the investigation nor did he dictate the results. Hunter retained separate counsel to represent him in connection with both the internal and government investigations.

¹ As discussed below, the Executive Committee may currently have only two members. The terms of the other seven members have either expired or those members are no longer eligible for service. We have, nonetheless, referred to those members of the Committee as "members," rather than "former members," because their successors have not yet been elected or they are eligible for reelection. We adopted this approach solely for convenience and clarity in this Report.

² To avoid confusion, Billy Hunter is usually referred to in this Report as "Hunter," and his children—Todd Hunter, Robyn Hunter and Alexis Hunter—are referred to either by their full names or their first names. Further, we typically refer to Hunter and others by their last names, without using their personal titles. The informality of these approaches are not meant to express any lack of respect; it was adopted solely for clarity and convenience.

During the course of our review, we provided general status updates and preliminary recommendations to the Special Committee. We have not, however, provided the Special Committee with any written findings or conclusions until now. No member of the Special Committee—nor any other Union member or Union employee—drafted, reviewed or edited this Report, which is simultaneously being provided to the Special Committee and the U.S. Attorney’s Office and being released publicly, as approved by the Special Committee.

C. Timeframe

Many of the events that we investigated took place within the past five years, and we have focused our investigation on that period. Nevertheless, certain matters required us to look back further. For example, one of the allegations of potential nepotism relates to the Union’s employment of Megan Inaba, who was hired by the NBPA in 2000. As a result, we adjusted the timeframe of our review on an issue-by-issue basis.

D. Documents Reviewed

As part of the review, we collected and reviewed a broad range of hardcopy documents and electronic materials, mainly from the NBPA, but also from other sources. Members of the NBPA’s staff, particularly Associate Counsel Yared Alula and Director of Finance Theresa Messer, were extremely responsive to our requests for documents, as were representatives from Calibre and Outbound Travel.

The major categories of hardcopy documents we reviewed include:³

- Documents concerning the practices, policies and governance of the NBPA, including the Constitution and By-Laws, Employee Handbook and Accounting Manual;

³ The materials we collected, particularly from the NBPA, are, to the best of our knowledge, accurate and reliable. To the extent we have relied on documents that we now know to contain inaccuracies, we have so specified. Nonetheless, we did not independently evaluate the accuracy or reliability of each document provided to us or discussed in this Report.

- Minutes from meetings of the Executive Committee and Board of Player Representatives;
- Employment contracts, resumes and personnel documents for selected employees;
- Audited financial statements and internal controls reports for the NBPA and its subsidiaries, as well as underlying audit work papers prepared by Calibre;
- Management reports and accounting transaction documents, including budgets and Board presentations;
- Form LM-2 Labor Organization Annual Reports;
- Payroll registers and salary data;
- Employee attendance and vacation logs;
- Monthly statements for corporate credit cards used by selected employees, including statements contemporaneously annotated by Hunter during his review of his expenses;
- Expense reports, employee reimbursement forms and related supporting documents for selected employees;
- Selected vendor contracts, invoices, correspondence and related materials;
- Documents and correspondence related to selected charitable donations made by the NBPA Foundation;
- Travel records maintained by Outbound Travel for selected employees;
- Investment reports, asset management statements and portfolio performance reports prepared by Prim Capital, as well as documents produced by Prim to the U.S. Attorney's Office;
- Documents concerning potential investments and deals considered by the NBPA, as well as related due diligence materials; and
- Selected news articles and other publicly available information concerning Hunter and the NBPA.

In addition, we reviewed two major categories of electronic documents. First, we collected data from the NBPA's electronic accounting system, which is maintained on a

Microsoft Great Plains software system (“Great Plains”) by an outside accounting information systems consultant, Micro Force, Inc. (“Micro Force”). The Union instructed Micro Force to extract and produce data for all transactions contained in the general ledger and accounts payable databases for the NBPA and certain of its subsidiaries, including the WNBPA, and the NBPA Foundation. Because such data was available only from fiscal year 2005 (when the Union began using the Great Plains software platform) through the present, Deloitte supplemented its review of the Great Plains data with records from the Union’s Finance Department.

Second, we collected and reviewed email from the following eight NBPA employees:

- Kendalle Freeman;
- Gary Hall;
- Billy Hunter;
- Robyn Hunter;
- Megan Inaba;
- Ron Klempner;
- Theresa Messer; and
- Shelia Thompson.

In total, we collected approximately 944 GB of email data, which we then filtered using key words in an effort to focus on those communications most relevant to our investigation. In total, we reviewed approximately 56,000 emails, most of which were sent during the 2007-2012 time period.⁴

⁴ Although we were able to collect and review a substantial amount of email data, we could not collect every email sent or received by these employees. Due to the nature of the NBPA’s email systems and because the NBPA does not maintain back-up tapes of its email servers, most emails that were previously deleted could not be recovered.

We did not receive all of the materials we requested. By way of example, although we requested copies of all corporate American Express statements for particular employees, we discovered that certain statements were missing. We also learned that Hunter often does not complete expense reports and does not always submit receipts for the charges made on his corporate credit cards, even though he has been asked to do so by Calibre. Accordingly, we were not able to review all of the materials we deemed relevant.

E. Witnesses Interviewed

We interviewed the following 37 witnesses (some more than once), either in person or by telephone:

Person Interviewed	Title
Matt Bonner	Vice President, NBPA Executive Committee
Sean Brandveen	Counsel, NBPA
Doug Creighton	Chief Operating Officer, Prim Capital Corporation
Keyon Dooling	First Vice President, NBPA Executive Committee
Maurice Evans	Vice President, NBPA Executive Committee
Glenn Eyrich	Partner, Calibre CPA Group PLLC
Derek Fisher	President, NBPA Executive Committee
Adonal Foyle	Former First Vice President, NBPA Executive Committee
Kendalle Freeman	Staff Accountant, NBPA
Robert Gadson	Director of Security & Agent Administration, NBPA
Patrick Garrity	Former Secretary-Treasurer, NBPA Executive Committee
James Hibey	Partner, Steptoe & Johnson LLP; Former Partner, Howrey LLP
Alexis Hunter	Special Counsel, Steptoe & Johnson LLP; Former Associate, Howrey LLP

Person Interviewed	Title
G. William Hunter	Executive Director, NBPA
Robyn Hunter	Director of Player Benefits & Concierge Services, NBPA
Todd Hunter	Vice President, Prim Advisors; Director, Prim Capital Corporation
Megan Inaba	Director of Special Events & Sponsorships, NBPA
James Jones	Secretary-Treasurer, NBPA Executive Committee
Carolyn Kaufman	Director, Prim Capital Corporation; President/CEO, Prim Advisors Inc.
Tiffani Kenny	Staff Accountant, NBPA
Bernard King	Partner, Blitman & King LLP
Roger Klein	Former Partner, Howrey LLP
Ronald Klempner	Deputy General Counsel, NBPA
David Levine	Principal, Groom Law Group
Joseph Lombardo	Managing Director, Prim Capital Corporation
Roger Mason	Vice President, NBPA Executive Committee
Theresa Messer	Director of Finance, NBPA
Suzanne Oldham	Secretary to the Executive Director & Office Manager, NBPA
Danyale Price	Former Director of Career Counseling, NBPA ⁵
Theo Ratliff	Vice President, NBPA Executive Committee
Robert Ricardo	President, Outbound Travel, Inc.
Purvis Short	Director of Player Programs, NBPA
Etan Thomas	Vice President, NBPA Executive Committee

⁵ Since January 2006, Price has served as the Head of Diversity and Gender Initiatives at Paul, Weiss. She played no part in the NBPA's selection of Paul, Weiss to conduct this investigation.

Person Interviewed	Title
Shelia Thompson	Accounting Manager, NBPA
Dan Wasserman	Director of Communications, NBPA
Pamela Wheeler	Director of Operations, WNBPA
Steven Wheless	Partner, Steptoe & Johnson LLP

Some of the witnesses were represented by counsel at their interviews. No limits were placed on the questions that could be raised during the interviews, and, with few exceptions, the witnesses willingly answered the questions put to them. We encouraged them to be open and forthright, and we believe that in response we heard frank statements, which helped greatly to facilitate our review. It is our firmly-held view that no Union employee should be terminated or otherwise penalized because he or she cooperated with the investigation, including by candidly reporting on his or her interactions with Hunter.

We learned, however, that some witnesses were concerned about speaking candidly to us because they had concerns that this investigation was perhaps designed to aid Hunter. We explained to such witnesses that we had been retained by and worked for the Union's members, that our investigation was independent and that our objective was to produce a fair and reliable Report, not one slanted in Hunter's favor. Nevertheless, we could not compel witnesses to be candid, and if they chose not to share information with us, we were not able to evaluate it.

We did not receive cooperation from all of the parties from whom we sought statements or documents. In particular, Prim Capital, the Union's financial advisor, initially cooperated with our inquiry, but then later refused to cooperate further, and failed to provide us with documents and information about important issues. Similarly, Hal Biagas, Michael Curry

and Charles Smith declined to be interviewed in connection with our review, and several players did not return telephone calls or emails seeking to arrange interviews. We have noted where such failures to provide information materially affected our ability to draw conclusions about particular issues.

F. Issues Not Considered

Although some of the recent articles published about the NBPA reported that a conflict has arisen between Billy Hunter and Derek Fisher, we were not retained to mediate, and did not seek to resolve, any dispute that may exist. We note that both Hunter and Fisher made themselves available for lengthy interviews, and that their assistance was invaluable. Moreover, we were not charged with second-guessing the wisdom of the strategies that Hunter employed while negotiating the most recent collective bargaining agreement (the “CBA”), and evaluated those strategies only as necessary to address issues relevant to our investigation, such as conflicts of interest. We were not asked to, and did not, evaluate the merits of the deal that the Union struck with the NBA to end the lockout in 2011.

II. Factual Background

A. The NBPA

1. Mission and Membership

Established in 1954, the NBPA is the labor union for the professional basketball players who play in the NBA. All current NBA players, defined by the By-Laws as players “employed … on any of the individual teams which comprise the NBA,” are eligible to be members of the NBPA. Formerly employed or retired players are eligible for associate membership status, although associate members are not permitted to run for or hold office, or cast a vote in any Union elections. The By-Laws also prohibit anyone “employed as an executive, manager, or coach or player coach by any NBA team or [WNBA] team or by the NBA or WNBA” from becoming or remaining a member.

According to the By-Laws, the organization is authorized to “engage in whatever educational, legislative, political, civic, social welfare, community or other activities which will advance and safeguard the economic security and general social welfare of employees in this industry (both during and after their playing careers) and/or any other industry.” One of the NBPA’s primary activities, of course, is the representation of its members in the negotiation and administration of the CBA. The NBPA also administers a group licensing program, and negotiates member retirement and health insurance benefits. In addition, the Union provides a variety of educational, career and post-career services. Through the NBPA Foundation, a separate but affiliated non-profit corporation, the Union provides support to charitable organizations.

2. Organizational Structure

The Union is governed by a Board of Player Representatives and an Executive Committee, with day-to-day operations carried out by an Executive Director and Union staff.

Pursuant to the By-Laws, the Board of Player Representatives is the “highest policymaking body” of the NBPA, and consists of thirty members, one elected by each NBA team for a one-year term. Each team also elects an Assistant Player Representative, who serves as the team’s delegate to Board meetings if the team’s primary Player Representative is absent. The Executive Committee consists of nine members—a President, a First Vice President, a Secretary-Treasurer and six Vice Presidents—elected by the Player Representatives. The President and First Vice President are elected to four-year terms, and the Secretary-Treasurer and Vice Presidents serve three-year terms. Any NBPA member in good standing is eligible to be nominated and hold office as a member of the Executive Committee.

The Executive Committee and Board of Player Representatives typically meet in-person twice annually—once during the summer, usually in July, and once in February during the annual NBA All-Star Weekend. The By-Laws provide that “[d]uring the interim period between the Board of Player Representatives meetings, the Executive Committee shall have the full power to direct the affairs of the Players Association consistent with the other provisions set forth in this Constitution.” The Committee also meets periodically throughout the year, often by phone.

3. Personnel

The NBPA currently has 29 employees, most of whom are based in the Union’s New York City office, which is located at 310 Lenox Avenue in Harlem. The Union currently has a four-person Legal Department and a five-person Finance Department.

The Legal Department plays a central role in negotiating, drafting and interpreting the CBA on behalf of the Union. It also prosecutes player grievances against teams and the NBA; counsels players and agents regarding players’ rights and benefits; assists players and agents in negotiating player contracts; and enforces agent regulations. Today, the Legal

Department is staffed by Deputy General Counsel Ronald Klempner, who joined the NBPA in 1993; Associate Counsel Yared Alula, who joined in 2010; and two Counsel, Sean Brandveen and David Kiefer, who joined in 2008 and 2011, respectively.⁶ Megan Inaba, Director of Special Events and Sponsorships, also works closely with the Legal Department.

The Finance Department is led by Director of Finance Theresa Clark Messer, who has worked for the NBPA since 1997. She is assisted by Accounting Manager Shelia Thompson, who joined the NBPA in 2001; two Staff Accountants, Kendalle Freeman and Tiffani Kenny, who joined as full-time employees in 2001 and 2010, respectively; and Finance Assistant Yvonne Moiseau, who has worked for the NBPA since 2011. The Finance Department is primarily responsible for overseeing the day-to-day financial activities of the NBPA and its related entities. It also develops and monitors the Union's annual budget; assists in preparing the Union's financial statements; manages independent financial audits of the Union and the Union's relationship with Prim Capital; and administers the distribution of licensing revenue to members.

We found the members of the Finance Department with whom we worked during the investigation to be cooperative and competent. Messer and Thompson, in particular, were very responsive to our multiple requests for information and were more than willing to explain the Union's financial and accounting systems in detail. In our opinion, both Messer and Thompson are tremendous assets to the NBPA.

4. Finances

According to a draft of the Union's most recent financial statements, which cover the fiscal year ending on June 30, 2012, the Union's total assets were \$193.19 million and its total liabilities were \$113.96 million. Approximately 84 percent of the Union's assets were

⁶ The Union does not currently have a General Counsel; Gary Hall, who had served as NBPA's General Counsel since 2005, passed away in May 2011.

financial investments, which consist primarily of mutual funds with a fair market value of \$161.38 million as of June 2012. The fair value of the NBPA's investments appreciated by \$2.54 million during fiscal year 2012, and the Union earned \$1.84 million in investment income.

During fiscal year 2012, the NBPA's total revenues were \$23.8 million. "Logo use revenues," which are paid to the NBPA pursuant to a group license agreement with NBA Properties, constitute the largest source of Union revenues—\$9.25 million in fiscal year 2012 alone. Most of this money is ultimately distributed to the Union's members, but the Board of Player Representatives has authorized the NBPA to retain a portion to fund future labor negotiations.

The second largest source of Union revenues is annual membership dues, which totaled \$4.33 million in fiscal year 2012. To collect dues, the Union withholds \$10,000 from each player's share of annual logo use revenues. According to Billy Hunter, player dues have not been increased for eleven years.

The NBPA's total expenses were \$16.12 million in fiscal year 2012. The organization's largest expenses were salaries, payroll taxes and benefits, which totaled \$6.50 million.

B. Billy Hunter

Billy Hunter graduated from Syracuse University in 1965. He then spent two seasons in the NFL, playing for the Washington Redskins and the Miami Dolphins. After retiring from professional football, Hunter attended Howard University School of Law, receiving his J.D. in 1970, followed by one year at the University of California, Berkeley School of Law, where he received a Master of Laws in 1971.

From 1971 to 1975, Hunter worked in the Alameda County District Attorney's Office in Oakland, California as a Deputy District Attorney. He then transferred to the San

Francisco District Attorney's Office, where he served as an Assistant District Attorney until 1977. Hunter became the United States Attorney for the Northern District of California in 1977, a position he held until 1982.

Following his government service, Hunter started his own law firm, the Law Offices of Hunter & Anderson, with a partner, and practiced there from 1982 to 1987. The 10-attorney firm was based in Oakland and specialized in civil litigation, municipal finance, business law and white collar criminal defense matters. In 1987, Hunter founded a new firm, the Law Offices of G. William Hunter & Associates, also in Oakland, which focused on similar types of matters. Hunter left this practice when he joined the NBPA as Executive Director in 1996.

Hunter currently serves on four boards of directors. He is a member of the Board of Trustees of Syracuse University, and a director of the Upper Manhattan Empowerment Zone, the Naismith Memorial Basketball Hall of Fame and Youth on the Move, an organization affiliated with the Abyssinian Baptist Church in Harlem, where Hunter is a member. He and his wife, Janice, have three children, Todd, Robyn and Alexis.

Since becoming Executive Director, Hunter has represented the NBPA in three rounds of collective bargaining with the NBA, with new CBAs signed in 1999, 2005 and 2011. Two of these CBAs (1999 and 2011) were finalized only after lockouts led to the cancellation of part of the NBA season. Hunter also serves as Executive Director for the WNBPA, which was founded as a subsidiary of the NBPA in 1999, one year after the launch of the WNBA. The most recent WNBA-WNBPA collective bargaining agreement was executed in January 2008.

Hunter is currently in the second year of his fourth employment contract with the NBPA, which was executed on June 23, 2010, and covers the period July 1, 2011 through June

30, 2015.⁷ The agreement states that it may be extended through June 30, 2016 at Hunter's option, and then further through July 1, 2017 at the Executive Committee's option. He currently receives an annual salary of \$3 million. Hunter reported that he has no sources of compensation other than his NBPA salary and benefits.

⁷ Although we discuss the terms of Hunter's employment contracts throughout this Report, we do not conclude that any of those contracts were in fact properly approved by the NBPA's Board of Player Representatives and Executive Committee in accordance with the By-Laws. We have found that the 2010 contract was not properly approved, and we have seen no documents suggesting that the 2005 contract was either. The prior two contracts were entered into in 1996 and 1999, and we were unable to review the By-Laws in effect at the time to determine if they contained particular approval requirements for the Executive Director's employment contract. Nor did we review any Union records concerning the approval of the 1996 or 1999 contracts.

III. Legal and Policy Framework

A. Criminal Law

This investigation focused, in the first instance, on determining whether Hunter committed any crimes with respect to his duties as Executive Director. In particular, we sought to determine whether Hunter had committed fraud, embezzlement or theft, as such behavior could constitute a crime under one of the primary federal statutes that controls the NBPA's operations, the Labor-Management Reporting and Disclosure Act of 1959 (the "LMRDA"). In addition, it is also likely that such crimes could be prosecuted under federal mail or wire fraud statutes. Indeed, charges against union officials under the LMRDA are often paired with charges under federal wire fraud statutes. Collectively, these laws have been used, for example, to prosecute union officials who submitted false claims to unions to be paid for periods when they had not actually worked, or who submitted requests to receive union reimbursement for personal travel or personal expenses. Fraud charges generally require a showing that the defendant acted with the intent to deceive.

In our view, the facts do not show that Hunter stole or embezzled money. As discussed herein, however, in part due to the incomplete nature of the factual record, we cannot establish that his reporting for the days he spent away from the office was accurate and appropriate, much less that the records support his request for a huge payout of accrued vacation time.

We also considered whether the allegations of nepotism made against Hunter could lead to criminal liability.⁸ In our view, Hunter's decisions to hire family members to work for the NBPA do not, on their own, constitute a criminal violation. Our opinion on this question

⁸ Black's Law Dictionary defines nepotism as the "[b]estowal of official favors on one's relatives," especially "in hiring."

is based, in part, on our view that Hunter’s family members appear to be qualified for their positions, do not appear to be receiving excessive compensation and do not have “no show” jobs at the Union.

B. Civil Law

The LMRDA also establishes standards for civil liability, primarily in connection with a union official’s satisfaction of fiduciary obligations.⁹ Section 501(a) of the LMRDA concerns the fiduciary obligations of union officials, who “occupy positions of trust in relation to” their unions and members, establishing that it is their duty (within the unique context of a labor union):

to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, [and] to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization....¹⁰

Under the law of Delaware (the state in which the NBPA was incorporated), Hunter owes the Union fiduciary duties of care and loyalty.¹¹ The duty of care prohibits an officer or director from acting in a grossly negligent or uninformed manner with respect to corporate decision-making.¹² The duty of loyalty requires that, when making business decisions, directors or officers of an organization not consider or represent positions other than those that

⁹ The LMRDA also imposes reporting and disclosure obligations on labor unions. In particular, the LMRDA mandates that unions file, among other things, annual financial reports that reveal the union’s assets, liabilities, receipts and disbursements, including loans. 29 U.S.C. §§ 431(b), 432(a). Failing to do so or filing inaccurate reports may expose an individual or union to civil and/or criminal liability. 29 U.S.C. §§ 439, 440.

¹⁰ The LMRDA does not provide further detail about the nature or scope of the fiduciary obligations of union officials. Recognizing that additional guidance might be helpful, in August 2005 the Department of Labor asked for public comments on the question of whether to issue guidelines concerning fiduciary duties under Section 501(a). The request was withdrawn in July 2006 after the Department decided not to issue guidelines or take further action.

¹¹ See *Mills Acquisition Co. v. Macmillan, Inc.*, 559 A.2d 1261, 1280 (Del. 1989).

¹² See *Smith v. Van Gorkom*, 488 A.2d 858, 873 (Del. 1985), overruled on other grounds by *Gauntler v. Stephens*, 965 A.2d 695 (Del. 2009).

are in the best interests of the organization.¹³ Delaware law also establishes a duty of candor that requires fiduciaries to disclose all material information relevant to business decisions from which they may benefit personally.¹⁴

Within the union context, courts have allowed claims for breach of fiduciary duties to be brought against a union president who failed to secure approval for the disbursement of union funds as required by union by-laws, and against union officers who deliberately overpaid an executive director over the course of his employment. As is particularly relevant here, in one case a union officer was found to have falsely reported that he had not taken a vacation for several years in order to receive payment for accrued but unused vacation days, when there was substantial evidence that the officer had actually taken many vacations.¹⁵ The officer was ordered to make restitution to the union for all pay that he received in lieu of vacation.

On the other hand, it does not appear to be a violation of a fiduciary duty for a union officer to simply employ a family member, absent a showing that the relative's compensation was objectively unreasonable or excessive.

The NBPA and its related entities are subject to state statutes in addition to the LMRDA. In particular, as a Delaware non-stock corporation, the NBPA is subject to the General Corporation Law of the State of Delaware (the "DGCL"), which also provides a framework for the Union's corporate governance. The NBPA Foundation, which was incorporated in New York, is subject to the New York Not-for-Profit Corporation Law ("NPCL"). Where relevant, these statutes have also shaped our analysis.

¹³ 1 R. Franklin Balotti & Jesse A. Finkelstein, *Delaware Law of Corporations & Business Organizations*, § 4.16.

¹⁴ *Mills Acquisition Co.*, 559 A.2d at 1280.

¹⁵ *Morrissey v. Curran*, 482 F. Supp. 31, 46 (S.D.N.Y. 1979), *aff'd in part and rev'd in part, on other grounds*, 650 F.2d 1267 (2d Cir. 1981).

C. NBPA Governing Documents and Policies

We also evaluated Hunter's conduct within the context of the NBPA's governing documents and internal policies.

The Union's primary governing document is its Constitution and By-Laws. (Ex. 7) The By-Laws set forth, among other things, basic Union eligibility and membership requirements, the procedures by which Union elections are held and the roles, responsibilities and terms of the Executive Committee and Board of Player Representatives. The By-Laws also provide that the Executive Director "shall carry out the policies of the Association and direct all the affairs of the Players Association on a day-to-day basis between meetings of the Executive Committee," subject to Executive Committee approval. They also grant the Executive Director full authority over personnel and employee compensation decisions, as well as the power to retain "outside counsel and technical assistance as necessary," subject to budget approval by the Executive Committee.

Article V, Section 4 lists the Executive Director's primary responsibilities. It states that the Executive Director shall:

- (a) conduct the collective bargaining relationship between the Players Association and the NBA (including, but not limited to, conducting negotiations, administering the grievance-arbitration process, and representing the Association in meetings with the NBA or individual teams dealing with any employment related issue); (b) supervise the administration and enforcement of the Player Agent Regulations program; (c) serve as a Players Association representative on committees established pursuant to the collective bargaining agreement; and (d) engage in all other activities to serve the interest of the membership consistent with this Constitution.

To carry out these responsibilities, the Executive Director may, among other things, enter into contracts on behalf of the Union, but any contract in the amount of \$25,000 or more is "subject to the approval of the Executive Committee."

The By-Laws contemplate that the Executive Director will rely on a staff, including a General Counsel, and outside advisors in carrying out these functions and will, in addition, work with the Executive Committee, particularly the Secretary-Treasurer, to monitor the Union's administrative functions. The By-Laws provide that the Executive Director's activities will be supervised by the Executive Committee.

Many of the NBPA's internal policies are found in its Employee Handbook, which describes the organization's policies related to employee benefits, absences and vacation, confidentiality and conflicts of interest, among other things. We understand that efforts to revise the Handbook have been made over time, but have not yet been completed. Nonetheless, multiple witnesses confirmed that they were familiar with the version provided to us and still believed that its policies were in effect.

The Handbook contains a conflicts of interest policy that prohibits employees from "engaging in any activity, practice, or act which conflicts with, or appears to conflict with, the interests of the NBPA or its members," and from "engag[ing] in, directly or indirectly, any conduct which is disloyal, disruptive, competitive, or damaging to the NBPA." (Ex. 8) The policy also requires employees to "disclose any financial interest they or their immediate family have in any firm which does business with the NBPA or which competes with the NBPA."

Yet, this policy should address with greater specificity particular situations that may create conflicts of interest, and the NBPA would be better served by a policy that identifies such situations. In particular, the Union should also consider instituting a strict anti-nepotism policy that prohibits the employment of relatives of NBPA employees, officers or directors and restricts the Union from retaining vendors that employ immediate family members of those same individuals.

Separate from the Employee Handbook, the NBPA has a Travel and Entertainment Policy that sets out the rules and procedures applicable to employees who seek reimbursement for business travel and entertainment expenses. (Ex. 9) It provides that the NBPA will reimburse employees for any such expenses that are “reasonable and necessary.” The policy also sets rules for business trips that are extended for personal reasons, providing that NBPA employees must pay for increases in airfare resulting from such personal travel as well as for hotels, meals, or other expenses on days preceding or following business travel.

IV. Issues Considered During the Course of the Investigation

A. Conflicts of Interest

1. Hunter's Current Employment Contract

Hunter's current employment contract, which he signed in June 2010, resulted from a negotiating process in which the Executive Committee was not represented by truly independent counsel. Hunter was informed in November 2011 that his contract had not been approved as required by the Union's By-Laws, yet failed to address this problem in any meaningful way. His failure to ensure that the Union had the benefit of independent advice in its contract negotiations with him reflected poor judgment, and his failure to disclose the advice that his contract had not been properly approved is inconsistent with his fiduciary duties to the Union.

(a) Background

Since he became Executive Director, Billy Hunter has had four employment contracts with the NBPA. Hunter's initial contract, which covered the period July 15, 1996 through July 14, 1999, provided for an annual salary of \$625,000 in the first year, with a gradual increase to \$825,000 in the third year. His second contract, which ran from July 15, 1999 through July 14, 2006, set his annual salary at \$1.3 million for the first year, and provided a gradual increase to \$1.9 million in the final year. His third contract, which covered the period July 1, 2005 through July 1, 2011, set his annual salary at \$2.1 million for the first year and \$2.3 million in subsequent years.¹⁶ We focus primarily on the 2010 contract here.¹⁷ (Ex. 10)

¹⁶ Each of the first three contracts also provided for an annual bonus of between \$125,000 and \$150,000, payable at the discretion of the Executive Committee. We understand that the Executive Committee has never awarded Hunter a bonus and that the Committee members have never discussed doing so.

¹⁷ The limited evidence reviewed concerning the negotiations that led to the 2005 contract suggests that those negotiations may have been similarly flawed, and that the Executive Committee may not have received independent advice at that time. Hall was involved in the 2005 negotiations, but his role and actions at that time are unclear. No evidence reviewed suggests that this contract was properly approved under the Union's By-Laws.

(b) The Negotiations for the 2010 Contract

Although Hunter’s 2005 contract did not expire until July 2011, he received a new employment agreement in June 2010. When asked why his contract was renewed one year prior to its expiration, Hunter explained that he was determined not to enter the next round of collective bargaining negotiations in 2011 without a new deal. Derek Fisher reported that in early 2010, Gary Hall informed the Committee that Hunter’s 2005 contract would expire before or during the expected lockout, and that it would be smart to consider a new contract for Hunter before the next round of collective bargaining began.

Throughout the contract negotiation process, the Executive Committee communicated with Hall. Hall appears to have acted as Hunter’s emissary to the Committee, advising both the Committee and Hunter about the agreement. Although Hall was the Union’s General Counsel, his objectivity in advancing the Union’s interests in the contract negotiations was potentially compromised by his relationship with Hunter: he was Hunter’s best friend of 30 years; Hunter alone retained him; Hunter alone determined his salary; and he reported directly and only to Hunter. Hunter should have appreciated that it would be difficult, if not impossible, for Hall to represent the Executive Committee with undivided loyalty to its interests in this situation.¹⁸

Both Fisher and James Jones felt that Hall’s representation was more of Hunter than the Executive Committee. Fisher reported that the negotiations for Hunter’s employment agreement were “one sided,” and that the Executive Committee was not represented “in a fair manner.” Jones stated that Hall “made the case” that Hunter deserved a salary increase.

¹⁸ Although Hunter’s contract includes a clause stating that the Executive Committee “had the unrestricted opportunity to be represented by independent legal counsel of [its] choice” in the contract negotiations, it would have been prudent for Hunter and Hall to ensure that Fisher and the rest of the Executive Committee appreciated the need to receive independent legal advice.

When considering the new contract, the Executive Committee's focus appears to have been primarily on adjusting Hunter's salary. Fisher said that the Committee sought to determine an appropriate annual salary in part by considering how much the executive directors of other sports unions were paid, and that the Committee did not focus on other provisions of the contract, such as those related to vacation, insurance or termination. Indeed, many of those provisions remained unchanged from Hunter's previous contracts. In an email to the Executive Committee on April 22, 2010, Hall provided comparative salary information:

Regarding, the Executive Directors of Major League Baseball PA and the National Football PA I was able to determine the following: Michael Weiner has just been appointed Executive Director of the PA in baseball and does not have a 'finalized' contract. Gene Upshaw the former Executive Director of the NFLPA was making approximately \$6.4 million with incentives. His successor, D.Maurice [sic] Smith has an [sic] first contract of three years and makes about \$2.8 million per year. (Ex. 11)

We do not know the source of Hall's information, but it may have been incorrect. The numbers Hall provided to the Committee for DeMaurice Smith and Gene Upshaw are higher than the salary information that was publicly reported in the LM-2 forms for the NFLPA at the time. Ultimately, the Committee approved a contract that increased Hunter's annual salary by approximately 30 percent to \$3 million per year.

In addition to increasing his salary, the 2010 contract limited Hunter's ability to continue holding an unlimited number of accrued but unused vacation days. The contract includes a provision stating that unused vacation days may only be carried forward for a two-year period. Given that Hunter earns seven weeks of vacation per year, however, it is still possible for him to carry forward up to a total of 70 days, which would be worth over \$800,000—a substantial liability. Had the Committee received independent advice about this

matter, the Committee would likely have learned that it is not the norm in today's job market for a senior executive to receive a contract that permits such outsized vacation accrual.¹⁹

Moreover, had the Committee been represented by independent counsel, the Committee might have been advised that it should consider a contract extension of a shorter duration, perhaps only one year, so that the NBPA's members could evaluate Mr. Hunter's performance in the upcoming collective bargaining negotiations with the NBA before agreeing him to give him another multi-year contract at a significant salary increase. In addition, had the Committee received independent advice, it might have attempted to negotiate other aspects of Hunter's employment deal. For example, it might have sought to define Hunter's duties with greater specificity. An independent advisor might also have recommended that the Committee conduct a formal review of Hunter's performance before renewing his contract.

(c) The Executive Committee's Approval of the 2010 Contract

It appears that Hall communicated with the Executive Committee by email about Hunter's new contract in the spring of 2010 and that he convened at least two conference calls with Executive Committee members about the matter. No evidence reviewed during this investigation shows that Hall provided drafts of the new contract to the Committee members, much less urged them to review such documents. Fisher reported that Hall did not provide such materials to the Committee members before they approved the new agreement.

On June 9, 2010, Hunter sent an email to the Executive Committee that stated: "Gentlemen—Gary has informed me that you granted me a contract extension." (Ex. 12) Two weeks later, the Union's summer meetings were held in Las Vegas. The Executive Committee meeting was held on June 23, and the Board of Player Representatives met on June 24. During

¹⁹ Adonal Foyle maintained that in response to the supplemental vacation payment made to Hunter in 2009, Hunter's contract should have been revised to prevent similar payments in the future. The change made in the 2010 contract does not achieve this result.

the Executive Committee meeting, an executive session was reportedly held, during which Hunter may have left the room and Hall discussed the contract extension with the Committee, which then formally voted to approve it. No written record of such a vote exists, however, either in the minutes of that meeting, which do not even reference the executive session, or in any other documents reviewed during this investigation. (Ex. 13)

Fisher signed the agreement on behalf of the Executive Committee and the Union and dated it June 23, 2010. He stated that the Committee did not discuss the details of the 2010 contract before he signed it, that he was not informed that the Player Representatives were required to approve the agreement and that he did not know that the By-Laws called for such approval. According to Fisher, he was “just given a contact to sign,” after Hall who, as the NBPA’s General Counsel, had made it clear that it was appropriate for him to sign it. Nevertheless, it would have been prudent for Fisher to have sought independent legal advice before signing the contract, even though Hunter and Hall had evidently not offered it.

Hunter’s contract was not voted on by the Union’s Board of Player Representatives, even though the Board met the next day. (Ex. 14) There is no evidence that the Player Representatives were informed that they had an obligation under the By-Laws to approve the contract. Hunter has admitted that the Player Representatives did not vote on the contract. Hunter (and Hall) should have been aware of the contract approval requirements set forth in the By-Laws, and should have insisted that the Union follow them carefully and document its acts in writing.

(d) Hunter’s Failure To Disclose the Lack of Approval by the Board of Player Representatives

At some point in late 2011, as the Union was preparing to file its disclaimer of interest, lawyers from Steptoe, who were assisting with related corporate governance issues,

discovered that the 2010 contract had not been properly approved under the Union's By-Laws. On November 23, 2011, Steve Wheeless sent an email to Billy Hunter, copying Alexis Hunter, with a subject line that included the phrase "HUNTER EYES ONLY." (Ex. 15) Attached to this email were a draft resolution entitled "Restructuring of the NBPA," an amended and restated Certificate of Incorporation and "clean" and "red-lined" versions of edited NBPA By-Laws.

In the body of the email, Wheeless provided "highlights" that explained that the attached documents would "ratif[y] Hunter's] employment contract as required by the prior By-Laws, which was never done" and "ratif[y] all the prior acts by [Billy Hunter] and the Executive Committee that were likely ultra vires under Delaware law because the Executive Committee was not properly constituted as 'Directors' under the original Certificate of Incorporation or Bylaws."²⁰ (emphasis in original) Wheeless further stated:

if you are going to circulate these to other law firms for review and comment, I recommend you delete items 1(d) and 1(f) [the two items noted in the preceding paragraph] as you probably don't want those issues floating around town (or the Country or the NBA). Indeed, **I recommend you do not circulate this email with those items included to your staff** given the prior history of leaks to the NBA, etc. NBA just might be interested in those tidbits. (emphasis in original) (Ex. 15)

In addition, Wheeless laid out a strategy for Hunter to follow as part of a transition process in which the Union would become a "business league" under a separate section of the tax code. To address the issues he had identified, Wheeless proposed NBPA member resolutions to amend the NBPA's Certificate of Incorporation and adopt amended By-Laws. The resolutions would have, among other things, ratified Hunter's employment contract.

The process Steptoe suggested was not followed, however, because shortly after it was proposed, the Union reached a tentative deal with the NBA, and the lockout came to an end.

²⁰ Whether the Executive Committee was properly constituted under Delaware law is discussed below in Section V(A)(1).

As a result, the NBPA never completed the procedures necessary to become a “business league,” and it remains a labor union today.

Following receipt of the November 23 email from Wheeless, Hunter did not notify either the Executive Committee or the Player Representatives that his 2010 contract had not been properly approved. Nor did he inform the Union’s officers and directors that important changes to the Union’s corporate governance might be necessary regardless of the NBPA’s continued status as a labor union. When interviewed, he said that he had discussed the matter with a few Executive Committee members after we informed his attorney that we regarded this situation as a serious issue, but did not claim to have made any other disclosures.

Hunter has continued to collect millions of dollars in salary from the Union (at an increased rate from his previous contract) after learning in November 2011 that Steptoe believed his current contract was not properly approved. Hunter should have realized that if he had not been properly appointed under the Union’s By-Laws, then his actions as Executive Director might be unauthorized, which would put the Union at risk.

Hunter provided a number of rationalizations for his failure to disclose the advice that his contract had not been properly approved. We find none persuasive.

First, Hunter argued that he viewed his contract as “ratified” because, even though the Player Representatives did not formally vote on the new contract, its execution was announced to them and they did not disapprove it. As an initial matter, Hunter’s suggestion that the contract was discussed with the Board is disputed. One witness present for the June 2010 meeting of the Player Representatives was confident that the contract had *not* been discussed, and there is no mention of such an announcement in the minutes for that meeting.

No evidence reviewed suggests that the Player Representatives were informed that they needed to vote on Hunter's contract, much less that they consciously decided to ignore this obligation. Moreover, the required vote was not a mere formality. Hiring an Executive Director to lead the Union appears to be one of the most important functions of the Union's Player Representatives and Executive Committee members, and it is an act that the By-Laws do not delegate to the Executive Committee alone. The two-thirds majority vote needed to approve the Executive Director's contract under the By-Laws implies that such contracts are to receive careful scrutiny from the Union's officers and directors and that they should be vigilant to ensure that he does not receive excessive compensation or other inappropriate contractual terms. Further, Hunter's suggestion that he regards his contract as properly approved is inconsistent with his statements, discussed below, that he planned to disclose the issue in 2012, but did not do so for various reasons.

Second, Hunter claimed that he had intended to make the necessary disclosure about his contract in early 2012. On January 4, 2012, Alexis Hunter wrote to her father and stated: "Are you ready for Steptoe to move forward with updating the NBPA Bylaws and Constitution as you and Steve discussed in December? Let me know. Thanks." (Ex. 16) We did not find a written response from Billy Hunter to this message, although Alexis claimed that her father agreed to address the concerns that Steptoe had raised, including the ratification issue. According to Hunter, he planned to address this matter at the Union's February 2012 meetings, but then realized that attendance at All-Star Weekend would be poor because of the lockout-shortened season, and decided to delay the discussion because he anticipated that there would not be a quorum of the Board of Player Representatives. Yet, the duties Hunter owed to the Union

should have compelled him to disclose that his contract had not been properly approved, even if attendance at the All-Star Weekend meetings was expected to be poor.

Third, Hunter claimed that he had planned to raise the issue in June or September 2012, but that he had to put on hold his plans to disclose that his contract had not been properly approved because he had heard rumors that certain players were dissatisfied with him, because Derek Fisher had called for a review of the Union’s business practices, and because this investigation began. Once again, this justification suggests that Hunter failed to provide the necessary disclosure because he feared that his contract would not be retroactively ratified.

Finally, Alexis Hunter reported that she regarded the contract approval problem and other governance issues that Steptoe had identified as important issues that needed to be addressed, not necessarily within the first few weeks after they were brought to her father’s attention, but “the sooner the better.” Wheeless stated, however, that he viewed the ratification question as more of a routine “housekeeping exercise” that did not need to be treated with urgency, and also suggested that it could be argued that Hunter’s contract had been implicitly ratified because the NBPA had been paying Hunter for years and he had been performing his duties in return. The notion that ratifying the contract was mere “housekeeping” is inconsistent with the urgent tone of the “HUNTER EYES ONLY” email Wheeless sent to Hunter on November 23, 2011. And the implicit ratification argument is unconvincing for reasons discussed in the Executive Summary, among others.²¹

²¹ In addition, the email from Wheeless to Hunter suggests that if the ratification issue had become known to the NBA during collective bargaining, the league could have gained leverage in the ongoing lockout negotiations. Wheeless confirmed this view when interviewed. But, this is true only if there was a chance that the members of the Executive Committee and the Player Representatives would not swiftly ratify Hunter’s contract, thus eliminating any such leverage. To the extent that Hunter did not inform the Union’s officers and directors of the approval problem because he was worried that they might not support him by ratifying his contract, he would have put his personal interest ahead of the Union’s interest. Furthermore, even after the lockout negotiations ended and a new CBA was executed, Hunter continued to not disclose that his contract had not been properly approved.

2. Payments to Hunter for Accrued but Unused Vacation Time

In early 2009, Hunter received a two-part vacation payment from the Union that totaled approximately \$1.3 million, which compensated him for 146 vacation days that he had accrued but not used.²² Similar to the negotiations for Hunter’s 2010 employment contract, the approval process for the vacation payment presented a conflict of interest that Hunter failed to recognize or manage.

(a) Policies and Practices Relating to Hunter’s Vacation Accrual

Hunter’s employment contracts governed the number of vacation days he could use or accrue each year. Hunter’s first contract, which was in effect from 1996 to 1999, entitled him to five weeks of paid vacation per year, only three of which (up to 15 days) could be carried forward if not used in a given year. Hunter signed another employment contract in 1999, which covered the time period through 2005. The 1999 contract also awarded him five weeks of paid vacation per year, but did not limit the number of days he could carry forward or for how long. Hunter’s next contract, signed in 2005, increased his vacation benefit to seven paid weeks per year, and, like the previous contract, allowed him to accumulate and carry forward an unlimited portion of his unused vacation days. Hunter’s 2005 contract did not address whether he could receive payment for accrued but unused vacation days prior to the end of his tenure, though the contract did require the Union to pay Hunter for such days if it terminated his employment.

In contrast, all other Union employees are subject to a different vacation accrual policy, found in the NBPA Employee Handbook. Under this policy, employees are permitted to carry “[a] maximum of two weeks (10 days) unused vacation time … over from one year to the next.” The Handbook states that “[a]n employee who terminates his/her employment will be

²² The Union subsequently recouped 20 vacation days, valued at \$176,923, bringing the total net payment to \$1,122,048.

paid for any unused accrued vacation time,” but the Handbook does not provide for accrued vacation payments prior to termination.

Suzanne Oldham bears primary responsibility for recording the number of vacation days that each Union employee accrues and uses. She maintains a hardcopy attendance log for each employee on which she records vacation days and other absences, including sick days and personal days. If Oldham is absent, her replacement is responsible for updating the log, if necessary. The NBPA’s receptionist, Gigi Freeman, also maintains attendance records, although these records are considered less accurate and comprehensive, and apparently were not used to calculate Hunter’s vacation payment.

Hunter explained that when he is out of the office, he is responsible for communicating to Oldham whether his absence is for business or personal purposes so that she can mark her log accordingly. At the end of each month, Oldham provides the hardcopy logs for each employee to Shelia Thompson, who then enters the information into a master spreadsheet that tracks the number of vacation days each employee has used or accrued. Oldham reported that to the extent of her knowledge, her log for Hunter is accurate based on the information Hunter has supplied.

(b) The Proposal to Pay Hunter for His Accrued Vacation Days

By April 2008, Hunter’s vacation accrual, which was recorded as an outstanding liability on the NBPA’s financial statements, had become significant. Hunter and other NBPA employees believe that the idea to reduce the liability by making the vacation payment originated with Calibre, the NBPA’s auditor. Glenn Eyrich, the Calibre partner who manages the NBPA relationship, told us that his firm did not directly recommend that the NBPA make a full payment

to Hunter, but merely observed that the liability to Hunter for accrued vacation days existed and would continue to grow unless the NBPA addressed it.²³

In an email dated April 8, 2008, Theresa Messer initiated discussions with Hunter regarding a potential payout. That message, which included a spreadsheet prepared by Thompson documenting Hunter's accrued vacation days, stated:

As you can see below, your vacation accrual is over \$1,000,000, which represents approximately 124 days. This is a huge unsecured liability on our balance sheet that given your vacation history, will continue to increase at a rate of approximately 3 vacation days or \$26,500 per month. Our auditors, Calibre, have asked in the past what our plans are regarding this subject. They mentioned that it is very unusual to have a vacation accrual so large on a company's financial statements. Normally, vacation accruals are capped at a certain amount. Given the size of this liability, it may be a good idea to request the board to pay you a portion of your accrued vacation (at least half) before our fiscal year ends. Please let me know what you think. (Ex. 17)

We did not locate any immediate written response by Hunter. More than six months later (after the close of the 2008 fiscal year), on October 28, 2008, Hunter notified Messer by email that he wished to receive payment for his unused vacation time:

Theresa—due to your suggestion and the economic meltdown I have concluded it is prudent to cash out my annual leave. Please tell me the amount of my accumulated leave and its value so I can forward the info to the NBPA Executive Committee. (Ex. 18)

Messer responded that she would provide Hunter with the information he requested. The next day, after receiving assistance from Thompson in identifying this information, Messer told Hunter that his "vacation accrual amount[ed] to \$1,214,754 which is equivalent to approximately 137 days." (Ex. 17)

²³ We understand that once the decision to make the payment was made, Calibre was consulted on the process for doing so. The Union appears to have followed Calibre's procedural recommendations.

Later that day, Hunter wrote to the Executive Committee to request approval of the vacation payment:

Accompanying this letter is a transmission of the email which I received on April 8, 2008 by Theresa Messer ... concerning the annual leave I have accrued over the past 12 years. ... As the email indicates during the past 12 ½ years I have accrued 137 days in paid vacation leave totaling \$1,214,735.85 [sic]. (Ex. 19)

Hunter then proceeded to “explain how [he had] accrued so much annual leave.” He wrote that at the time of his hiring, the “union membership [was] split down the middle” between two “factions fighting for control,” and that one of his first assignments as Executive Director was to attempt to “re-unite the players”:

The first two years of my tenure were spent traveling around the country meeting NBA players and urging them to become active in the union. ... Due to my responsibilities and activities I have routinely been unable to take vacation leave; so it was agreed early on that I would be allowed to accrue my annual leave. ... Over the past 12 ½ years my duties and responsibilities have expanded along with the growth in size and role of the union making it difficult for me to utilize my leave. ... During my tenure I realized that my staff is more dedicated and responsible when I am present in the office so I tend not to take leave. ... Consequently, due to my work habits, dedication to the union and NBA players, and required presence I have accrued a significant amount of leave.

Hunter concluded by requesting that the Executive Committee authorize a payment “for all and/or a percentage of the 137 days of paid leave” he had accumulated, and stating that he would ask Messer to “provide each of you with appropriate documentation, as well as schedule a conference call to discuss the matter.”

(c) The Executive Committee’s Response

(i) Payment of the First Installment

It appears that the Executive Committee did not have the assistance of an independent advisor, such as an attorney or compensation consultant, as it evaluated Hunter’s

request for the vacation payment. Although Hall may have spoken to the Committee about the payment, no evidence reviewed suggests that Hall provided independent advice to the Committee on this issue. Because his interest in receiving more than \$1 million for his accrued vacation time placed him across the bargaining table from the Union, Hunter should have been sensitive to the fact that the Committee lacked such advice. However, no evidence reviewed indicates that Hunter sought to ensure that the Committee received independent advice to assist in evaluating his request for the vacation payment.

Nevertheless, Hunter's October 29 email prompted probing questions from Pat Garrity. On October 30, Garrity wrote to Messer, copying the Executive Committee, requesting additional information:

Could you please send me the NBPA's vacation/sick day compensation policy as it relates to Mr Hunter? Also, has the vacation/sick day compensation he is requesting now been expensed over the last 12 years? Thank you. (Ex. 20)

Garrity's questions sparked a number of follow-up email exchanges between him, Messer and Hunter. Messer responded first and provided Garrity and the Executive Committee (along with Hunter, whom she copied on the email) with an excerpt of the provision of Hunter's contract that addressed vacation leave and accrual. Garrity then wrote the following:

I'm a little confused on the vacation policy in general. Is it customary for union employees to be compensated for vacation time which has been accrued over a long period of time? Is there a company wide policy addressing this? Is there language in his contract which provides for him to request compensation for used vacation time?

Messer replied:

According to the vacation policy in the NBPA's employee manual, accrued vacation time is paid when an employee terminates his/her employment. This practice is customary for most companies.

Mr. Hunter's contract does not address if he can request his unused vacation time in advance, however Glenn Eyrich of Calibre has recommended that the Executive Committee consider paying him at least a portion due to the size of the liability.

Garrity then asked whether there was any limit on how many vacation days an employee could accrue before the days expired. Messer responded that the NBPA's general policy allowed other employees to accrue only up to ten days, but Hunter's contract permitted unlimited accrual.

Hunter responded to two of Garrity's emails. In reply to Garrity's initial message, Hunter wrote the following, copying the Executive Committee:

Hi Pat—thanks for the quick follow-up with Theresa. Since you are retired but still a member of the NBPA Executive Committee I was going to request that you vet the matter of my accrued leave on behalf of the union. For your information, Theresa Messer, Suzanne Oldham, and Gigi Freeman have kept independent and copious records of my time and are available to you. Whatever reasonable information you need will be gladly provided.

After Garrity continued to ask questions, Hunter emailed him directly, without copying Messer or the Executive Committee:

Pat---we have an established office policy which allows an employee to only accrue 10 days per year. Due to my duties and responsibilities my written employment contract granted me an exemption to the policy.

According to Garrity, he sought to review Hunter's contract and the Union's general vacation policies to determine whether Hunter was eligible to receive the proposed payment. In addition, Garrity reported that he had wanted to understand the Union's process for tracking and recording Hunter's vacation days and to confirm the accuracy of the underlying records and verify the amount that Hunter was entitled to receive. Garrity stated, however, that he received neither Hunter's contract nor other documents concerning Hunter's accrued leave. As a result, he did not "vet the matter" as Hunter had requested.

At least one other Executive Committee member, Malik Rose, raised questions regarding the payment to Hunter. On November 17, 2008, Hunter wrote to Messer:

Theresa—Malik Rose contacted me over the weekend asking me to provide documentation of my accrued leave so the Board can resolve the matter. I ... informed Malik that I would compile the information and forward it [to] each Board member. I propose providing the Board with a report of the total number of days accrued each year; and how you calculate what is owed.²⁴

Messer again involved Thompson in gathering the information that Hunter had requested, and provided it to Hunter. We could not confirm whether Hunter forwarded the information to Rose or other members of the Executive Committee.

On December 30, 2008, Thompson requested that Paychex, the Union's payroll vendor, make a payment to Hunter, dated December 31, 2008, of \$650,000, which amounted to a net after tax amount of \$340,652. The payment was disbursed on January 2, 2009, and represented approximately half of the total amount that the Finance Department had calculated Hunter was due. Hunter claimed that the Finance Department decided to split the total payment into two installments, but Thompson stated that it was Hunter who elected to structure the payment in this manner.

No written records we reviewed document pre-approval of the payment made to Hunter in January 2009. Nor did a clear picture of the process used by the Committee to approve that payment emerge from witness interviews. Hunter stated that the Committee "may not have ... approved [the payment] in unison, with everyone in the room [at the same time], but it was approved." Messer stated that she believed that the Executive Committee had approved the payment during a conference call. Two Executive Committee members said that Gary Hall may have discussed the proposed payment with them, but could not be certain. Others reported that

²⁴ Hunter's use of the term "Board" here appears to refer to the Executive Committee, rather than to the Board of Player Representatives.

they could not recall many details about the process. Notably, Garrity said that he had no role in approving the payment of the first installment, and indeed did not learn that a payment had been made in January 2009 until we informed him about it in November 2012.

(ii) Payment of the Second Installment

As discussed in more detail below in Section IV(A)(6), Garrity sent two emails to Hunter on February 11, 2009, stating that he wanted to speak to the Executive Committee privately about, among other things, “the [unresolved] matter of your vacation pay.” Garrity requested that Messer and Eyrich be present for that portion of the discussion. Garrity told us that he had planned to recommend that the Committee examine the applicable vacation accrual and payout policies, and audit Hunter’s vacation records, before approving any payment. No written response from Hunter was found.

Although the Union failed to create a written record of any Executive Committee approval of the first installment of the vacation payment, the minutes for the Committee’s February 13 meeting discuss the approval of the second installment:

Executive Director Vacation Accrual Pay-Out - The committee as a whole discussed Mr. Hunter’s request that the NBPA payout the entire amount of his accrued vacation totaling approximately \$1.3M. This request was made after discussions with NBPA auditors Calibre CPA with their concern being that the liability was becoming too large. As reported by Ms. Messer a payment of \$650,000 was made on 12/31/2008. The committee agreed unanimously that the second payment be made no later than March 1, 2009. (Ex. 21)

According to Adonal Foyle, the members of the Executive Committee approved the payments in 2009 because they felt obligated to do so under Hunter’s employment contract. But this conclusion was not based on independent advice, and may have been based, at least in part, on arguments Hunter was advancing to the Committee.

Even though the Player Representatives met the next day, no evidence reviewed suggests that the matter of Hunter's vacation payment was discussed, let alone presented for their approval. A draft version of the minutes from the Player Representatives meeting does not mention the issue, and a final version could not be located.

On March 13, 2009, the Union disbursed the second installment of Hunter's vacation payment, which amounted to \$648,972 gross, and \$340,070 net after taxes.²⁵ After Thompson had already directed Paychex to disburse the second installment, Hunter notified Thompson that he wished to retain 15 days of vacation.²⁶ Thompson attempted to stop the already-authorized payment, but Paychex could not accommodate this request. As a result, Hunter's salary was reduced by 15 days in the late March and early April 2009 payroll cycles to permit the Union to recoup \$132,692 for the vacation days Hunter wished to retain.

All told, Union records reflect a net payment to Hunter of \$1,122,048 for accrued but unused vacation days. In calculating this amount, the Finance Department valued each vacation day paid out according to Hunter's salary in fiscal year 2009 (rather than at the salary levels in place when he accrued the relevant days), resulting in a per day value of approximately \$8,846. This valuation methodology is consistent with both the Union's Employee Handbook and standard accounting practices.²⁷ Nevertheless, given the substantial size and unusual nature of the payment, it would have been appropriate for the Executive Committee to consider requesting that Hunter agree to an alternative valuation methodology. Had Hunter's accrued

²⁵ An adjustment was made to correct a slight error in the calculation of the vacation payments. Specifically, Shelia Thompson had failed to account for five vacation days that Hunter took in the last quarter of 2008, which resulted in an overpayment of \$44,231. This error was corrected by deducting five vacation days, with a value of \$44,231, from Hunter's accrued and unused vacation balance as of February 2009.

²⁶ Hunter's request to retain 15 days apparently related to his upcoming knee surgery in March of 2009.

²⁷ Hunter claimed that, prior to receiving these payments in 2009, he asked to be paid based on the salary levels in place at the time his unused vacation days were initially accrued. Messer confirmed that Hunter had made a request along these lines, but reported that he had done so only after receiving the 2009 payments and that the request seemed directed toward any future payments for unused vacation time.

vacation days been valued at the salary in place at the initial time of accrual, for example, the net payment would have been \$851,699, approximately \$270,000 less than Hunter's actual net payment.

(d) Subsequent Criticism of the Vacation Payment

In Hunter's words, the vacation payment he received caused an "uproar." Commenting on the reaction from certain players, he said that "there were a lot of people that didn't think I should be paid. A lot of people thought that since I didn't use the vacation, I forfeited it and I shouldn't be paid." According to Hunter, some players did not understand the reason for the payments at all, and thought that he had "defrauded" the Union. He claimed to have responded to such criticism by telling them:

[I have] a guaranteed contract. It's the same thing ... I'm fighting for on behalf of you guys ... I stick the contract right in their face. It's how I treat you, I fight for your contracts. You have a responsibility to me. I expect to be compensated. This is guaranteed.

(e) Analysis of Union Records Related to Hunter's Vacation Accrual

As part of this investigation, Oldham's vacation log was reviewed to confirm the accuracy of the amounts paid to Hunter in 2009. (Ex. 22) This review began with a fundamental question: what is a vacation day for Hunter? After all, as the head of a union of professional athletes, Hunter's job responsibilities are different from most senior executives. Neither the Union's By-Laws nor Hunter's employment contracts provide much concrete guidance about his duties. Nor have the Board of Player Representatives or the Executive Committee defined his responsibilities with specificity. Instead, Hunter has been able to define the scope and nature of his duties for himself.

Hunter considers attending basketball games part of his work for the NBPA. He claimed:

You have to understand what my role is ... it's incumbent upon me as head of the union to be physically present for players to see me. They get energized off of that. I'll go out there early, hang out in the locker room with them. I may stay after and go out with a couple of players.

Hunter said that he counted any day in which he worked more than four hours as a work day, including a day in which his sole Union business consisted of attending a basketball game and visiting with players. Hunter further stated that he has the "luxury" of traveling anywhere in the country to attend any game of his choosing. Thus, for example, if Hunter flies to the West Coast for a game, he counts the days on which he travels and attends the game as work days, even if he does no other work on those days (though Hunter claimed that he often worked during flights).

In addition, Hunter believes that attending social events where NBA players congregate qualifies as work. For instance, he considered it official business to attend a reception to celebrate the renewal of Theo Ratliff's wedding vows in July 2008 and a birthday party for Chris Paul in May 2010. Hunter's views on this subject were corroborated by Ron Klempner, who seconded the opinion that interfacing with players at social events was an integral part of Hunter's job.

Hunter also stated that he considered it "work" when he took golf outings on weekdays with a group that often included some combination of Hal Biagas, Megan Inaba, Ron Klempner and Dan Wasserman, plus his son Todd. It appears, however, that at some point in time, Hunter reached the conclusion that at least some of his golf trips were not appropriately classified as work. In an April 7, 2010 email to Klempner, Hunter wrote: "unfortunately you and I will be required to take 'personal' leave tomorrow for our golf outing."

Once an understanding of Hunter's views of work and vacation was reached, the analysis of Oldham's log was nevertheless complicated by Hunter's practice of combining business trips and vacation time. For example, Hunter sometimes traveled to California for business meetings that were followed by a day or two of vacation. Hunter said that he generally did not use vacation time for travel days to California, specifically when flying home to Oakland, and that he believed that such travel time should be considered a work day, even when his overall trip included personal time spent at home.

Another factor complicating the review of Oldham's log was that it may have been affected by human error. Its accuracy depends on Hunter's self-reporting of his vacation days, so it would be inaccurate if Hunter accidentally failed to properly account for his time away from the office. Similarly, Oldham may have made mistakes in recording information provided by Hunter.

Analyzing Oldham's vacation log was also difficult because Hunter maintains neither a hardcopy nor an electronic calendar to document his travel or appointments, and because he frequently does not submit expense reports or supporting documentation for his travel expenses. As a result, we relied to a large extent on reviewing email correspondence based on targeted keyword searches, and on reviewing credit card statements and travel records, to analyze the accuracy of Oldham's vacation log. The available emails, credit card statements and travel records were all incomplete, however, which made our analysis even more challenging.

Nevertheless, based on reviewing these materials, we identified 13 specific time periods where it appeared that Hunter's vacation time may not have been recorded properly in Oldham's log. (Ex. 23) At Hunter's current salary, each vacation day is worth more than \$11,500. We gave Hunter a list of these 13 time periods and asked him to analyze whether

Oldham's log accurately portrayed his vacation time. We also compiled related documents, including contemporaneous emails (where available) discussing Hunter's activities, and provided them to Hunter and his attorneys.

During our interview of Hunter, we specifically discussed seven of the 13 periods. Hunter agreed that during two of these seven periods, the log failed to reflect vacation days that he had taken. Hunter now claims that the log should have recorded that he had taken at least one additional vacation day during a personal trip to San Francisco and Los Angeles in October 2008.²⁸ Hunter also admitted that during the period of June 28 through July 2, 2010, he should have been charged for taking five vacation days, even though the log does not have those days marked as vacation time. Hunter explained that Oldham was out on maternity leave during this period, and suggested that the five days were not recorded as vacation days because of an oversight by the temporary assistant who had replaced Oldham. In our view, this explanation seems reasonable.

With respect to the other five periods discussed with Hunter, he maintained that he had not taken additional vacation days beyond those recorded in the log. As described below, he offered explanations for why these suspected inaccuracies were not, in his view, errors.

1. It appears that Hunter spent the entire time period between December 21, 2002 and January 8, 2003 in California. Oldham's log marked Hunter out on vacation for five days in December, but did not record vacation for any of the five work days between January 2 and January 8, 2003. Hunter stated that his best recollection was that he had worked on those days. No evidence was found to either contradict or corroborate this account.

²⁸ Hunter initially stated that the log did not reflect two vacation days that he had taken (October 8 and October 15, 2008). Subsequently, in a letter dated November 16, Hunter's attorneys wrote that “[h]aving had the opportunity to further review e-mails ... we are of the opinion that October 15, 2008, should not be charged as vacation time.” (Ex. 41)

2. In the days before Thanksgiving 2003, Hunter was in Oakland. He said that he traveled to Oakland for a meeting with the Golden State Warriors that took place on Tuesday, November 25, and that he stayed in Oakland through the following Saturday, November 29. Although Wednesday, November 26 was a work day for the Union, Hunter's activities on that day were unclear from the records we reviewed, and he was not charged for a vacation day. Hunter stated that he had done work on November 26. No evidence was found to either contradict or corroborate this account.

3. On April 21, 2005, Hunter apparently took a golf outing with Megan Inaba, Hal Biagas and Ron Klempner. It is questionable that he treated this as a work event rather than a personal one. (Exs. 24 and 25)

4. From December 24, 2006 through January 8, 2007, Hunter was out of the office for approximately two weeks, apparently in Oakland for part or all of the time. Yet, he was not charged for any vacation days. On January 11, 2007, upon his return from the trip, Hunter sent an email to a friend that stated the following:

I spent Christmas and New Year's Eve in Oakland with Janice and Alexis. Robyn, Todd, [and] Megan were here in NYC. The weather on the west coast [was] not too good so I was sequestered most of the time at home. Did get to see a lot of movies over the holidays and view a lottttt of television. God willing, next Christmas will be spent in Jamaica or some similar spot. (Ex. 26)

During his interview, Hunter did not concede that any portion of his trip should have been marked as vacation, and instead suggested that he may have attended NBA games and a charitable event while in Oakland. Nevertheless, insufficient evidence was found to draw a firm conclusion that these days should have been recorded and charged as vacation days.

5. Certain email messages we reviewed suggested that Hunter had planned to take a vacation in June 2010, but no vacation time was recorded for that time period. Hunter explained that he had canceled the planned trip, and we credit this explanation.

Beyond answering our questions regarding the seven specific time periods that we discussed with him, Hunter did not address whether any of the additional six periods listed on the spreadsheet that we provided to him contained days that should have been recorded as vacation. Thus, without more information, no findings can be made about those six periods; we merely observe that they raise unanswered questions. Finally, Hunter provided to us a list of days that he believes were incorrectly marked as vacation or personal absences but were, instead work days. These claims have not been verified.

(f) Conclusions

The idea for the vacation payment was brought to Hunter by Messer; it did not originate with Hunter, and his request to the Executive Committee for the payment does not seem inappropriate. Nevertheless, Hunter's request for the payment created a conflict of interest that he failed to recognize or manage appropriately. It appears, as Hunter must have known, that the Executive Committee did not receive independent advice before it permitted him to cash out his accrued vacation days.

An independent advisor would likely have understood that it is unlikely that anyone at the NBPA realized that the log would eventually serve as the primary support for a payment of more than \$1 million, or a more rigorous process for documenting vacation days taken might have been developed. Such an advisor would almost certainly have suggested that the handwritten log underlying the vacation payment be carefully reviewed for accuracy before the Union made any payment to Hunter in reliance upon it. Indeed, Hunter appeared to recognize in 2008 that a review of the Union's vacation records was necessary, when he asked

Garrity to “vet” the payment. As Hunter well knew, however, Garrity did not complete this task or present any analysis to the Executive Committee.

When we reviewed the handwritten log that purports to document Hunter’s vacation days, it was found to be unreliable, and we believe that if such analysis had been conducted in 2008, the same conclusion would have been reached. The log is unreliable for multiple reasons, including because it was based on Hunter’s self-reporting of his time, which may have been self-interested; because it cannot be fully corroborated with contemporaneous records, such as a calendar; and because it may be infected by human error. These are not merely hypothetical problems: Hunter has conceded that the log contains multiple mistakes, and we have identified other potential inaccuracies that stem from his questionable self-reporting decisions, as described above.

Yet, in large part due to the passage of time and the spotty nature of the records documenting Hunter’s travel and vacation, it is difficult to draw firm conclusions about the accuracy of the records used to calculate his vacation payment, other than to observe that we have found certain errors in the records, and that we continue to have questions about certain days that Hunter claimed to be working, but that appear potentially consistent with vacation days. Further, there may be other mistakes or inaccuracies in the vacation records that we did not detect. Given the state of the evidence, we cannot conclude that Hunter sought to defraud the Union with respect to the reporting of his vacation time (though nor can we find that his reporting was appropriate).

In addition, had the Executive Committee received independent advice in 2008, it might have negotiated with Hunter over the amount of his vacation payment. The Committee could have taken the position, for example, that not only was the log unreliable, but it was not

reasonable to assume that Hunter's prior employment contract had been negotiated with the expectation that he would accrue so many days at such a tremendous cost to the Union. It is possible that such an approach could have led to a compromise in which Hunter received a smaller payment than the one he had requested.

3. Employment of Family and Friends

Three of Billy Hunter's family members have worked as full-time Union employees: his nephew, Albert ("Hal") Biagas; his daughter-in-law, Megan Inaba; and his daughter, Robyn Hunter. In addition, Hunter hired his best friend, Gary Hall, to serve as the NBPA's General Counsel. The Union's employment of these four individuals led to conflicts of interest that Hunter ignored or failed to manage appropriately.

(a) Hal Biagas

The information presented below is largely drawn from our interviews of Billy Hunter and other NBPA employees, as well as our review of documents. Unfortunately, we do not have the benefit of any statements by Biagas himself, because he declined our request to interview him.

(i) Background

Biagas is Hunter's nephew, the son of the sister of Hunter's wife Janice. Hunter hired Biagas as an NBPA attorney in February 1997. To our knowledge, this represents the first instance of Hunter hiring a family member to work for the NBPA.

Hunter reported that he knew Biagas when he was a small child but saw him infrequently after then, in part because Biagas lived overseas for several years. Biagas attended Boston University and graduated in 1986 with a Bachelor of Arts in History. He received a law degree from UCLA School of Law in 1990.

After graduating from law school, Biagas worked on Hunter's 1992 campaign for the U.S. House of Representatives (for the Ninth Congressional District). Hunter stated that Biagas called him and asked to work on the campaign, and that he did not have a close relationship with Biagas prior to that time. According to Hunter, although Biagas did not have a

major position on the campaign, he worked hard and displayed intelligence. Biagas returned to Los Angeles and began practicing law after the campaign ended unsuccessfully.

(ii) Employment by the NBPA

Hunter reported that shortly after he began serving as the Union's Executive Director, Biagas called him and asked to be considered for a job. Hunter thought that he might have reviewed a resume from Biagas and conducted an interview, perhaps by telephone. Based on Hunter's account, it appears that he did not conduct a formal search for a lawyer to fill this position. He said that he did not believe he interviewed anyone else for the position he created for Biagas. Hunter stated that he hired Biagas because Biagas was highly competent, bright and a hard worker. He also reported that the NBPA needed another lawyer because at that time, the only in-house lawyer employed by the Union was Ron Klempner. According to Hunter, it was his decision alone to hire Biagas.

Biagas worked for the NBPA through December 2009. For nearly all of that period his title was Deputy Counsel, although shortly before he left, according to Klempner, titles within the Legal Department were changed and Biagas was named Assistant General Counsel. While serving as an NBPA lawyer, Biagas participated in collective bargaining and other negotiations with the NBA, provided advice to players and agents on salary negotiations, represented the Union in litigation matters, including the representation of players during grievance hearings and conducted various other administrative, general legal and business affairs on behalf of the Union. He also helped establish the WNBPA and represented the WNBPA in collective bargaining.

When Biagas left the NBPA, he took a position as Executive Vice President at Wasserman Media Group, a sports marketing and entertainment company that represents a number of NBA players. According to media reports, Biagas recently left Wasserman Media

Group to become General Counsel at Excel Sports Management, a sports management and marketing agency that also represents a number of NBA players. Hunter reported that he has had no direct communication with Biagas since he left the NBPA.

(iii) Compensation and Job Performance

Hunter acknowledged that he alone determined the salary and raises that Biagas received (as he does for all Union employees). From fiscal year 2003 to fiscal year 2009, the annual salary paid to Biagas rose from \$113,500 to \$184,700. During this time, he was one of the five highest-paid Union employees. In certain years, he received larger raises than most other employees, both on an absolute and a percentage basis.

It does not appear that Biagas was paid an unreasonable amount during his tenure at the NBPA. To the contrary, NBPA lawyers tend to receive lower salaries than their counterparts at other sports unions, such as the NFLPA and the Major League Baseball Players Association (the “MLBPA”).

The evidence suggests that Biagas served the Union well and that he was respected by his colleagues. Overall, Hunter praised Biagas, stating that he was an expert on salary cap issues and that he knew the CBA inside and out.

(iv) Disclosure Concerns

Hunter admitted that when he hired Biagas he did not disclose that Biagas was a relative to Union staff, the Executive Committee or the Player Representatives. Nor did he disclose this information at any subsequent point in time. Hunter surmised that some of the staff members learned through other sources that Biagas was related to him, but acknowledged that he had not discussed his family relationship with Biagas with any of those employees and could only speculate about what they knew.

Only a few Union employees knew that Biagas was Hunter's nephew. Many did not discover this information until they learned it as a result of our investigation, and they were surprised to hear it. Further, most members of the Executive Committee whom we interviewed did not know that Biagas and Hunter were related.

Inaba reported that both Biagas and Hunter seemed to want to keep their family relationship quiet. Hunter reported that he did not think it was important to disclose that Biagas was a family member, but denied that there was any effort to keep the relationship secret. Hunter stated, however, that he made a conscious decision not to disclose his relationship to Biagas because he did not want other employees to think that Biagas was getting any special treatment. Hunter also said that he did not believe it was wrong to employ Biagas or fail to disclose that he had hired his nephew.

Some witnesses reported that Biagas and Hunter appeared to have a close bond during much of the time when Biagas worked at the NBPA. For his part, Hunter denied having a particularly close relationship with Biagas. He also denied that Biagas received preferential treatment from him.

(v) Conclusions

We do not conclude that it was inappropriate for Hunter to hire Biagas. Hunter did so shortly after joining the Union, at a time when the Union employed only one in-house lawyer (Klempner), and in response to a perceived need for additional counsel. Moreover, it appears that Biagas served the Union well, providing valuable legal services, and his compensation does not appear exorbitant. Nevertheless, given that Biagas is his nephew, Hunter's decision to hire him was beset with a conflict of interest, which was then compounded because Hunter was solely responsible for setting Biagas's salary. Hunter could have attempted to address these conflicts of interest through disclosure or recusal, but he deliberately chose not

to tell the NBPA staff, Executive Committee or Player Representatives that Biagas was his relative.

(b) Megan Inaba

Megan Inaba, Billy Hunter's daughter-in-law, is currently the NBPA's Director of Special Events and Sponsorships. When she was hired in 2000, she was not a Hunter family member; she joined the family in 2006 when she married Todd Hunter.

(i) Background

Inaba has known the Hunter family for many years, beginning when she met Todd and Robyn Hunter at Berkeley High School in California. Todd was in the same class as Inaba; Robyn was a year younger. In addition, Janice Hunter taught at Berkeley High School and met Inaba in that capacity.

Inaba attended the University of California at Berkeley and received a Bachelor of Arts degree in Communications in 1993. She received a law degree from the University of San Francisco School of Law in 1998.

Inaba and Todd Hunter dated for periods of time between 1993 and 1998, when they were both living in the Bay Area after college. They were engaged during a portion of this time, although their initial engagement was called off.

While she attended law school, Inaba worked part-time as a law clerk for Billy Hunter, who was then in private practice in Oakland. Inaba explained that she began working for Hunter in 1996, after she encountered him in the federal building in Oakland and he offered her an assignment on a trial basis. She also stated that she helped Hunter prepare for interviews for the NBPA Executive Director position in 1996. After Hunter joined the NBPA, Inaba continued to work part-time as a law clerk for attorneys who had been affiliated with Hunter.

After graduating from law school, Inaba worked briefly for a law firm in Honolulu that specialized in family law. Next, from July 1999 through August 2000, she worked for Whalen & Company, a firm in the telecommunications business, where her responsibilities included land use and zoning matters in the Bay Area.

(ii) Employment by the NBPA

According to Inaba, while working at Whalen & Company, she decided to move to New York. The company agreed to transfer her to the East Coast, but had positions available in Boston and Virginia only. In an effort to find a job in New York, she reached out to Hunter and arranged a meeting. Hunter explained that he thought that Inaba had made an appointment to see him merely to say hello, but that during their meeting she asked him whether he had any positions open at the NBPA.

Inaba reported that Hunter told her that the NBPA was creating a new position, Director of Career Counseling, and that she replied that she could do that job, in part because she had run a mentoring program at the University of California, Berkeley for minority students. According to Hunter, he told Inaba to let him think about the issue, and she left and went back to California. Next, Inaba wrote a proposal for the career counseling position and submitted it to Hunter. She recalled a follow-up meeting with Hunter and Robert Lanza, who was then the NBPA's General Counsel.

Hunter hired Inaba in October 2000 as the NBPA's Director of Career Counseling. Hunter said that he was responsible for the decision, although he noted that Lanza was in favor of his choice and that Purvis Short, the NBPA's Director of Player Programs, may have had some input. Hunter could not remember considering any other candidates for the position. He said that he hired Inaba because he knew that she was bright and capable. He also

said that Inaba was not dating his son at the time and that her previous relationship with Todd had nothing to do with her hiring.

Inaba reported that her initial duties at the Union included helping to implement a career counseling program that featured, among other things, summer internships for NBA players. As Director of Career Counseling, she reported directly to Hunter and Short. In addition, the NBPA employee responsible for planning and running special events was terminated around the time Inaba was hired, so her duties also included organizing events and identifying corporate sponsors for them. As a result, in 2001, Hunter changed Inaba's title, and she became Director of Special Events and Sponsorships, a title she continues to hold today. In this position, she has reported exclusively to Hunter, and her responsibilities include planning the Union's two annual meetings, the NBPA gala that takes place during All-Star Weekend, regional NBPA meetings, golf tournaments and basketball camps; securing corporate sponsorships; and creating domestic and international charitable initiatives. Over time, Inaba's responsibilities have further expanded to include, among things, providing assistance to the Union's legal staff. For example, she participated in negotiations for the 2005 and 2011 CBAs. In addition, she helps to manage the Union's public relations efforts and is responsible for the NBPA's social media endeavors.

(iii) Engagement and Marriage to Todd Hunter

Inaba informed us that she began dating Todd Hunter seriously again in 2005. They were engaged later that year and married in 2006. They have two children.

Billy Hunter said that he made no changes in how he dealt with Inaba as an employee after she became his daughter-in-law. He did not, for example, require that she report to someone other than him or recuse himself from determining her compensation. He admitted that he did not make any formal announcements to the NBPA staff, Executive Committee or

Player Representatives about his son's engagement or marriage to Inaba that were designed to manage the conflict of interest that arose when Inaba joined his family. He did, however, indicate that he had informally discussed the marriage with certain Executive Committee members.

News of the engagement appears to have spread quickly through the NBPA office after Inaba began wearing her engagement ring to work. Email records show that Hunter instructed Inaba to make an announcement about the engagement to the staff, and suggest that she may have initially told select employees on an individual basis. Email messages also indicate that Hunter was aware that the engagement would be a subject of considerable interest in the NBPA office.

It seems that many Executive Committee members initially learned about Inaba's marriage to Todd Hunter from speaking to them at NBPA meetings or events. All of the Committee members interviewed as part of this investigation were aware that Inaba and Todd Hunter are married, except one former member who learned this information from a news story published in 2012. According to Billy Hunter, it is likely that all current NBA players now know about the marriage. No evidence suggests that there was an effort to keep the marriage hidden from Executive Committee members or Player Representatives.

(iv) Compensation and Job Performance

According to Inaba, when she joined the NBPA, she had been earning approximately \$75,000 per year (plus a bonus) at her previous job, but she accepted an initial annual salary of approximately \$60,000 from the Union after striking a deal on compensation with Hunter. Inaba claimed that Hunter told her that she would start at a lower salary because of the nature of her job, but agreed to review her work promptly and raise her compensation to levels more commensurate with her education and experience if she performed well.

Inaba has received a number of salary increases during her tenure at the NBPA. According to Inaba, she has approached Hunter on several occasions to ask for a raise, sometimes basing her requests on the amount of corporate sponsorship money she has generated for the Union. Hunter recalled one such instance, and added that Inaba had also cited the salaries paid to NFLPA and MLBPA employees when asking for raises.²⁹ Hunter confirmed that on other occasions, when he adjusted salaries for employees across the board, Inaba would receive raises without asking for them. According to NBPA payroll records, Inaba's salary has increased from \$78,000 in fiscal year 2003 to \$167,100 in fiscal year 2012.

Hunter claimed that Inaba's compensation is based not only on her work as Director of Special Events and Sponsorships, but also in part on the fact that she is a lawyer and assists the NBPA's legal staff. Like Biagas, in certain years, Inaba received larger raises than most other employees, both on an absolute and a percentage basis.

With respect to her job performance, Inaba is highly regarded by Union staff and was described by members of the Executive Committee as capable and diligent. No witness interviewed during the investigation suggested that she is not qualified for her position.

(v) Potential Preferential Treatment

Inaba has a close working relationship with Hunter—closer than most other NBPA employees. For example, some employees claimed that Inaba is permitted to breeze into Hunter's office unannounced while others cannot. It appears that she is part of an inner circle of Hunter's closest confidants at the NBPA.

The family relationship that developed between Hunter and Inaba has reportedly strained their working relationship. Inaba said Hunter has refused to let her work on certain

²⁹ As noted above, the pay scales for employees at the other sports unions seem to be higher than those in place at the NBPA.

tasks that she finds interesting in order to avoid creating the perception that she gets preferential treatment. Likewise, Hunter maintained that he was fearful of creating the appearance of favoritism toward Inaba, which led him to “put on the brakes” and “not give her carte blanche.” He agreed with Inaba’s claim that becoming his daughter-in-law has hindered rather than helped her career at the NBPA.

Nevertheless, the close working relationship between Hunter and Inaba, coupled with her marriage into the Hunter family, have contributed to a perception among NBPA employees that Inaba receives special treatment. It is not clear whether Hunter is fully cognizant of his staff’s view of the situation, although he acknowledged that Gary Hall thought Inaba took advantage of him (Hunter), as email records bear out. In an email dated June 11, 2008, Hall complained that Inaba had cursed at him after he “sent a memo regarding noise … in the office.” Hall wrote: “I know she is your daughter in law … but this has to stop with her. If she cannot comply with a simple request, then she should not be here. I think you should say as much to her.” Perhaps seeking advice on how to handle the matter, Hunter forwarded this email to his wife Janice and daughter Alexis, without any comment. Alexis responded that if Inaba was not disciplined, other employees would view the incident as “special treatment” and would lose respect for her father and Hall.³⁰

Some NBPA employees reported that Inaba receives preferential treatment because she is permitted to arrive at work later and leave earlier than other employees, and that Hunter makes little effort to control her hours. Hunter said that this allegation was not true, and attributed it to personal conflicts between employees. He claimed that when it was brought to his attention that Inaba arrived late, he would tell her to get to work earlier, and that she would

³⁰ We have not determined whether Hunter took any disciplinary action in this situation.

respond by pointing out that she often worked late, until 8 or 9 p.m., and by asserting that she was completing her assigned tasks. Even some employees who criticized Inaba's hours acknowledged that her job performance was strong and that she worked late hours when it was necessary to do so.

One witness stated that although Inaba deserves the salary she earns, other employees feel that, unlike Inaba, they are compensated at levels far below what they deserve. When asked to respond, Hunter said that he had not heard this specific complaint and, more generally, that he felt that certain employees were overpaid and that the Union was overstaffed.

In addition, we heard allegations that Megan Inaba (and Robyn Hunter, as discussed below) received preferential treatment while on maternity leave. Under its Pregnancy Disability Leave policy, the Union provides an *unpaid* "pregnancy disability leave of absence" benefit to eligible employees who are temporarily unable to work due to either pregnancy, childbirth or other related medical conditions. During such a leave of absence, an employee is eligible to receive only compensation for any accrued paid leave time, which includes unused accrued vacation days and sick days, and after that time is exhausted, eligible employees can take advantage of 12 weeks of unpaid pregnancy disability leave.

Certain witnesses suggested that while on maternity leave, both Inaba and Robyn received their regular, salaried compensation, and in Robyn's case, an additional bonus while on maternity leave—benefits that no Union employee was entitled to, and that would be in violation of the Pregnancy Disability Leave policy. These witnesses also claimed that to the extent that Inaba and Robyn were required to take unpaid maternity leave, they improperly received salary increases designed to make up for the days when they did not receive pay. The witnesses

implied that Inaba and Robyn received these benefits because they were Hunter's family members.

After reviewing the NBPA's payroll records and attendance logs, and interviewing numerous witnesses, including Inaba, Robyn and members of the Finance Department, we did not find evidence that suggests that either employee sought any compensation in violation of the Union's Pregnancy Disability Leave policy. We also did not find any information that suggests that either employee had any input into the method used to calculate her maternity leave benefit.

Inaba took maternity leave on two occasions: first in 2007 and again in 2008. When interviewed, she stated that she did not receive any compensation or bonus that violated the Union's Pregnancy Disability Leave policy. Inaba stated that during both pregnancies, she exhausted her unused accrued vacation and sick days before taking unpaid pregnancy disability leave that she was entitled to under the NBPA policy.

Inaba's first maternity leave occurred between late August and early December 2007. During this time period, she received compensation for approximately 17 days, which included 11 days of unused accrued vacation and six unused sick days. Although Inaba's bi-weekly salary increased by seven percent when she returned from maternity leave in December 2007, that increase appeared consistent with raises she had previously received annually, albeit usually in July or August.

Inaba's second maternity leave occurred from early September to early December 2008. During this time, she received compensation for 35 days. NBPA records indicate, however, that Inaba was entitled to only 22 days of compensation during her second leave—13 days of unused accrued vacation and 9 unused sick days. We raised this discrepancy with the

Finance Department and were told that the additional payment, worth approximately \$7,500, was made in error and was not influenced by either Inaba or Hunter. Due to the passage of time, it was difficult to reconstruct the accounting information that supported this payment in the first instance. Nevertheless, we recommend that the Union address this issue.

Upon her return to work in December 2008, Megan continued to receive the same bi-weekly compensation that she had previously received, and did not receive an increase until August 2009, when she got a four percent pay raise.

(vi) Conclusions

Hunter's decision to hire Inaba in 2000 was not an act of nepotism. At that time, she was not a relative of Hunter's, nor was she dating Todd Hunter. She did not join the Hunter family until 2006. Moreover, given her legal training and other work experience, Inaba appears well-qualified for the position she has held. She also has reportedly performed well, and it does not appear that she has received excessive compensation.

Nevertheless, once Inaba became Billy Hunter's daughter-in-law, her continued employment at the NBPA—notwithstanding her qualifications, abilities and achievements—created a conflict of interest. Hunter did little to address the conflict that had developed (other than reportedly preventing Inaba from working on certain projects to avoid the appearance of favoritism). At the very least, he should have made a formal disclosure to NBPA staff, the Executive Committee and the Player Representatives to acknowledge the new family relationship and show that he was sensitive to the conflict of interest that had arisen.

Even such a disclosure, however, might have been insufficient to manage the situation appropriately. Inaba reports directly and only to Hunter, and he is solely responsible for determining her compensation. Although this may be unavoidable given her senior position and the small size of the Union staff, it is far from ideal. Once Inaba became his daughter-in-

law, Hunter should have realized that it would be nearly impossible to supervise her effectively and that unnecessary tensions in the office were likely to erupt, and seriously considered whether it would be in the Union's best interest to make the difficult decision to give Inaba a sufficient transition period (perhaps one year) to find another job.

(c) Gary Hall

Gary Hall served as the NBPA's General Counsel for nearly six years, from November 2005 until he passed away unexpectedly in May 2011. Hunter and Hall shared a very close personal relationship for more than 30 years. Indeed, Hunter agreed that he and Hall were best friends and as close as brothers. Hunter's children also had close relationships with Hall.

(i) Background

Gary Hall grew up in the Syracuse, New York area. He graduated from Syracuse University with a Bachelor of Arts degree in 1966. He then attended the University of Connecticut and received a Master's degree in 1968. He served as a commissioned officer in the Marine Corps from 1968 to 1971 and reportedly saw combat during the Vietnam War. Following his military service, Hall attended law school at George Washington University and received a law degree in 1974.

Hall began his legal career as a federal prosecutor. He first worked in the U.S. Attorney's Office in Washington, D.C and then transferred to the U.S. Attorney's Office in Los Angeles. Hall and Hunter met around this time, when both were working in California. In approximately 1978, Hunter, then the U.S. Attorney for the Northern District of California, recruited Hall to leave Los Angeles and join him in San Francisco. In both Los Angeles and San Francisco, Hall served on a special federal strike force focused on combating organized crime.

Hunter left government service in 1982, but Hall remained at the U.S. Attorney's Office for approximately two more years. Hall then worked at private law firms in the Bay Area

(including one of Hunter's law firms for a period of time) and for the Oakland Board of Education.

Hall returned to the Syracuse area in the 1990s and joined the law firm of Smith, Sovik, Kendrick & Sugnet. In approximately 2001, Hall joined another Syracuse law firm, Blitman & King. While at these Syracuse firms, Hall was retained by Hunter for various projects for the NBPA. It appears that Hall handled arbitrations and litigations for the Union, and also assisted with employment and personnel matters. In particular, Hunter called upon Hall to assist with employee terminations. Consequently, according to Hunter, the NBPA staff referred to Hall as the "dark angel" or his "hatchet man," and would retreat to their offices when they saw Hall at NBPA headquarters. Hall was also involved in the negotiations that led to Hunter's 2005 employment contract.

(ii) Work for and Employment by the NBPA

Even though the NBPA's By-Laws specifically reference the position of General Counsel, the Union has operated without one for significant stretches of time under Hunter's tenure (although Hunter apparently considered himself the acting General Counsel at times). The position was vacant when Hunter became Executive Director in 1996, and he did not fill it until 1997, when he hired Robert Lanza who, held the position until approximately 2002. The position then remained vacant until Hunter hired Hall in 2005, even though the Union was engaged in collective bargaining with the NBA in the interim.

Hunter claimed that after Lanza left the NBPA, he looked for a General Counsel who could both try cases and teach other NBPA lawyers how to do so. It appears that Hunter did not conduct a formal or extensive job search to fill the General Counsel position. Hunter did not advertise for the position, and could not say that he retained a headhunter (although he may have consulted one informally). He reported that he interviewed one other candidate, an attorney who

was then working for the U.S. Securities and Exchange Commission, by telephone. According to Hunter, he wanted to hire this person, but moved too slowly, and by the time he called to extend a job offer, the candidate had taken a different position. Hunter said that he subsequently stopped looking for a General Counsel for a period of time, thinking that he might not be able to find the right person for the position, and that Hall was not hired until approximately two years later.

Hunter claimed that he decided to hire Hall because he knew him and was comfortable with his abilities and expertise, which included labor law experience, but acknowledged that Hall lacked experience in collective bargaining or the sports industry (factors that led one witness to call Hall an “odd fit” for the NBPA’s General Counsel). According to Hunter, because he did not want Hall to think he was getting a “vacation job,” he insisted that Hall commit to the position as he had his prior law firm position, despite their friendship. It appears that Hunter alone made the decision to hire Hall, and he said that he did not consult with anyone else in the Union’s legal department before offering Hall the position. Before hiring Hall, Hunter may have conferred with then-Union president Michael Curry, and may also have mentioned hiring Hall to some members of the Executive Committee, although he said that he felt that the NBPA By-Laws did not compel him to notify the Committee of Hall’s hiring.

In an email dated September 15, 2005, Hunter informed several NBPA employees of Hall’s hiring:

This email [is] to inform you that I have [decided] to hire Gary Hall to serve as General Counsel to the NBPA. I anticipate that as the new CBA is implemented and enforced there will be an increased volume of litigation with the NBA. Gary has assured me that he can satisfactorily handle all of the NBPA’s litigation requirements. In view of my professional [and] personal relationship with Gary I am confident that he will be a positive

addition to the office. I will be available on Monday to discuss my decision with each of you.

Hunter reported that his staff was “livid” when he announced that he was hiring Hall, adding that Biagas and Klempner were “upset” because they thought one of them should have gotten the job, and that Inaba was also unhappy with the decision. According to Hunter, after joining the NBPA, Hall had personality conflicts with Biagas, Klempner, Inaba and Oldham.

On September 19, 2005, Hunter sent an email to the Executive Committee to announce his hiring of Hall:

Gentlemen: I have decided to hire Gary Hall to serve as General Counsel to the NBPA. Currently, Gary is a partner in the firm of Blitman & King which specializes in labor law. Gary is a competent trial attorney who has handled many complex cases through trial. During my term as [United States] Attorney for Northern California, he was the lead attorney in the Organized [Crime] Unit. I am confident that Gary [will] significantly enhance our in-house capacity to try cases and reduce the cost of outside counsel.

We have seen no evidence that Hunter informed the Board of Player Representatives that he had hired Hall.

Hunter claimed that NBPA employees and Executive Committee members knew that he and Hall were close friends when he hired Hall. Hunter further stated that he did not recognize any conflict of interest stemming from his decision to employ a very close friend as the NBPA’s General Counsel.

Hunter’s failure to conduct a rigorous search process before hiring Hall led to criticism of the Union. Specifically, an article published in May 2012 by ESPN.com stated: “The hiring of Hall, a close friend of Hunter’s for more than 30 years, prompted accusations of cronyism from several player agents because no formal job search was conducted.” (Ex. 5)

Hall joined the NBPA as General Counsel effective November 1, 2005. His responsibilities as General Counsel were broad, covering both legal and administrative matters, and included, among other things, overseeing litigation such as grievance hearings, supervising the other NBPA attorneys, participating in collective bargaining, reviewing contracts and assisting Hunter in the evaluation of potential investments. Hall also traveled with Hunter, attended team meetings and managed the office when Hunter was absent. According to Hunter, Hall served both as the Union's chief lawyer and as his de facto chief of staff.

Toward the end of Hall's tenure, his health deteriorated, and he had hip replacement surgery and experienced heart problems. Hall passed away unexpectedly in May 2011. The General Counsel position has remained vacant since then.

(iii) Compensation

When Hunter hired Hall in 2005, he set Hall's annual base salary at \$330,000. In subsequent years, Hunter gave Hall a number of raises, until his compensation reached approximately \$400,000 in fiscal year 2010. While he worked at the NBPA, Hall was by far the highest paid Union employee other than Hunter, which may have produced some resentment among the NBPA staff, particularly among other members of the legal team. Indeed, for his entire tenure, Hall's annual compensation exceeded that of the next highest-paid employee by \$145,000 or more. Hunter confirmed that he alone determined Hall's compensation, that he never considered involving anyone else in setting Hall's salary or awarding him raises, and that he did not see any problem with this arrangement despite his close friendship with Hall.

Hunter said that when determining Hall's compensation, he looked to the salaries earned by the general counsels of the other major sports unions and then deliberately chose to pay Hall less than his peers. Hunter also said that on several occasions Hall requested larger

raises than Hunter awarded him, and that Hall was never given the salary Hall thought he should get.

(iv) Job Performance

We are hesitant to make findings in this area because Hall is deceased and cannot respond to any of the criticism that has been levied against him. Nevertheless, a number of witnesses criticized Hall's job performance as General Counsel. Specifically, they claimed that Hall was unfamiliar with the CBA when he was hired and did not subsequently become well-versed in its terms, and that he did not participate effectively in collective bargaining negotiations with the NBA. We also heard concerns about the amount of time and energy Hall devoted to his NBPA responsibilities, and were told that Hunter displayed favoritism toward Hall.

Hunter did not agree with these views. He rated Hall's overall performance as satisfactory, and said that the Union had ample resources to handle collective bargaining matters. Hunter also stated that he was "quite objective" in his treatment of Hall and that he did not hesitate to correct or criticize Hall when necessary, a decision that is corroborated by email records. Hunter also stated that he did not give Hall preferential treatment based on their friendship, although he acknowledged trying to reduce the strain on Hall after Hall became ill.

(v) Conclusions

Hall was an experienced attorney who had tried many cases, and his compensation, when compared to salaries earned by general counsels of other sports unions, does not appear to have been excessive. Nevertheless, Hunter's decision to hire his closest friend as the Union's top lawyer created a conflict of interest, and contributed to a perception that Hunter has taken improper advantage of his position at the NBPA to provide benefits to his family and friends. Hunter did not recognize or properly manage this conflict of interest.

As an initial matter, the process that led to Hall's hiring was flawed, because Hunter did not conduct a formal job search. Hunter interviewed only one other candidate, well before Hall was eventually hired.

Moreover, the Union's General Counsel should have helped the organization guard against conflicts of interest in areas such as hiring, choice of vendors and transactions with third parties. Hall evidently did not. Although Hunter claimed that Hall helped him to be conservative in his decision-making, Hunter did not report that Hall advised him to avoid or disclose the conflicts of interest on which this Report focuses. To the contrary, Hunter claimed that Hall endorsed actions that, in our view, created conflicts of interest. For example, after helping Hunter's daughter Alexis get a job interview at Howrey, Hall (according to Hunter) participated in the decision to retain Howrey for a transactional project. Likewise, after Alexis moved to Steptoe, Hall reportedly urged Hunter to retain Steptoe in 2011 to play a leading role in the Union's legal challenge to the NBA's lockout. Hunter also claimed that Hall suggested that he hire his daughter Robyn.

By installing his best friend as General Counsel and de facto chief of staff, Hunter perpetuated an atmosphere at the NBPA that made it difficult for Player Representatives, Executive Committee members and employees to challenge his decisions. The evidence suggests that Hall was not viewed as an independent figure who would be responsive to concerns about Hunter's management of the Union. In fact, Hall assisted Hunter in squelching dissent and criticism of Hunter's conduct. In particular, when Pat Garrity attempted to bring conflicts of interest to the Executive Committee's attention, Hall prevented him from addressing the Committee.

In addition, Hall failed to ensure that the Executive Committee receive independent legal advice in two important instances, as discussed in Sections IV(A)(1) and (2). Further, as General Counsel, Hall bears at least some responsibility for the NBPA's failures to comply with its By-Laws and adhere to principles of proper corporate governance. For example, Hall did not require that Hunter's 2010 contract be put to a vote by the Board of Player Representatives, did not ensure the regular preparation of minutes of Executive Committee and Board Meetings between 2005 and 2009, and did not insist on proper approval for contracts greater than \$25,000.

(d) Robyn Hunter

In January 2009, Billy Hunter hired his daughter Robyn to fill a position at the Union that he had recently created, Director of Player Benefits and Concierge Services. Robyn continues to work for the NBPA in that position today.

(i) Background

Robyn received a Bachelor of Science in Clinical Nutrition from Howard University in 1994 and a Master's of Public Administration from Syracuse University in 1996. While at Syracuse, she interned at a health clinic; that position may have involved work related to health benefits and administration. From 1996 to 1997, Robyn worked as a Health Insurance Consultant for Advantage, L.P. in Washington D.C., where she advised clients on medical insurance and healthcare eligibility issues. From 1998 to 2000, Robyn worked as an Advertising and Promotions Coordinator for the Dallas Mavericks.

In 2000, Robyn returned to Syracuse University to pursue an M.B.A., which she obtained in 2002. From 2002 to 2006, Robyn worked as an independent consultant in New York City, providing public relations, marketing and other services for individuals (including NBA

and NFL players) and product suppliers. For part of this period, from 2004 to 2006, Robyn also worked as a Retail Sales Consultant at Barneys New York.

In 2000, Billy Hunter hired Robyn on a temporary basis to assist the NBPA in organizing basketball camps for children in China. Robyn helped plan the camps and traveled to China to help run them. She received a \$2,000 stipend for this work, and the Union paid for her travel expenses.³¹ In June 2001, Robyn worked as a temp in the NBPA offices for five or six days. She was paid \$15 per hour for her services.

From 2006 to 2008, Robyn worked as a Program Manager at Duke Corporate Education (“Duke CE”), a provider of executive educational programs. Robyn reported that she left Duke CE at the end of 2008 because the company decided to close its New York office, where she was working. According to Robyn, she could have stayed with Duke CE if she had agreed to move to its offices in either North Carolina or South Africa, but she did not want to move to either location.

(ii) Hiring of Robyn by the NBPA

In 2008, Billy Hunter decided to create a new staff position at the NBPA that would involve both benefits and concierge responsibilities. According to Hunter, the idea to create this job emerged during one of several periodic “roundtable discussions” that he had with Gary Hall and Purvis Short about the Union’s needs.

The Union regularly receives inquiries from players about their medical, dental and supplemental health insurance benefits and the Union’s 401(k) retirement plan. Before Robyn was hired, such inquiries were generally directed to Kendalle Freeman in the Finance Department, although other staff members handled them on occasion as well. It appears that the

³¹ Hunter’s decision to hire Robyn to provide administrative support for the basketball camps in China disappointed his assistant, Suzanne Oldham, who said that she had been looking forward to traveling overseas to help with the camps. Hunter claimed that he was not aware that Oldham wanted to participate in those trips.

new position was designed to centralize the benefits responsibilities in one person and to respond to complaints that prior inquiries had not been handled effectively.

Toward the end of 2008, Cigna Healthcare, which was the primary medical and dental benefits provider for NBA players, offered to begin providing concierge services as well. Cigna reportedly proposed providing services geared toward players who were relocating to new teams and cities, such as, for example, helping them find new homes, select schools for their children, or make child care arrangements. Cigna informed the Union that the concierge services would come at no additional cost. Hunter, however, rejected this proposal because Cigna had been selected initially by the NBA and he viewed Cigna's offer as an effort by the league to "encroach" on the Union's jurisdiction. Hunter instead proposed that the Union provide its own concierge services. He said that he decided to combine the benefits and concierge responsibilities into one new position because doing so would result in more "bang for the buck."

Robyn acknowledged that she discussed working at the Union with her father, but claimed that her employment stemmed primarily from conversations she had with Gary Hall. According to Robyn, she told Hall in late 2008 that she wanted to work in the sports industry again, ideally in New York City, and Hall informed her that the Union was considering creating a position related to medical benefits. Robyn claimed that in response she sent her resume to Hall and discussed her prior experience and fitness for the position with him by phone. She did not recall being interviewed in-person. Hunter said that he delegated the task of interfacing with Robyn about the new position to Hall because he did not want to interview his daughter and was seeking to "insulate" himself "a little bit." Robyn did not recall speaking to anyone at the Union other than her father and Hall about the position prior to being hired.

Hunter announced his decision to hire Robyn in an email to Theresa Messer and Sheila Thompson, on which he copied Robyn, dated January 23, 2009:

Dear Theresa/Sheila: I have created a position called “Benefits Coordinator and Player Liaison” and I have tentatively hired Robyn Hunter to fill the position. Robyn will join our staff effective January 26, 2009 and will be located in the small conference room adjacent to Sheila’s office. Her annual salary will be \$75,000 and is based on her work experience and her two (2) Masters Degrees, One in Public Health and the other in Business Administration. She will immediately resign her position with Duke University to accept the fore mentioned position.

When asked, Hunter said that although he wrote that he had “tentatively hired” Robyn, the decision to hire her was indeed final by the time he sent this email. He also acknowledged that Robyn had already left Duke CE and thus did not need to resign to accept the position with the NBPA, and claimed that his statement to the contrary was a mistake. In addition, Hunter’s statement that Robyn had been employed by Duke University was also in error, because Duke CE is a separate corporate entity from the university, according to Robyn.

Approximately two hours later, Hunter sent a follow-up email to the same group, as well as to Gary Hall, which stated:

Theresa---I just reread my earlier email and realize I made a typographical error concerning Robyn’s salary. The salary should be \$85,000 per annum instead of \$75,000. As mentioned the position is Director of Player Benefits and Convenience Services.

Hunter said that he wrote this email because he learned after sending the first message that Hall had set Robyn’s salary at \$85,000. Robyn maintained that she did not know why her father wrote the second email, and that she did not discuss her salary with him during the intervening period.

Several Union employees stated that they told Hunter that his decision to hire Robyn was a mistake. Theresa Messer reported that Hunter and Hall called her into a meeting

prior to Robyn's hiring because they had heard that she had concerns about the decision. According to Messer, she told Hunter that hiring his daughter would be negatively perceived, and that he responded by discussing Robyn's qualifications, and indicated that he had already made up his mind to hire Robyn. Ron Klempner said that he told Hunter after Robyn was hired that the decision created "appearance issues." According to Klempner, Hunter responded by suggesting that if Klempner did not like his decision to hire Robyn, Klempner should leave the Union. Suzanne Oldham also reported that she told Hunter that she did not believe it was appropriate to hire Robyn.

Hunter admitted that he did not advertise the benefits and concierge position or consider any external candidates other than Robyn. It does not appear that any internal candidates were seriously considered for the position either, even though at least one was interested. Specifically, Theresa Messer reported that she believed that Kendalle Freeman should have been promoted to fill the position, and that Freeman had expressed interest in the job to her. Pat Garrity thought that Freeman should have received serious consideration because the new position seemed like a good opportunity for advancement for a current staff member who had already worked hard for the NBPA.

Hunter said that although he considered Freeman, he decided not to offer her the position because of concerns he had about her abilities, and because he had learned that she did not have a college degree.³² Hunter also said that he considered Latoya Sterling, who currently serves as Megan Inaba's assistant, but admitted that he did not speak directly to Sterling about the job. In addition, Hunter mentioned a former Union employee, Emily Trower-Young, as a

³² Hunter's statements about Freeman's educational background appear to be correct. Nonetheless, she has been working at the Union since 2001, handling administrative and accounting responsibilities such as administering payroll and processing the Union's accounts payable, among other things, and according to multiple witnesses has been performing well.

possible candidate for the position, but it appears that Young was not a realistic candidate because she intended to be only a short-term employee of the NBPA. Several Union staff members reported that Shelia Thompson may have been considered for the position, although Hunter said that the job would have been beneath Thompson given her credentials. None of these potential candidates were interviewed by Hunter for the position.

(iii) Disclosure to Executive Committee

Approximately two weeks after Robyn joined the NBPA, at the NBPA Executive Committee meeting on February 13, 2009, Hunter informed the four Committee members in attendance that he had hired Robyn. The members present did not vote to endorse Hunter's decision. As discussed in further detail in Section IV(A)(6), Pat Garrity attempted to raise questions about conflicts of interest, including those created by Robyn's hiring, with the Committee at this meeting, but Gary Hall prevented him from doing so.

The minutes from the February 13, 2009 meeting state:³³

Mr. Hunter announced the appointment of Robyn Hunter as Director of Player Concierge Services. In response to complaints that player requests have not been handled properly and the development of such services by Cigna Healthcare (provider of NBA medical and dental benefit) the union's response was to create this position. Ms. Hunter will provide assistance to all players ranging from selection of schools to real estate purchasing. (Ex. 21)

Hall reportedly told the Executive Committee that a "nationwide" search had been conducted to fill the position, and that three finalists had emerged from the search process, including Robyn. Hunter reportedly claimed that there had been competition for the position. To the extent these statements were made, they are inconsistent with the facts as we understand them. As discussed,

³³ As discussed in Footnote 59 below, the minutes from these meeting contain certain inaccuracies, including the date. The February 2009 Executive Committee meeting took place on February 13, not February 14.

it does not appear that Hunter seriously considered anyone other than Robyn for the position, and there certainly was never a nationwide search.

(iv) Role and Responsibilities

Robyn reported that her current duties include, among other things, responding to inquiries from players regarding their medical, 401(k) and other benefit programs; attending team meetings to discuss benefits with players; reviewing players' benefit applications and claims; and assisting players with appeals of benefit denials. In addition to these responsibilities, Robyn serves as a committee member or trustee for various NBPA player and staff benefit funds.

Robyn appears to have performed few, if any, concierge duties for the NBPA. She claimed that she was not given such responsibilities because her father saw that performing them would require substantial travel at a prohibitive cost. Robyn also said that her father limited her concierge activities because they would involve attending events with players, which would appear "glamorous" and might inspire jealousy among other NBPA employees. Further, she maintained that her benefits responsibilities were more substantial and time-consuming than originally expected.³⁴

Robyn initially reported directly to Gary Hall; since Hall passed away in May 2011, she has reported directly to her father. Given that her benefits responsibilities relate to work performed by the Finance Department, however, it would seem more appropriate that she report to Messer or someone in the Finance Department. Indeed, benefits questions were handled primarily by members of the Finance Department before Robyn was hired. Hunter acknowledged that it would have been logical for Robyn to report to Messer, but said that he

³⁴ Even though Robyn said that she does not perform concierge duties, her father is under the impression that she does. He said that she occasionally assists players in finding tickets to games and making restaurant reservations. Hunter also said that he plans to expand Robyn's concierge role in the future.

chose to have Hall supervise Robyn when she began working at the NBPA because he perceived tension between Robyn and Messer.

(v) Compensation and Job Performance

Hunter is solely responsible for determining Robyn's compensation. She currently receives an annual salary of \$98,400. She is paid substantially less than other Union employees at the director level. On the other hand, since she began working for the Union, Robyn's salary has increased at a greater percentage than the salaries of most other employees.

Robyn seems to be performing at least adequately in her current position. She won praise from Bernard King, outside counsel for the Union on benefits matters. Certain Executive Committee members we interviewed said that Robyn had been helpful in answering their questions, and that they had not heard any complaints about her performance. Nevertheless, other witnesses expressed concerns about Robyn's responsiveness and her reliability in responding to player inquiries. Robyn has not received a formal performance review at the NBPA.

(vi) Potential Preferential Treatment

Shortly after Robyn was hired, her office was expanded and remodeled at a cost of approximately \$20,000 to the Union. Although some staff members viewed this renovation as an example of special treatment, Messer reported that, prior to the renovation, the office space had been used as a small conference room and probably was not large enough to serve adequately as an office. Robyn said that she did not specifically request that the office be renovated, and that she chose that particular office, in part, so as to be seated as far from her father's office as possible.

As discussed above, several NBPA employees claimed that to circumvent the Union's policy of not offering paid maternity leave, both Robyn and Megan Inaba received pay

raises to compensate them for taking unpaid leave. Robyn Hunter was on maternity leave from early May to late July 2011. During her interview, Robyn stated that while on maternity leave, she did not receive any compensation or bonus that violated the Union's Pregnancy Disability Leave policy. We have confirmed that during the 13 weeks when she took leave, Robyn did not receive any compensation. Upon her return to work in August 2011, Robyn continued to receive the same bi-weekly pay as she had previously received, and has not received any increase since then.

Certain Union employees maintained that Robyn is often late to work and that she comes and goes as she pleases. Robyn said that she typically arrives to work by 9:30 a.m. and leaves when her work is complete.

(vii) Conclusions

In light of her educational background and work experience, Robyn is qualified for her current position. In our view, Robyn fulfills her responsibilities, and her salary does not appear to be excessive.

Nevertheless, the process that led to Robyn's hiring was flawed and fraught with conflicts of interest. Hunter hired his daughter without conducting a formal job search or seriously considering other candidates. Delegating the task of interviewing Robyn to Gary Hall, his best friend, was insufficient to prevent the appearance of nepotism. Today, a number of Union employees appear to believe that Robyn was hired only because she is Hunter's daughter.

Hunter asserted that when he hired Robyn, he did not think about nepotism concerns. He said that he mainly focused on Robyn's competence, and that the Union's By-Laws did not prohibit him from hiring her. He also stated that although he disclosed his decision to hire Robyn to the Executive Committee, he was not required to do so. Yet, Hunter acknowledged that having his daughter report to him might create the appearance of a conflict of

interest. Curiously, however, he claimed that he has addressed this problem by communicating with Robyn primarily via email.

Hunter's inability to identify meaningful methods for managing conflicts reflects the Union's apparent lack of such internal policies and procedures. Yet, in an April 24, 2012 story, *The New York Times* quoted Hunter as saying that he had established administrative "firewalls" to guard against conflicts of interest in the NBPA office. No such firewalls have been implemented at the Union, however, as Hunter seemed to admit during his interview, when he claimed: "I don't think there's a need for a firewall with Megan and Robyn. They don't engage in anything of consequence." Similarly, the April 24 *Times* story reported that Hunter had claimed that the hiring of all of his children had been "vetted and approved" by the Executive Committee, but he conceded to us that no such approvals had occurred.³⁵

* * *

In sum, the conflicts of interest produced by Hunter's employment decisions concerning his relatives are ongoing. They have created tension among NBPA staff members and undermined office morale. Robyn's hiring, in particular, appears to have been perceived not only as an act of nepotism, but as the last straw. These negative consequences were foreseeable.

³⁵ The same news article also states that Hunter "denied any role" in an April 2012 Executive Committee "vote of no-confidence in Fisher" and quoted Hunter as saying "I had nothing to do with that." When we asked Hunter about these statements, he said, "I still deny that," and insisted that "the decision to ask for [Fisher's] resignation came from the [Executive Committee] with no input from [him]." The Committee requested Fisher's resignation on April 18, 2012 in a two-paragraph email message. Two hours *before* that message was transmitted to Fisher, Hunter sent an email to Union lawyer Yared Alula that contained the same two paragraphs, and Alula has confirmed that Hunter had some input into the Committee's resignation request. When asked about his email to Alula, Hunter said he had no recollection of drafting or sending it, and suggested that someone had sent it from his email account without his involvement.

4. Selection of Union Vendors

In addition to hiring his relatives and his best friend as Union employees, Hunter has also chosen to retain or to continue to use as Union vendors professional services firms that employ his children. He has repeatedly failed to provide adequate disclosure to the Union's officers and directors about the connections between these firms and his family members. His actions have created the appearance that he makes decisions about Union vendors, in part to benefit his children.

(a) Prim Capital

Articles published about the NBPA in April 2012 suggested that the Union's relationship with its financial advisor, Prim Capital, deserves particular scrutiny because Prim is the Union's highest-paid vendor and has, since 2002, employed Hunter's son Todd. (Exs. 1 and 2) These basic facts are not in dispute. Resolving the full range of questions raised by Prim's relationship with the NBPA, however, proved more complicated, in large part because in our opinion Prim refused to cooperate fully with this investigation. Although Prim at first pledged full cooperation, and initially provided certain documents and made its employees available for interviews, Prim subsequently reversed course and refused to provide any of the additional materials we requested or permit any follow-up questioning.³⁶ In our opinion, the excuses Prim offered for its non-cooperation are unconvincing, and Prim's approach to this investigation demonstrates an inappropriate disregard for the interests of the NBPA, a long-standing client.

As explained below, the Union's relationship with Prim is fraught with conflicts of interest. These conflicts have not been properly managed and have hurt the Union.

³⁶ As shown in the correspondence attached as Exhibits 27, 28 and 29, we made repeated requests for information from Prim concerning a number of subjects, many of which were denied.

(i) Background

Prim Capital was formed by Joe Lombardo in 1997 and is based in a suburb of Cleveland, Ohio. According to Prim’s website, Prim is a “provid[er] of objective long-term financial planning and investment strategies for individuals, trusts and institutions.” Regulatory filings show that Lombardo, Prim’s Managing Director, has a controlling interest in Prim Capital and its subsidiaries.³⁷

Prim currently has eight employees, four of whom—Lombardo, Carolyn Kaufman, Todd Hunter and Doug Creighton—appear to work on NBPA matters on a regular basis. Prior to founding Prim, Lombardo worked briefly at Prudential Securities, and at Merrill Lynch before that. While at Merrill Lynch, he served as the Executive Director of New Business and co-founded the firm’s Sports and Entertainment group. Kaufman joined Prim in 1999 and now serves as a Director and the firm’s Compliance Officer. Between 1984 and approximately 1999, she owned and operated her own advisory firm, Kaufman & Company Financial Planning, which provided financial planning and mutual fund advice to approximately 350 private clients. Creighton, Prim’s Chief Operating Officer, has worked for Prim since 2000, and now manages the firm’s investment research and due diligence operations and oversees Prim’s investment performance monitoring services. Todd Hunter, Vice President of Prim Advisors and a Director of Prim Capital, joined Prim in 2002. His background is discussed in detail below.

Both Lombardo and Todd Hunter reported that Prim was, at one point, a much larger company, employing approximately 20 employees and offering broker-dealer and asset management services as well as its own financial products and investment opportunities. It

³⁷ Prim Capital has at least two subsidiaries, Prim Advisors and Prim Securities. Prim’s corporate structure and the distinctions between the different entities, however, appear to have little impact on the work Prim performs for the Union and are not discussed in detail in this Report, in which we refer collectively to all Prim entities as “Prim Capital” or “Prim” unless additional specificity is warranted.

appears, however, that Prim has downsized since 2007, and may now function primarily as an advisory firm.³⁸

Kaufman and Creighton acknowledged that the Union is one of Prim's major clients. According to Kaufman, many of Prim's clients are individuals with assets in the \$250,000 to \$5 million range, and Prim is not advising any client (other than the NBPA) on assets of more than \$50 million. In contrast, Prim appears to be advising the NBPA on assets worth approximately \$150 to \$200 million.

(ii) Initial Relationship with the NBPA

The Union's relationship with Joe Lombardo predates both Prim's founding and Billy Hunter's hiring. It began as early as 1992 when Charlie Grantham, then-Executive Director of the NBPA, engaged Merrill Lynch to create a "pre-pension" bridge fund for NBPA members. Witnesses reported that Merrill Lynch began making financial education presentations to NBPA members shortly thereafter, but did not begin serving as the Union's investment advisor until later.

The NBPA followed Lombardo when he moved from Merrill Lynch to Prudential Securities, and then again when he left to start Prim. Hunter claimed that the NBPA's relationship with Lombardo was informal at the time he joined the Union, and was unable to describe with any specificity the services Prim provided to the NBPA prior to 2002.

(iii) Prim's Work for the NBPA, 2002-Present

Prim currently provides a range of financial services to the NBPA and its members. We focus on three of Prim's primary services here.³⁹

³⁸ According to an Investment Adviser Registration report Prim Advisors submitted to the SEC in June 2012, that subsidiary has approximately \$46 million in assets under management in 260 discretionary accounts and approximately \$470,000 in one non-discretionary account, and provides services to 110 clients in total. Although we understand that this report describes only a portion of Prim's business, we were given limited visibility into the full scope of Prim Capital's operations.

First, Prim serves as the Union's primary investment advisor, monitoring the NBPA's financial portfolio, selecting and supervising the institutions directly responsible for investing the Union's money and reviewing the performance of the Union's accounts. Prim provides Investment Policy Statements containing guidelines for asset allocation and diversification as well as for selecting and evaluating money managers. Prim also prepares regular reports on portfolio performance for the Union's Finance Department and reports on occasion to the Executive Committee and Player Representatives.

According to a November 13, 2012 Portfolio Performance Report prepared by Prim, it appears that the Union has approximately \$205 million in assets under management, although approximately \$38 million of this amount was held as part of the NBPA's lockout fund and is scheduled to be returned to the NBPA's members. The assets are held in six different accounts, with approximately 52 percent invested in fixed income bonds, approximately 36 percent invested in equities and approximately 11 percent held in cash or cash equivalents. More than 80 percent of the Union's investments are currently held in funds managed by Legg Mason and Putnam, and the remainder is held in funds managed by Bank of America, Paradigm Global Advisors and PNC Wealth Management. According to the November 2012 Prim report, the Union's investments are performing slightly better than the benchmarks Prim has provided, as detailed in the following table:⁴⁰

³⁹ Although Prim has been working for the Union since the late 1990s, this investigation focused on Prim's work since approximately 2002, in large part because very few records prior to that point seem to be available, and also because Todd Hunter was hired in 2002.

⁴⁰ The NBPA "General" account is funded primarily through the portion of cash receipts from member dues and logo use revenues that is not retained by the Union to fund its operating expenses. The "Foundation" account is funded through receipts associated with player fines and suspension. As part of the group licensing agreement, the Union serves as an agent in collecting and allocating player merchandise revenues. Each year, the Board of Player Representatives authorizes the Union to retain a portion of this revenue for future labor negotiations. The Union then invests the retained funds in a "Reserve" account while the balance is invested in the "Merchandising" account, which is later distributed to eligible players based on Board approval. In general, all interests and dividends are reinvested in the respective accounts.

Account	Assets Under Management	Strategy	Portfolio Breakdown (Approx.)	Portfolio Performance⁴¹	Benchmark Performance⁴²
General	\$65.5 Million	Moderate	41% Equity 52% Fixed Income 6% Cash 1% Other	13.61%	12.07%
Foundation	\$26.1 Million	Moderately Aggressive	51% Equity 48% Fixed Income 1% Cash 1% Other	17.57%	16.94%
Reserve	\$33.3 Million	Moderate	82% Equity 18% Fixed Income	23.18%	22.04%
Merchandising	\$78.4 Million	Conservative	9% Equity 70% Fixed Income 21% Cash	6.13%	4.81%
WNBPA	\$161,700	All Cash	100% Cash	N/A	N/A
Other	\$1.3 Million	All Cash	100% Cash	N/A	N/A

Second, Prim makes financial education presentations to each NBA team during Team Awareness Meetings conducted jointly by the NBA and the NBPA on an annual basis. These presentations, now led primarily by Todd Hunter and Carolyn Kaufman, are designed to encourage players to take care of their salaries by, for example, creating financial plans,

⁴¹ Portfolio performance is the weighted average performance of individual securities based on the one-year annualized performance data reported in Prim's Portfolio Performance Report dated November 13, 2012.

⁴² Benchmark performance was calculated based on the one-year weighted average performance of selected indices in Prim's Portfolio Performance Report dated November 13, 2012. These indices were selected by Prim.

monitoring their investment and tax portfolios and closely supervising their financial advisors. Prim makes a similar presentation during the NBPA's Rookie Transition Program. In addition, Prim also makes its presenters available to speak with players on an individual basis following the seminars, and will prepare written financial plans for players upon request. We have been told, however, that Prim is not permitted to serve as an investment advisor to individual players.⁴³

Third, Prim offers investment portfolio analysis services, known to most witnesses as player audits, which are paid for by the NBPA. According to Robert Gadson, NBPA Director of Security and Agent Administration, who assists Prim during the process, the program was developed to address the Union's concerns that players were not receiving proper financial advice and were, in certain instances, being taken advantage of by their advisors. During an audit, Prim uses information received from a player's financial advisor to prepare a spreadsheet showing what the player is currently paying in financial management fees and offering options for what he could be paying if he either renegotiated with his existing manager or moved his money elsewhere. According to Kaufman, the audits do not typically analyze asset allocation or take account of the performance of a player's investments, but, instead present a picture of the typical fee range across the industry. Todd Hunter claimed that Prim conducts approximately 20 to 25 audits per year.

This Report does not reach any conclusions on the benefits the audits may provide. Kaufman and her colleagues provided few details and little evidence about how they reach their conclusions or recommendations. Further, despite repeated requests, Prim refused to

⁴³ Multiple witnesses reported that Prim is prohibited from accepting individual players as advisory clients, but it was difficult to determine the source of this restriction. Prim's 2005 contract with the the NBPA is silent on this issue. A previous agreement concerning the player audits provided only that "[u]nder no circumstances will Prim solicit and/or accept as a client any player to whom Prim provides services under this Agreement." A few witnesses reported their belief that this restriction applied only to players for whom Prim had conducted an audit.

share actual examples of the spreadsheets prepared for players, even with redactions of players' names and other identifying information to address privacy concerns.

Many of the players we interviewed said that they had never taken advantage of the audit service and knew few, if any, teammates who had. Some of those who had requested audits suggested that the service provided minimal value. Pat Garrity said he felt that his audit had been conducted by "someone trying to pitch me business." This statement is consistent with allegations made in a series of lawsuits filed against Prim by money management firms between 2003 and 2007. Specifically, CSI Capital and Harmon & Associates, both firms that represent individual NBPA members, alleged that the audits were thinly-veiled sales pitches by Prim designed to disparage players' existing financial management teams and, ultimately, steal clients by signing them directly or steering them to managers with whom Prim had relationships.

Whether the allegations against Prim had any merit is not analyzed here. Nonetheless, it is worth noting that the Union was dragged into the controversy surrounding the lawsuits. For example, Hunter was personally involved in brokering a settlement agreement with CSI on Prim's behalf. In that agreement, Prim represented that it would neither audit players represented by CSI absent express consent from CSI or its principals nor disparage CSI or the services it provided.

Finally, it appears that Hunter has also involved or attempted to involve Prim—and, in particular, Joe Lombardo and Todd Hunter—in other aspects of the Union's business and financial operations. Hunter has requested, for example, that Prim review potential investments or business opportunities, such as real estate deals and bank transactions, for the Union as well as for individual players.

Prim’s agreement to provide many of the services it now provides for the Union was first memorialized in an Agreement dated September 21, 2005 (the “2005 Agreement”).

(Ex. 31) Prior to 2005, the NBPA appears to have paid Prim in a piecemeal fashion under a number of agreements.⁴⁴ In 2005, the NBPA entered into a new agreement with Prim that set an annual fee for all of the services Prim was providing to the NBPA, apart from the portfolio management services.⁴⁵ At the time, the NBPA agreed to pay \$350,000 per year for, as Hunter described in an email to Pat Garrity, “an expansion of the programs for which they were compensated annually,” including “travel, materials, audits of individual player financial portfolios, advice to the NBPA on investments, etc.” (Ex. 30)

The 2005 Agreement was not properly approved by the Executive Committee. Although the By-Laws call for Executive Committee approval of all contracts over \$25,000, Hunter conceded that he rarely, if ever, presents contracts to the Committee. Pat Garrity was asked to review and sign the 2005 Agreement as Secretary-Treasurer, but the agreement was not presented to the entire Executive Committee for approval.

Regardless, the 2005 Agreement expired after a year. Although the 2005 Agreement provided that the NBPA could extend the term “from year to year by serving written notice on Prim,” no documentation was provided to suggest that the Union had complied with this provision. According to Hunter, he did not think Prim would care about the lack of written notice and that “any verbal response” would be adequate. He further asserted that he was not

⁴⁴ Under a Portfolio Monitoring Agreement dated May 28, 2002 (the “2002 Agreement”), which covered Prim’s work as the Union’s investment advisor, Prim was entitled to fees equal to 0.05 percent of the assets in the monitored portfolios. Under a Consulting Agreement dated April 23, 2003 (the “2003 Agreement”), the Union was required to pay Prim \$1,200 per player audit up to an annual cap of \$10,000. We were unable to determine how much Prim received in fees under these agreements or whether Prim was compensated for other services at the time.

⁴⁵ Email records indicate that the portfolio management services were purposefully excluded from the 2005 Agreement, and that Prim would continue to provide such services pursuant to the 2002 Agreement. Prim continued to collect fees under the 2002 Agreement until 2007, when the fees paid under both agreements appear to have been combined into one monthly fee. We were unable to locate records memorializing this change in Prim’s approach to billing the Union.

sure that the 2005 Agreement had expired, claiming that if it had not been extended, then Prim and the NBPA had “an oral contract.”

Two days before this Report was released, we received additional documents from Prim, reportedly in response to a subpoena that Prim received from the U.S. Attorney’s Office on May 16, 2012. Included in these documents, which had not previously been made available for our review, was a letter agreement dated February 24, 2011, and purportedly executed in early March 2011 by Joe Lombardo, Gary Hall and Purvis Short. (Ex. 32) The letter is similar to the 2005 Agreement in many ways; it states that Prim will provide the same services described in the 2005 Agreement at an annual salary of \$602,000. Unlike each of the previous agreements between Prim and the Union, however, which allowed for termination by either party without cause, this letter called for a five-year term, stretching from the date of execution, that “cannot be canceled or revoked while in effect for any reason by the NBPA.”

This document raises a number of troubling questions that we have not yet had a chance to investigate. For example, we were informed repeatedly by Union employees over the course of the investigation that the 2005 Agreement was the NBPA’s most recent contract with Prim. Theresa Messer reported that although she had raised with Prim the need for a written contract on multiple occasions, and had been told that one would be prepared, she never received a new agreement. When asked about this document, Messer and Shelia Thompson, the members of the Finance Department responsible for managing the Union’s relationship with Prim, reported that they had never seen it and had not known that it existed.

In a similar vein, when asked whether the NBPA-Prim relationship was currently governed by a written agreement, Hunter reported that he was “not aware of one,” and suggested

that the 2005 Agreement had been extended orally from year to year. Hunter did not report that a 2011 agreement was in existence.

Further, all previous NBPA-Prim contracts were signed by Hunter, while this one was signed by Gary Hall and Purvis Short. We cannot question Hall on the circumstances surrounding the negotiation or execution of this letter, and have not yet been able to discuss these matters with Short. Nor have we been able to discuss them with either Hunter or the members of the Executive Committee who would have been charged with approving this agreement.

As a result, we are continuing to investigate a number of concerns regarding this document. We have already raised these concerns with the U.S. Attorney's Office and will continue to report to the Special Committee on our findings. Until we can investigate this matter in greater detail, we are unable to discuss how this document may affect our recommendation that the Union consider no longer using the services of Prim.

(iv) Todd Hunter

Todd Hunter was hired by Prim Capital in 2002. Since then, he has become integrally involved in much of Prim's work for the Union. Due to his participation in the Team Awareness Meetings, he now appears to serve as one of Prim's most visible representatives to the NBPA's members.

(a) Background

Todd received a Bachelor of Arts in English from Dartmouth College in 1992. After college, Todd returned to his hometown of Oakland and worked as a substitute teacher for approximately three years. He left teaching to work for the Keating Housing Initiative, a real estate development project in downtown Oakland, where he assisted with operations, marketing and sales. While working at Keating, Todd enrolled in divinity school, and he earned a Master's degree in Divinity from the American Baptist Seminary of the West in 1998.

In 1999, Todd relocated to Roswell, Georgia, where he worked in management and sales for two Marriott hotel franchises. After less than a year, he left the hospitality industry and enrolled in business school at Syracuse University, earning his M.B.A. in May 2002. During the summer of 2001, he interned for the Upper Manhattan Empowerment Zone Development Corporation (“UMEZ”), a non-profit organization that works to revitalize economically distressed communities in Harlem and surrounding neighborhoods.

(b) Hiring by Prim

According to Todd, he participated in Syracuse’s corporate recruiting program during his second year in business school, but was not impressed with the available job options. He said that because he was already in his thirties, he did not want to take an entry-level position at a large corporation, so he reached out to friends and contacts across the country to try to find better opportunities. Todd also reported that he asked his father for introductions to executives in the financial community his father had met through working for the Union. In addition, Todd stated that he sought career advice from Joe Lombardo and John L. “Launny” Steffens, a former colleague of Lombardo’s at Merrill Lynch who founded Spring Mountain Capital, a New York investment firm, in 2001.⁴⁶ At Hunter’s request, Lombardo met with Todd and arranged “informational” interviews for Todd at approximately ten or fifteen Wall Street firms.

After a few months of such interviews, Todd and Lombardo met again. According to both, Todd explained to Lombardo that the meetings had confirmed his initial reluctance to work for a larger firm where he would have to wait for interesting opportunities, so Lombardo offered to hire him for a “trial run” with Prim. It is unclear whether Todd received any other job offers or seriously considered working anywhere other than Prim.

⁴⁶ According to Todd, he began attending NBPA events in 1997, and met Lombardo at a summer meeting between 1999 and 2002. He said that he first met Steffens at an NBPA meeting as well.

(c) Work for Prim

During Todd’s trial run, Lombardo stationed him in Steffens’s New York office so that he could learn the finance business. Todd subsequently worked out of an office at Deutsche Bank, another institution with which Lombardo and Prim had a relationship. Todd described his first few years at Prim as filled with “grunt work.” Lombardo and Hunter concurred. Todd appears initially to have functioned primarily as a back-office researcher, gathering information and answering questions for Kaufman and Lombardo, but not meeting with clients on his own. He reported that his starting salary was \$34,000.

Hunter stated that he may have been concerned about the conflict of interest created by Todd joining Prim and described himself as “more sensitive at that time to the issue[s] of money management [and] fiduciary responsibilities.” According to Hunter, when Lombardo announced that he wanted to hire Todd, Hunter expressed reservations and withheld his consent until Lombardo produced a letter from a law firm, Hogan & Hartson (now Hogan Lovells (“Hogan”)), presenting the opinion that hiring Todd was not inappropriate. Lombardo provided a similar account, and other witnesses stated that they had heard that Lombardo purportedly secured a “legal opinion” that concerned Todd’s hiring.

These statements, however, are not supported by the evidence uncovered during this investigation. Hogan did draft a letter for Lombardo in October 2002, shortly after Todd was hired.⁴⁷ (Ex. 33) But the letter analyzes whether Prim would violate the Employee Retirement Income Security Act (“ERISA”) if, in light of its prior relationship with the NBPA, the NBPA hired Prim to serve as portfolio manager for the Union’s 401(k) pension plan. Although Hogan factored Todd’s employment with Prim, Hunter’s role as Executive Director

⁴⁷ During our review of the NBPA’s email records, we located a draft of the letter prepared by Hogan in October 2002. We do not know whether a final version exists.

and Prim's prior work for the Union into its ERISA analysis, Lombardo conceded that the letter did not address "whether there was a conflict of interest about Todd working for Prim in general." We are not aware of any other letter that Hogan prepared that analyzes conflict of interest issues in connection with Todd's employment by Prim.

Hunter also claimed that he told Lombardo to prohibit Todd from working on Union business during his initial years at Prim. According to Hunter, he consented to Lombardo's decision to hire Todd, but told Lombardo that he "didn't want Todd engaged in any union affairs" because he thought "it would create problems. ... The kind of problems we're dealing with here now—the appearance of a conflict of interest." Hunter claimed that this restriction was in place until 2007, when Anthony Delfre (a former Prim employee who was principally responsible for the Union's account) left Prim, at which time Hunter and Lombardo jointly decided to "let Todd come out of the back room" and begin working on Union matters.

Contrary to Hunter's account, although Todd Hunter was less involved in Prim's work for the Union between 2002 and 2007 than he is currently, it is not clear that there was any formal restriction on his activities or that any such limitation was instituted to manage conflicts of interest. Kaufman recalled a discussion about how Todd should work on other matters until he gained experience, and Lombardo claimed that Todd was initially kept away from Union business because he was not "ready" to work on it, not because of an instruction from Billy Hunter.

Even if Hunter made a request to screen Todd from NBPA matters, evidence shows that Todd did in fact work on NBPA matters almost immediately after joining Prim. Emails between Billy and Todd Hunter show that Todd was involved in helping Prim collect information for player audits as early as November 2002, only a few months after he was hired

by Prim. Other messages, sent in May 2005, show that Todd was helping set up bank accounts for the NBPA Foundation. What is more, Hunter reported that Todd helped review potential investments for NBPA members during the period between 2002 and 2007, and that many players learned that Todd worked for Prim as a result.

Nevertheless, email records show that in June 2007 Lombardo sought to meet with Hunter to discuss increasing Todd's involvement in NBPA matters. Since then, Todd's role at Prim and with the NBPA has grown substantially. Today, he leads most, if not all, of the financial education presentations and handles many of the follow-up questions raised by the players. Multiple witnesses reported that they found Todd's presentations to be informative, persuasive and beneficial, and had positive comments about his style of delivery. Todd also currently participates in the player audits, responds to issues raised by the NBPA's Finance Department, attends weekly meetings at the NBPA and serves as a sounding board for his father's investment ideas and financial concerns. Todd reported that he currently spends approximately 25 to 30 percent of his time working on NBPA business and that his salary has risen to \$179,000, including base salary and bonuses. Todd maintained that neither his salary nor bonuses were affected by the level of fees paid to Prim by the NBPA, but these assertions could not be confirmed.

(d) Conflict of Interest and Disclosure Concerns

Although witness accounts are conflicting, the decision to hire Todd appears to have been made by Lombardo. Lombardo stated that the decision to hire Todd was made collectively by him, Carolyn Kaufman and Michael O'Neill (a former Prim employee). According to Lombardo, Kaufman and O'Neill interviewed Todd and felt that he showed "tremendous potential." Kaufman, in contrast, said that she had not interviewed Todd, was not involved in the decision to hire him and thought that the decision had been made solely by

Lombardo. Taken together with Todd's description of his hiring and Lombardo's assertions that he controls Prim's operations, the latter account seems more likely.

The evidence reviewed is insufficient to support a finding that Billy Hunter asked Lombardo to hire his son or conditioned Prim's continued work for the NBPA on Prim's employment of Todd. Although Todd acknowledged that he sought general advice about his job search from his father, he also said that his father had nothing to do with Prim's decision and that he was not aware of any conversation between his father and Lombardo about his hiring. And while both Hunter and Lombardo acknowledged that Hunter asked Lombardo to make introductions within the New York financial community on Todd's behalf, neither indicated that Hunter requested more than that.

Nevertheless, it is difficult to imagine that Todd's status as Billy Hunter's son played no role in Lombardo's decision to hire him. At the time Todd was hired, Prim Capital was a relatively small firm, based in Cleveland and focused largely on clients in the Cleveland area. It appears that Todd may be the only full-time Prim employee in New York. He first shared space with other firms, and since then has worked from home. But for Todd's connection to Billy Hunter and the NBPA, it is difficult to conceive why Todd would have been such an attractive candidate that Lombardo would have hired him with the understanding that he would remain in New York. One does not have to be a cynic to suspect that in deciding to hire Todd, Lombardo was motivated, at least in part, by an interest in cementing Prim's relationship with the NBPA.

Multiple witnesses, including Executive Committee members and Union employees, stated that they believe that Hunter likely played a part in getting Todd a job at Prim. Matt Bonner, for one, commented that he assumed Hunter was involved because otherwise it

would have been “one hell of a coincidence.” Similarly, Theo Ratliff explained that although he had never heard that Hunter helped Todd get the job, he thought that “it would be pretty easy [for him to have done so], since we paid Prim.” Union employees made similar comments over the course of the investigation.

Given that such speculation was likely inevitable, Hunter should have disclosed his son’s employment at Prim to the Union’s employees, Executive Committee members and Player Representatives and explained the relevant circumstances. Hunter stated, however, that in 2002 he informed neither the Executive Committee nor the Player Representatives that Todd had gone to work for a Prim. Most of the players interviewed indicated that they first learned that Todd worked for Prim once he began making presentations at Team Awareness Meetings in 2007. Some reported that they did not realize that Todd and Billy Hunter were related until later, in part because when Todd introduces himself at the start of his presentations, he does not mention that he is Billy Hunter’s son. It seems likely, however, that the majority of players in the league today know that Billy and Todd Hunter are father and son.

(v) Fees

(e) Direct Fees

Over the past five years, Prim has been the Union’s highest paid vendor. The Union paid Prim approximately \$600,000 in fiscal year 2012, and approximately \$3.77 million in total since 2005, the earliest year for which detailed payment records are available.

The chart below summarizes the Union's payments to Prim since 2005:

Fiscal Year	Amount Paid (per NBPA Accounting Records)
2006	\$434,389
2007	\$393,418
2008	\$453,333
2009	\$493,610
2010	\$602,746
2011	\$601,820
2012	\$601,820

Lombardo asserted that Prim's fees are in line with or lower than industry standards when one considers the entire scope of services Prim provides. In his opinion, the NBPA is not paying Prim enough for its work. Hunter claimed that he too believed that Prim was charging below-market rates, and has passed this message on to members of the Executive Committee.

Prim has suggested that its fees should be evaluated as a percentage of the Union assets under management. This approach, which is not an unreasonable method for analyzing fees in this context, shows that the Union is paying roughly 29 basis points in fees.⁴⁸ Fees amounting to 29 basis points may not be excessive in this situation, especially when Prim's other work for the NBPA is taken into account. Nevertheless, Prim refused to provide information on the total amount of money it derives from its relationship with the Union, and we believe that it

⁴⁸ The Union has approximately \$200 million under management and paid Prim approximately \$602,000 last year, which amounts to 0.29 percent, or 29 basis points.

would not be prudent to make a finding concerning the overall benefit Prim derives from the relationship with the Union without analyzing such information.

(f) Indirect Fees

The Union's direct payments to Prim are only a portion of the total compensation Prim receives as a result of its work for the Union. Prim also receives marketing commissions, known as 12(b)(1) fees, from the mutual funds in which NBPA money is invested. Lombardo claimed that Prim began collecting 12(b)(1) fees "a while ago." He further asserted that Hunter, the Union's Finance Department and the Executive Committee had all approved Prim's collection of such fees. Although that statement appears true with respect to Hunter and Theresa Messer, both of whom were aware that Prim collected 12(b)(1) fees, the Executive Committee does not seem to have been informed of such fees, much less asked to approve them. None of the current Committee members interviewed for this Report, including the Secretary-Treasurer, knew that Prim was receiving 12(b)(1) fees or, for that matter, any form of supplemental compensation.

Moreover, none of the witnesses interviewed, including Hunter and Messer, were able to state with certainty how much Prim was earning in 12(b)(1) fees on an annual basis. According to one Union employee, Lombardo has stated that Prim receives approximately \$400,000 in 12(b)(1) fees each year. Our direct requests for the information needed to verify this estimate were, however, denied by Prim.

Certain evidence suggests that Prim may have received fees from referring NBPA members, and possibly the NBPA itself, to certain financial institutions. Specifically, Prim has entered into referral compensation agreements with at least two institutions—Spring Mountain Capital (Launny Steffens' firm) and Deutsche Bank. Whether Prim has entered into similar

agreements with other firms could not be ascertained, although Lombardo asserted that Prim was free to do so.

Similarly, we were unable to determine how much Prim has been paid under its referral agreements. Union money was previously invested in Spring Mountain Capital and Deutsche Bank funds, and Prim has reportedly referred individual players to Deutsche Bank, but it is unknown whether such investments resulted in referral fees. Doug Creighton indicated that a summary of the total fees earned pursuant to these agreements could be easily prepared, but Prim ultimately refused to provide it.

(g) Additional Concerns about Prim's Fees

Two additional issues relating to the fees paid to Prim provide cause for concern.

First, Hunter has authorized increases in Prim's fees without documenting his decisions and without seeking Executive Committee or Board approval. In July 2007, for example, Prim's monthly fee appears to have increased from approximately \$29,000 to approximately \$41,000. None of the witnesses interviewed could explain the basis for this increase, and no documents requesting or justifying it were found. Hunter speculated that someone from Prim "may have come in and made a presentation to request the increase in fees," but he could not provide any specific details. Messer reported that she could not remember any discussions about this increase; she remembered only being told by either Hunter or Hall to begin paying Prim more each month.

Prim submitted a formal proposal for a fee increase in 2008, but Messer felt that it failed to provide information sufficient to justify the fees requested, and asked for additional support. Messer stated that she was concerned about the proposed fee increase because it was larger than the Union would typically give to other vendors. She recalled, however, that when she attempted to negotiate a smaller increase, Lombardo threatened to terminate Prim's

relationship with the Union. Email records show that Hunter ultimately stepped in to referee the dispute, and it appears that he subsequently approved Prim's request in its entirety over Messer's objections.

When asked to explain why Prim has received fee increases over the past seven years, Hunter responded that he had granted the requests primarily because he understood that Prim's costs had increased. It does not appear, however, that Hunter requested independent analysis to confirm that Prim's fees or proposed increases were reasonable or appropriate. Although evidence shows that Prim has, on occasion, requested fee quotes from other financial advisors in an effort to show that its fees are lower than what other firms would charge, Hunter could not remember reviewing such quotes personally and Messer reported that she had never been given the quotes to review. Hunter has not asked that the Union solicit quotes independently.

Hunter reported that he never sought approval from the Executive Committee before granting Prim's requests for fee increases, even though they imposed financial obligations on the Union of greater than \$25,000, because he "didn't think it was necessary." He claimed, however, that he had likely discussed Prim's fees with at least some current members of the Executive Committee and that he believed that either Messer or Thompson may have informed other committee members.

Yet, few of the Executive Committee members we interviewed knew how much the NBPA currently pays Prim on an annual basis. Some indicated that Prim's fees had been discussed as a component of the Union's annual budget, which is presented to the Committee members for their "sign off," but even those players raised questions about the process. Matt Bonner, for one, reported that Hunter had told the Committee that Prim's fees were lower than

those charged by other firms, but that, because he had not been given any documents to that effect, he had to take Hunter's "word for it." Similarly, Derek Fisher stated that he could not recall Prim's fees "ever being up for discussion." According to him, "there wasn't any period where we had a discussion that indicated the fee was negotiable or should be lowered." James Jones reported that Prim is presented to the Committee simply as the status quo, creating an "awkward situation," in which Prim's continued relationship with the Union seems to be "more of a familiarity issue, and less about a good deal." He further stated that he found it hard to tell whether Prim's value is really worth what the Union is paying, but that "in the absence of a bid process, we don't know if the fee is reasonable or excessive."

Second, email records show that in the process of evaluating or responding to Prim's requests for additional fees, Billy Hunter has communicated with Todd. In 2005, for example, Hunter forwarded to Todd an email he had received from Garrity raising concerns about the cost of Prim's initial proposal. In 2009, Billy and Todd Hunter discussed via email Theresa Messer's efforts to negotiate a lower fee increase with Prim. Hunter wrote to Todd that he had "decided to convene a meeting of concerned persons to resolve the matter. ... It is a forum for Prim to demonstrate why the proposed increase is justified." (Ex. 34) In response, Todd wrote:

Sounds great. I don't feel it was [s]uch a big deal. Just how Theresa presented the solution. Sounds good. I just didn't understand why my name always comes up. I work hard for Theresa and so [does] prim. Whatever the raise is, I just didn't understand that.

During his interview, Hunter acknowledged that it was inappropriate to communicate about Prim's fees with Todd on both occasions.

(vi) The NBPA’s Continued Use of Prim

Hunter has continued to have the Union work with Prim even though certain employees, particularly those in the Finance Department, find it difficult to do so. One witness, for example, described multiple confrontations between Lombardo and members of the Finance Department. Indeed, Hunter noted that Lombardo “can be abrasive” and stated that he has demanded apologies from Lombardo on certain occasions.

Hunter stated that he has never considered making the transition to another financial advisor, even though he has received solicitations from other firms, and that it has been his decision to keep Prim working for the Union in its current capacity. The evidence shows that the Union’s operations and assets have grown larger since Hunter became Executive Director, while Prim appears to have grown smaller in recent years. According to Messer, she has told Hunter that she felt the Union might be better served by using a larger firm, and Hunter simply responded that the NBPA would continue to use Prim.

(vii) Conclusions

Hunter has admitted that he was aware at the time of Todd’s hiring that Todd’s work for Prim might create an appearance problem, and acknowledged that he should have handled the situation differently. He conceded that looking back, he “definitely” should have disclosed Todd’s hiring to the Executive Committee and Player Representatives. We agree.

Moreover, Hunter decided to expand the NBPA’s use of Prim after his son began to work there, and although he has been presented with valid reasons to reevaluate Prim’s role, it appears—as multiple witnesses observed—that Prim’s continued work for the Union has been treated as a foregone conclusion. These factors create the appearance that the Union has used and continues to employ Prim because Todd Hunter is employed there.

(b) Howrey and Steptoe

Two law firms that provided legal services to the NBPA, Howrey and Steptoe, employed Hunter's daughter Alexis. The Union has paid these firms a combined total of more than \$1.75 million to date. Hunter's decisions to give legal work to these firms created conflicts of interests that he failed to properly disclose or manage, and which have hurt the Union, including by fueling the public perception that he runs the NBPA for the benefit of his family.

(i) Alexis Hunter's Background and Qualifications

Alexis Hunter graduated with honors from Brown University in 1996, with a Bachelor of Arts degree in Environmental Studies. She received a law degree from Fordham University in 2000. From 2000 to 2003, Alexis worked as an Assistant District Attorney in the Manhattan District Attorney's Office, where she handled narcotics prosecutions. From 2003 to 2007, she worked as an Assistant U.S. Attorney in the U.S. Attorney's Office for the Northern District of California (the office that her father led from 1977 to 1982), where she prosecuted federal crimes including narcotics and immigration violations, as well as fraud. As both a state and federal prosecutor, Alexis gained trial experience, serving as lead counsel for a number of trials.

(ii) Howrey

(a) Howrey's Hiring of Alexis Hunter

In 2006, Alexis decided that she wanted to leave the U.S. Attorney's Office, and began seeking a new job. She reported that she received offers for two jobs in California, but began looking for openings in New York City in late 2006 because she wanted to move closer to her family.

Alexis claimed that although she discussed her search for a job in New York with her father, she did not expect much assistance from him because most of his contacts in the legal

profession were in California, where he had spent most of his career. She reported that in late 2006 or early 2007, she received a call from Gary Hall, who indicated that he knew her parents wanted her to come back to New York, and offered career assistance. Specifically, Hall asked whether she would consider working at Howrey. One of Hall's good friends, Jim Hibey, was a litigation partner in Howrey's Washington, D.C. office at the time. Hall and Hibey had become acquainted in the mid-1970s while they were both young prosecutors at the U.S. Attorney's Office for the District of Columbia, and they had remained good friends. According to Hibey, Hall asked him to give Alexis general advice about law firms on the East Coast, and he responded by suggesting that Alexis consider applying to Howrey. Hibey stated that after obtaining a copy of Alexis's resume, he began recruiting Alexis to Howrey and arranged for her to interview at the firm's New York office. Howrey had recently expanded into New York by acquiring a small law firm, Engel, McCarney & Kenney, LLP, in December 2006.

Alexis recalled that in mid-January 2007, she visited New York and met with Howrey attorneys. She stated that at the time, there were fewer than ten lawyers in Howrey's New York office, including no more than four or five partners. After her interviews in January, months passed and Alexis heard nothing from Howrey. In addition, her other efforts to find a position in New York had not yielded much fruit. Although she had contacted a legal recruiter, she secured an interview with only one other New York firm, which did not result in a job offer.

In the spring of 2007, Alexis informed her father that her application process at Howrey was moving slowly, and he agreed that she should reach out to Thomas Engel, the head of Howrey's New York office. According to Alexis, in April or May 2007, she called Engel to inform him of her outstanding job offers in California and to inquire about the firm's timeline for making a decision on her candidacy. Engel reportedly responded that the firm was in the process

of evaluating how it would staff its New York office, and that he could not tell her what to do with her outstanding job offers in California. Nevertheless, just a few days later, according to Alexis, she received a call from Hibey, who offered her a position with Howrey.⁴⁹

Hibey admitted that he took steps to encourage Howrey to hire Alexis. He stated that, after he learned that all of the attorneys who had interviewed her favored her candidacy except for one, he scheduled a meeting with the “holdout” and challenged him on his position, emphasizing the qualities Alexis would bring to the firm. According to Hibey, following this meeting, the firm decided to extend an offer to Alexis.

Alexis accepted the offer to join Howrey within days of receiving it. Howrey gave her several months to wrap up matters at the U.S. Attorney’s Office and to move back to New York, and she began working at the firm in September 2007. Howrey compensated her as a fourth-year associate when she joined the firm.

(b) The NBPA’s Retention of Howrey

In June 2007, the NBPA retained Howrey as outside counsel for a transactional project, a potential joint venture with a Chinese conglomerate, Citic Guoan. Hunter stated that he made the decision to hire Howrey jointly with Hall. As discussed further in Section IV(B)(4), the potential joint venture with Citic Guoan fell apart, but Howrey went on to work on a number of projects for the Union, including due diligence on the potential investment in ISN Bank and other potential bank deals. Howrey also provided advice to the Union on intellectual property and trademark issues and performed preliminary work for the 2011 collective bargaining negotiations. Alexis worked on certain of these projects and served as a liaison between her father and Howrey throughout her tenure at the firm. By Hunter’s own admission, he did not

⁴⁹Alexis said that she did not have a copy of the offer letter from Howrey and that she could not recall the exact date she received it. No other documents that established the precise date that Howrey extended an offer to her were uncovered during this investigation.

disclose to the Executive Committee or to the Board of Player Representatives that Alexis worked at Howrey and that the Union was using Howrey as outside counsel. Nor did he consider making such a disclosure, or recusing himself from a discussion about whether the Union should hire Howrey.

In total, the NBPA paid \$382,644 in legal fees to Howrey between September 2007 and July 2011. Work by Alexis accounted for approximately nine percent of total attorney fees billed, with the majority of her time spent on research and advice related to collective bargaining.

**(c) Findings Regarding Howrey's Hiring
of Alexis Hunter**

It would have been improper for Hunter to give business to Howrey to induce the firm to hire his daughter or reward the firm for doing so. Such actions would have been inconsistent with Hunter's duty of loyalty to the Union and would have constituted a form of self-dealing. Accordingly, this investigation sought to determine whether Hunter's decisions to give work to Howrey were in any way linked to Howrey's employment of Alexis.

Ultimately, we found no direct evidence of an inappropriate deal between the Union and Howrey concerning the employment of Alexis. As an initial matter, Billy Hunter, Alexis Hunter and Jim Hibey all denied having any discussions along these lines. Billy Hunter said that he did not speak to anyone at Howrey about the hiring of Alexis, and that he did not know Hibey prior to that time. Hibey's statements were consistent with Hunter's—he reported that he had never had a conversation with Hunter about hiring Alexis. According to Hibey, he won business for Howrey from the NBPA because of his relationship with Hall. Hibey claimed that after Hall became general counsel of the NBPA in November 2005, Hall occasionally called

him seeking informal legal advice, typically on labor or employment issues, suggesting that his attentiveness to Hall's concerns contributed to the Union's retention of Howrey.

This explanation is consistent with a public statement released by Steptoe, where Hibey and Alexis now work, to *The American Lawyer* in April 2012.

At Steptoe, and previously at Howrey, the NBPA work came through partner Jim Hibey and his relationship with the late Gary Hall, the [NBPA's] general counsel, and a professional and personal friend of Mr. Hibey's since they worked together as federal prosecutors more than 35 years ago. Mr. Hibey was first hired by the NBPA in the spring of 2007, and when he moved to Steptoe in March 2011, the relationship with the NBPA followed.⁵⁰

During his interview, Hibey emphatically stated that he considered it offensive to him, as well as to Alexis and Hall, to suggest that any improper arrangement existed with respect to the hiring of Alexis and the retention of Howrey. Throughout that three-hour interview, Hibey appeared believable and sincere.

Nevertheless, the relevant facts remain murky. As an initial matter, Hall was intimately involved in this story, and would have had important conversations with Hibey and both Hunters, but it is not possible to obtain his version of events. More important, circumstantial evidence would arguably suggest that there is some connection between the hiring of Alexis and the retention of Howrey.

First, although it is unclear which event—Howrey's hiring of Alexis or the NBPA's retention of Howrey—occurred first, the two events happened at close to the same point in time. The information provided by Alexis suggests that she was offered the job in approximately May or June 2007. Howrey first billed time to the Union in early June 2007, and

⁵⁰ It appears that the Union approved this statement before it was published.

Hibey stated that work on the project may have begun prior to that time.⁵¹ Accordingly, Hunter and Hall may have decided to retain Howrey in approximately April or May 2007, when Howrey was apparently evaluating Alexis's candidacy.

Second, although Hibey vigorously denied the notion that Howrey hired Alexis in exchange for work from the NBPA, he also stated that when considering whether to hire Alexis, it "wasn't harmful" that her father ran the NBPA.

Third, Alexis viewed herself as partly responsible for generating the business for Howrey from the NBPA. In December 2010, in connection with another job search, Alexis sent a copy of her resume to her father that listed, as one of her "Select Accomplishments" at Howrey: "Generated \$400,000 in new business from a labor union." (Ex. 35) When interviewed, Alexis confirmed that this bullet point referred to the NBPA. She acknowledged that at Howrey the NBPA was considered Hibey's client and explained that it might be more accurate to say that she "assisted" in bringing in the NBPA's business, but nonetheless affirmed her view that she had a role in generating business from the Union. She pointed out that her father occasionally contacted her directly to inquire whether Howrey might be able to assist the Union on various matters, a statement corroborated by email records.

For his part, Billy Hunter said that he considered Alexis's claim that she generated business from the NBPA to be puffery. Hibey maintained that Alexis did not generate the business in question and did not get any compensation from Howrey based on fees paid by the NBPA.

Finally, at the time she received an offer from Howrey, Alexis's search for a position in New York had not been successful, and she had no other job offers in New York. On

⁵¹ During our investigation, we were unable to locate a copy of an engagement or retention agreement between the Union and Howrey, which would have helped to confirm the timing of Howrey's hiring.

the other hand, Alexis had strong academic credentials and seven years of experience as a state and federal prosecutor, including trial experience, and we have no reason to believe that she was not well-qualified to be hired as an associate by Howrey.

In sum, there is no direct evidence that Hunter took improper actions to encourage Howrey to hire his daughter or to reward Howrey for hiring her. Nevertheless, there is enough circumstantial evidence to suggest that it was not mere coincidence that Alexis was hired by Howrey at approximately the same time that the NBPA retained Howrey.

(iii) Steptoe & Johnson

(a) Steptoe's Hiring of Alexis Hunter

By late 2010, Howrey was experiencing severe financial difficulties, and Alexis Hunter began looking for another job. Howrey ultimately folded in March 2011. As the firm was collapsing, Alexis received a call from Hibey, who explained that he was considering joining Steptoe and asked whether she might be interested in joining the firm as well, which she was.

Hibey started working at Steptoe on March 21, 2011. Alexis interviewed with Steptoe, received an offer, and joined the firm as a Special Counsel a few weeks later. She reported that she interviewed with one or two other law firms during her search, but received no other job offers. At Steptoe, Alexis received a starting salary of \$275,000, which included a \$25,000 bonus that was conditional upon her reaching a certain threshold of annual billable hours.

(b) The NBPA's Retention of Steptoe

By April 2011, the Union had begun labor negotiations with the NBA, and Billy Hunter anticipated that a lockout might begin later that year. In prior collective bargaining negotiations, Jeffrey Kessler, then of the law firm Dewey & LeBoeuf LLP ("Dewey"), had

served as the Union’s primary outside counsel. In fact, Kessler, who had significant experience in antitrust law and matters involving professional sports unions, had represented the Union since prior to Hunter’s appointment as Executive Director in 1996 and had played a similar role for the NFLPA.

Hunter was aware that it was widely expected that, as part of a legal challenge to a lockout, the Union might decertify and file an antitrust suit against the NBA in federal court. Yet, Hunter was eager to pursue a different strategy. He claimed that heading into the negotiations, he “wasn’t anxious to decertify the Union,” because he was concerned that an antitrust action could be costly and lengthy and offered no guarantee of success.

According to Hibey, in late March or early April 2011, Hall invited Steptoe to suggest another course of action to the Union. In response, Steptoe proposed bringing an unfair labor practices action against the NBA before the National Labor Relations Board (“NLRB”), and touted Steve Wheless and Larry Katz, two partners from its Phoenix, Arizona office who concentrated on labor law matters, as the right attorneys to lead this effort. Steptoe presented this strategy to the Union at a meeting that occurred on April 14, 2011. Five lawyers from Steptoe attended the meeting—Hibey, Wheless, Katz, Alexis Hunter and Chong Park; Hall and Klempner represented the NBPA. Hibey and Alexis recalled that Billy Hunter was not present for the April 14 meeting because he had been briefly hospitalized, and that Hall called him in the hospital at the end of the meeting and reported that he had been impressed with Steptoe’s recommended approach. Hunter, however, did not remember this call.

On April 22, Hunter informed the Executive Committee that an antitrust lawsuit could take years to get to trial, could cost up to \$25 million in legal fees and had no assurance of

prevailing. He claimed that he was investigating ways to expedite the court process and control costs, and was evaluating several law firms to add to the Union's legal team to assist Dewey.

By that time, however, Steptoe's work for the Union was already underway. Steptoe began billing the Union for work performed on April 15, and the firm's work proceeded in earnest after that date. Another meeting between Steptoe's legal team and the NBPA had occurred on April 21. Hunter was present at this meeting, along with Hall, Klempner and attorneys from Dewey. Steptoe's billing entries describe this meeting as a strategy session. By the end of April, eleven Steptoe attorneys had billed 249 hours to the NBPA matter, for a total of \$127,167 in legal fees.

Hunter reported that although he spoke to lawyers at several other firms (all of whom recommended an antitrust strategy), and met with one group in person, Steptoe was the only firm he considered employing to pursue an NLRB strategy, because it was the only one that had proposed such an approach. A number of witnesses claimed that Hunter's consideration of other law firms appeared to be a charade designed to present the illusion that Steptoe's retention was not a fait accompli. One witness reported that by April 14, he had the sense that Hunter and Hall had already decided that they wanted to retain Steptoe. Steptoe's billing records, which show a significant amount of work beginning on April 15, and other documents tend to support these suspicions.

Hunter reported that he announced his decision to retain Steptoe and pursue the NLRB approach to Executive Committee members at a meeting at Union headquarters. This meeting appears to have occurred on May 23. Hunter claimed that all members of the Executive Committee were either physically present at the meeting or participated by phone, and that the attendees also included Union employees and Steptoe attorneys.

Hunter stated that he did not seek, and indeed was not required to obtain, the Executive Committee's approval for his chosen legal strategy; instead, he informed the Committee of what he planned to do.⁵² According to Hunter, during the meeting he introduced each of the Steptoe attorneys who would be working on the matter, including his daughter, whom he identified by first and last name. Hunter reported that he did nothing else to explain that Alexis was related to him.

It appears that Hunter's introduction of Alexis by name was insufficient to communicate to the Executive Committee that he had decided to hire a law firm that employed his daughter or that she would be working on the matter for the Union. Several Executive Committee members, including Derek Fisher, James Jones, Roger Mason, Theo Ratliff and Etan Thomas, said that they were not aware at the time the Union hired Steptoe that Hunter's daughter was employed there.

It appears that some Committee members discovered that Alexis was representing the Union through interactions with her during the course of the labor negotiations. For example, Fisher said that he learned that Alexis worked at Steptoe when he accompanied Hunter to the firm's New York office for a meeting. According to Fisher, although he had met Alexis previously, it was not until she joined the meeting that he realized that she was an attorney at Steptoe, and that she was assisting in representing the Union. He reported that before Alexis joined the meeting, he did not know that she was an attorney. Today, Fisher feels that he defended the Union's collective bargaining strategy and, in particular, the selection of Steptoe and the NLRB approach to hundreds of fellow players without knowing the full story of why the

⁵² Hunter appears to be correct that, according to the Union's Constitution and By-Laws, he was not required to seek Executive Committee approval for strategic legal choices related to collective bargaining. On the other hand, he arguably was required to obtain Executive Committee approval for retaining Steptoe pursuant to the provision subjecting contracts in the amount of \$25,000 or more to Executive Committee approval. At the time he retained Steptoe, it was clear that the firm's lockout-related work would result in billing to the Union in excess of \$25,000.

Union retained Steptoe. When confronted with this account, Hunter disagreed with Fisher's version of events. Hunter maintained that Fisher had participated in the meeting during which Alexis was introduced to the Executive Committee. He also claimed that prior to that call, he and Fisher had spoken about Alexis, and that Fisher had also met Alexis in person. Thus, Hunter asserted, Fisher must have known that when he introduced an "Alexis Hunter" on the conference call, he was referring to his daughter, because "there aren't many Hunters out there." Finally, some Committee members reported that they did not become aware of the significant role Alexis played in the lockout litigation until it was reported in the April 2012 news articles.

(c) Steptoe's Work Related to the NBA Lockout

Steptoe filed the Union's unfair labor practices action with the NLRB on May 24, 2011. Steptoe's attorneys predicted that the NLRB would move quickly and would likely resolve the proceeding prior to the expiration of the collective bargaining agreement on July 1. Yet, the NLRB never acted on the Union's petition, and during the summer and fall of 2011, pressure mounted on the Union to pursue a different approach. For instance, Hunter recalled meeting in late July with a group of agents who proposed that the Union decertify and bring an antitrust action.

On August 2, the NBA filed a suit in federal district court in New York seeking a declaratory judgment that the lockout did not violate antitrust laws. On the same day, the NBA filed an unfair labor practices charge with the NLRB. On September 23, the NBA canceled training camp and the first week of preseason games, and on October 4, the NBA canceled the remainder of the preseason. About one week later, the NBA canceled the first two weeks of the regular season, and by November 15, it had canceled all regular season games through mid-December.

In early November, Hunter retained attorney David Boies to advise the Union with regard to an antitrust strategy. Shortly thereafter, the Union abandoned the NLRB approach and began the process of disclaiming interest (similar to decertifying the Union). On November 26, the Union and the NBA reached a tentative agreement to end the lockout, and on December 8, a new collective bargaining agreement was ratified, which ended the lockout. The 2011-12 NBA season began on December 25.

Work by Alexis accounted for approximately 18 percent of the total attorney fees billed to the NBPA by Steptoe between May 2011 and October 2012. The majority of her work was related to the lockout.

(d) Findings Regarding the Decision to Retain Steptoe

Although this Report was not commissioned to determine whether Hunter should have selected a different legal strategy in response to the NBA's lockout, issues of nepotism and conflicts of interest are intertwined with the retention of Steptoe. There is wide speculation within the Union and in the news media that Hunter's choice was influenced by inappropriate factors, particularly a desire to advance his daughter's career. (Ex. 4)

Such conjecture was readily foreseeable. Indeed, Hunter anticipated that the Union might be criticized in the press if it became known that Alexis was performing legal work for the NBPA in connection with the lockout.⁵³ Accordingly, when the NBA filed its declaratory relief action, Hunter initially took the position that Alexis should not enter a notice of appearance in the case or have her name on the NBPA's pleadings, because he felt that her participation in

⁵³ Ron Klempner also recognized that retaining Steptoe left the Union vulnerable to nepotism charges, and he expressed this concern directly to Hunter, although he could not recall whether he did so before Steptoe was retained.

the case could become a “distraction.” Nevertheless, on September 6, 2011, Hunter reversed course and directed that Alexis appear publicly in the case.

After investigating the matter, there appears to be no direct evidence to support the idea that Hunter retained Steptoe for the improper purpose of promoting his daughter’s career. In fact, certain evidence counters such criticism.

First, as a general matter, Billy Hunter, Alexis Hunter and Jim Hibey all denied accusations that work had been given to Steptoe pursuant to any improper agreement. Hunter informed us that he did not have any discussions with Hibey or any other partners at Steptoe about the hiring of his daughter. As discussed above, Hunter has repeatedly justified his decisions to hire Steptoe and file an NLRB action as an attempt to try to control legal costs and score a quick victory. Consistent with Hunter, Hibey emphasized that the Union was looking for a creative approach and that Steptoe was uniquely positioned to offer one. Hibey also insisted that the Union’s retention of Steptoe was due to his relationship with Hall. Nevertheless, there was a substantial difference between the matters Howrey handled, which appear to be routine in nature, and the pivotal role Steptoe played in the NBPA’s legal strategy during the 2011 round of collective bargaining.

Second, Steptoe has confirmed that Alexis has not received any compensation based on legal fees paid by the Union. On the other hand, however, Alexis could have reaped ancillary benefits from the relationship between Steptoe and the NBPA, including the advantages of being associated with a prominent client and having the opportunity to work on a high-profile matter.

Third, a fee dispute arose between the Union and Steptoe in approximately August 2011. The NBPA has refused to pay Steptoe approximately \$300,000, based at least in

part on the assertion that Steptoe billed the Union for work that was not necessary. Hunter's refusal to pay this amount undercuts the notion that he would use Union funds to further Alexis's career at Steptoe.

On the other hand, Hunter's choice to retain Steptoe and pursue an NLRB approach were regarded as unconventional and unlikely to succeed. It was contrary to the strategy that Jeffrey Kessler had recommended and expected the Union to pursue. In addition, from the beginning of Steptoe's retention, Alexis played a significant role in the lockout litigation, even though she lacked significant labor law experience. Further, certain Union employees felt that Steptoe did not have the particular type of labor law experience needed to be effective as counsel in the Union's battle with the league. These employees claimed that prior to their work for the NBPA, Wheeless and Katz had primarily represented management in labor disputes, and appeared to lack experience representing labor unions or litigating issues concerning professional sports.⁵⁴ These factors contributed to the perception that Hunter had chosen Steptoe in part because Alexis worked there.

In addition, certain agents of NBA players were dismissive of the likely effectiveness of the NLRB strategy and urged Hunter to file an antitrust suit instead. And, certain critics of Hunter asserted that in hiring Steptoe, Hunter was engaging in a desperate effort to avoid decertification, not because Steptoe offered a better strategy, but because he did not want to relinquish control of the Union and feared that he might not be re-appointed as Executive Director when the Union re-constituted itself after the lockout.

⁵⁴ Although Union lawyers reported knowing at the time that Wheeless and Katz typically represented management, Hunter stated that he had not known this fact prior to retaining Steptoe. Nor did he consider that they reportedly lacked experience in the sports industry. He claimed that when he hired Wheeless and Katz, he believed that they were "outstanding lawyers," and was impressed that they had argued before the Supreme Court and had represented large corporations such as Wal-Mart. When he learned that they were typically aligned with management, he did not regard this as a hindrance.

In response to such criticism, Hunter denied that he chose Steptoe for selfish reasons and stated that he was always willing to pursue the antitrust approach—and in fact did pursue it—when the time was right. Hunter also maintained that player agents supported decertification to advance their own personal financial agendas and misinformed players about the risks of decertification.

(e) Conclusions

By using as outside counsel two law firms that employed his daughter, and permitting his daughter to work directly on Union matters, including critical lockout-related litigation, Billy Hunter entangled the NBPA in conflicts of interest. Hunter has justified his decisions largely by claiming that he believed Howrey and Steptoe provided effective and valuable legal services to the Union. In a similar vein, Katz has stated publicly that he did not believe the Union’s engagement of Steptoe represented a conflict of interest because the Steptoe lawyers “were very well-qualified to practice in this area.” In addition, Hibey has explained that there were valid reasons for Alexis to be significantly involved in the lockout litigation, including because she was based in New York and could easily travel to the Union to conduct witness interviews.

Yet, in evaluating the conflicts of interest that resulted from the retention of Howrey and Steptoe, the primary concern is not that the firms failed to perform adequately, but rather that Hunter created the perception that the Union’s choice of law firms was influenced by what was best for the Hunter family. Even though this perception is speculative and only supported by circumstantial rather than direct evidence, it is a serious one, and it has hurt the Union. Among other things, it exposed the organization to public criticism, spread distrust of Hunter’s leadership among NBPA members and contributed to the need for this investigation.

Hunter admitted that he foresaw that a perception problem might be created by his actions. He did little, however, to manage that problem. According to Hunter, when retaining Howrey, his only worry was ensuring that the firm did not overcharge the Union. Hunter said that he addressed this issue by asking both Gary Hall and Ron Klempner to review Howrey's invoices. Although Hunter's efforts to prevent overcharging are commendable, they did not sufficiently address the conflict of interest he had created.

Most importantly, Hunter failed to disclose to the NBPA's Executive Committee and Board of Player Representatives the conflicts of interest created by hiring Howrey and Steptoe, and he did not take steps to attempt to manage these conflicts. His suggestion that his introduction of Alexis by name to the Executive Committee when announcing the retention of Steptoe was sufficient disclosure because "there aren't many Hunters out there" is not convincing.⁵⁵ With regard to Steptoe, a better approach to the disclosure of conflicts of interest might have included a comprehensive explanation by Hunter to the Executive Committee that he was considering hiring Steptoe to play a significant role in the Union's collective bargaining strategy, that the firm employed his daughter, that Alexis would play a major role in Steptoe's work for the Union, and that there were risks of proceeding in this manner—including the danger that the decision would be regarded as an act of nepotism. Under such an approach, Hunter would have also informed the Committee members of other options available to the Union and permitted them to deliberate without him present. During his interview, Hunter acknowledged that, with the benefit of hindsight, more comprehensive disclosure about Alexis and her role at the law firms he had hired for Union matters would have been preferable, and he promised to provide such disclosure if faced with a similar situation in the future.

⁵⁵ Indeed, another Hunter worked on the case as well—Steptoe partner Kevin Hunter, who is not related to Billy Hunter.

Ultimately, however, even a more robust disclosure and approval process might not have been sufficient here. The Executive Committee has been made up of players who, through no fault of their own, are not well equipped to evaluate either the merits of a particular law firm or the advantages of particular legal strategies for the collective bargaining process. One could argue that in light of these factors, the better practice would have been to avoid completely the creation of conflicts of interest in the Union's retention of law firms.

5. Additional Allegations Considered

This report also analyzes other allegations of nepotism and cronyism in Union affairs.

(a) Hunter Family Members

(i) Stephen Holmes

Stephen Holmes is Billy Hunter's cousin. At least through 2007, Holmes was an owner and operator of Holmes Lounge and Garden, a restaurant in Camden, New Jersey known locally as a landmark of soul food cuisine. In 2002, when the NBA All-Star Game was held in Philadelphia, Hunter held an NBPA event at Holmes Lounge and Garden.

As discussed in Section IV(B)(4) below, in 2007, Hunter pursued a potential business deal between the NBPA and Citic Guoan, a Chinese business conglomerate, in which the NBPA would have brought to China not only basketball tournaments but also ventures designed to showcase African-American culture. The partnership was ultimately unsuccessful, but as initially contemplated it would have included establishing a chain of soul food restaurants in China.

Hunter decided to take Holmes with him on a business trip to China in September 2007 that was intended to explore the potential partnership with Citic Guoan. Hunter claimed that if the joint venture had moved forward, Holmes would have been involved in running the soul food restaurants in China on behalf of the NBPA, as a manager and a cook.

Although Hunter emailed updates on the proposed chain of soul food restaurants to the Executive Committee before and after the trip to China, he did not disclose his family relationship to Holmes in any of those messages. In the one email to the Executive Committee where he mentioned Holmes by name, Hunter described Holmes merely as "a restaurant operator in the Philadelphia area," but did not indicate that he and Holmes were cousins. When asked

why he did not disclose his relationship with Holmes, Hunter said that he “didn’t think about it” and claimed that he viewed the hiring as “innocent.” Hunter denied that the family relationship was the determining factor in his selection of Holmes, and claimed that Holmes was chosen because of his prowess in the kitchen.

On August 29, 2007, Hunter sent an email to Holmes’s girlfriend, which states:

Marlene---some of the players are questioning my decision to take Steve to China. Therefore, in order to resolve this matter I need a letter from Steve stating that “he agrees to provide consultant services to the National Basketball Players Association in discussions with Citic Guoan on the creation of Planet Soul and/or restaurants specializing in African-American cuisine and live musical entertainment. As consideration for my services the NBPA agrees to provide me with roundtrip airfare, food, lodging, and ground transportation in China for the duration of the trip. It is understood that my services shall be considered a work for hire on behalf of the NBPA.”

When asked about this email, Hunter denied that players were concerned that he was using Union resources to provide a benefit to his cousin, and maintained that they only wanted to ensure that Holmes would not receive an equity stake in any potential deal. Holmes sent a letter to the Union dated August 30, 2007 that contained the language proposed by Hunter.

Holmes traveled to China with Hunter in September 2007 and reportedly prepared a meal for Citic Guoan executives. Union financial records show that the NBPA paid Holmes a stipend of \$2,000, and that the Union also covered at least \$2,620 of travel expenses and fees for Holmes.

(ii) Raina Johnson

In 2007, Hunter hired Raina Johnson, a student at Howard University School of Law, as a summer intern in the Union’s legal department. Hunter also hired Johnson to perform additional small projects for the NBPA, including assisting the Union with work related to a

Congressional hearing in early 2008. Johnson earned a total of \$11,969 in 2007 and 2008 in compensation for her work for the Union.

Hunter denied reports that Johnson is his niece, but admitted that he is related to her. He claimed that he hired Johnson because he wanted to provide opportunities to qualified African-American law students from Howard Law School (his alma mater). Hunter allowed, however, that the family relationship “didn’t hurt” when he was considering Johnson for the internship.

(b) Friends of Hunter’s

(i) Rudy Lombard

Rudy Lombard and Hunter are longtime friends. They met at Syracuse University in the 1960s, where Hunter was a college student playing on the football team, and Lombard was a graduate student who was active in the civil rights movement. Hunter reported that he was impressed by lectures Lombard delivered. They struck up a friendship, and Lombard later introduced Hunter to Malcolm X and James Baldwin, among others. Lombard also inspired Hunter and other black football players at Syracuse to sign a petition announcing their refusal to play against segregated schools.

Hunter and Lombard remained close over the years; indeed, Hunter’s children refer to Lombard as “Uncle Rudy.” Following his civil rights activism, Lombard began a career in business that eventually led to his association with a financial firm, Gabelli Fixed Income LLC (“Gabelli”). Gabelli was selected to manage substantial amounts of Union funds at least as early as 2003. According to Hunter, Lombard called him and asked to manage Union funds, and he responded by saying that Prim would have to approve of this. Prim agreed that Lombard could manage a portion of the Union’s assets, and Gabelli did so until 2008. Gabelli appears to have

managed up to \$51 million in Union funds, and the firm received a total of \$303,434 in fees and compensation for its work from 2005 through 2008.⁵⁶

The Union terminated Gabelli as a money manager in 2008 upon the advice of Prim. Hunter stated that he thought that Prim recommended replacing Gabelli because Prim believed that a different firm could generate better returns.

(ii) Nate Banks

Nate Banks is an individual who has persistently tried to profit by associating himself with Billy Hunter and the NBPA. It initially appeared that Banks and Hunter were related (in part because in an email dated February 25, 2003, Hunter wrote that he and Banks's father were "cousins and grew up on the same street"). During his interview, however, Hunter explained that he had no actual family relationship with Banks, and that it was common for neighbors in his hometown, a small community near Cherry Hill, New Jersey, to refer to each other colloquially as "cousins."

Hunter explained that he developed a relationship with Banks approximately ten years ago, when Banks, who was then in the music promotion business, produced a party during an NBA All-Star Weekend. Hunter stated: "He and his dad came to see me. From then on, they've passed themselves off as my cousins. I like them. That's the game we play." According to Hunter, "[e]very time it would get close to All-Star, Nate would come around. He was always trying to come up with something that would be a hit" that he could "make some money off of."

Banks used the access Hunter provided to propose a variety of business ideas to the NBPA, and on at least two occasions, he managed to broker deals between the Union and vendors with whom he partnered. In 2005, Banks worked with a vendor to design hats that the

⁵⁶ As discussed in Section I(D) above, financial records prior to 2005 were generally unavailable for us to review as part of our investigation.

NBPA gave away at its summer meeting. Hunter estimated that the NBPA purchased 500 or 600 hats. The company that provided the hats, 3 Sixty Innovations, LLC, was paid \$2,500. Witnesses reported that the hats had adjustable brims that failed to work properly.

In 2008, Banks worked with a graphic designer to design a new logo for the WNBPA. According to Pam Wheeler, the WNBPA's Director of Operations, she did not want to work with Banks but was required to do so. She also claimed that at \$9,000, the logo was overpriced. More significantly, the logo has never been used because Banks has not supplied the necessary technical information. Wheeler reported that she felt "somewhat duped" by Banks.

Most of the business proposals from Banks did not come to fruition. Banks pitched multiple projects to the NBPA and WNBPA, including marketing branded water, coffee, pocketbooks and jeans. In these efforts, Banks was sometimes joined by Alfredo Versace, a clothing manufacturer who has claimed to be related to the fashion designer Gianni Versace, but, as Hunter learned, had been sued for trademark infringement and was barred by a court order from using the Versace name.

A number of NBPA employees viewed Banks as a vendor who has not performed satisfactorily and claimed that he does not deserve access to the Union's office. In response, Hunter claimed that he got to a point where he tired of Banks and told Banks to stop holding himself out as a cousin, and pointed to a January 2006 event showing that he had refused a request Banks made for tickets to an NBPA All-Star gala. Nevertheless, the evidence shows that Banks continued to have access to the NBPA through 2012.

Hunter also claimed that Banks was too insignificant to harm the Union, and had made only a small amount of money from the Union over many years. Hunter also maintained that he was not aware of instances where the work done by Banks was defective.

(c) Other Parties

(i) Michael Chappell

Michael Chappell works for the Union on a part-time basis as a handyman. The Union paid Chappell \$59,028 between November 2007 and mid-2012. Certain witnesses alleged that prior to working for the Union, Chappell had worked as a handyman for Hunter, performing tasks at Hunter's home. Hunter denied that Chappell had ever worked for him personally, and also denied that he was responsible for hiring Chappell. According to Hunter, Chappell first shoveled snow outside the Union building, then performed odd jobs around the office, and was ultimately hired on a part-time basis by Theresa Messer. Messer, however, denied that she had made the decision to hire Chappell and reported that the decision had been made by Hunter. We did not resolve which of these competing accounts is accurate.

(ii) L & Q Services

In August 2011, Hunter decided to hire a contractor called L & Q Services ("L & Q") to complete construction work on the second floor of the Union's office building. L & Q's principal, Jian Qing Lin, had previously done work for Hunter on his Harlem brownstone.

L & Q's proposal for Union work included building walls and doors, installing electrical, heating and ventilation systems and providing office furniture, including tables, counters, cabinets and lighting, for a total cost of \$106,698. The NBPA also received a bid for the same project from Artisan Services Inc., the firm that had renovated Robyn Hunter's office in 2009. Artisan provided a lower priced bid—proposing similar construction work for approximately \$85,000—but its bid did not include costs for furniture. According to Messer, when the differences in scope were taken into account, the proposals were roughly comparable.

Messer said that Hunter informed her that he had hired L & Q for the job without explaining his reasoning, months after the Union had received initial bids from both contractors,

and after the Union had already spent money on certain construction plans. L & Q also won a separate bid to make repairs to internal staircases in the Union's office building. In total, L & Q was paid \$123,879 in the 2011 and 2012 for its work on the two projects.

Hunter's selection of L & Q raised two concerns. First, it was not initially clear that L & Q was the low bidder on the second floor renovations. Messer's explanation that L & Q's price was comparable assuaged this concern.

Second, because L & Q's principal had previously done work at Hunter's home, it was necessary to probe whether there was any connection between the two projects (for example, whether L & Q performed free or discounted work for Hunter personally in exchange for being hired to complete work for the Union). The evidence reviewed is insufficient to support such a conclusion. Notably, Hunter reported that neither Lin nor his company have done any work for him personally since being hired by the Union.

(iii) Switch Technologies

Megan Inaba's brother Ian Inaba was formerly the CEO of a company called Switch Technologies ("Switch"), and upon her recommendation, the Union hired Switch to perform web design work. Switch received a total of \$8,800 from the Union between fiscal years 2006 and 2008 for such work. Hunter said that he did not recognize the name of the firm, and did not recall being involved in selecting Switch as a Union vendor.

(d) Conclusions

Hunter's decisions to contract with Steve Holmes, Nate Banks and Rudy Lombard's firm, Gabelli, and to employ Raina Johnson, are consistent with a pattern of involving his family members and friends in Union business. During his interview, Hunter agreed that in the future, heightened scrutiny should apply to any decision to employ a relative as a Union vendor.

Some factors cut in Hunter's favor with regard to these transactions.

Johnson was hired only as a summer intern, and the amount of Union funds paid to Holmes, Banks and Johnson appears relatively small. Further, it seems that Holmes, Johnson and Gabelli provided value to the Union, and when Prim recommended that Gabelli be terminated based on sub-par performance, Hunter did not disagree.

Finally, the Union's transactions with L & Q and Switch Technologies do not appear to be examples of situations where Hunter used NBPA resources to provide benefits to his friends or family members, or did something else inappropriate.

6. Pat Garrity

As mentioned repeatedly in this Report, former NBPA Secretary-Treasurer Pat Garrity raised questions regarding conflicts of interest relating to certain of Billy Hunter's actions. Hunter's response to these inquiries put his own interest ahead of what was best for the Union and reflected poor judgment.

(a) Background

Pat Garrity graduated *magna cum laude* from the University of Notre Dame in 1998 with a Bachelor of Science in Science Pre-Professional Studies (a pre-med degree). He was a two-time Academic All-American in college. He was selected in the first round of the 1998 NBA Draft, spent his rookie year with the Phoenix Suns, and then played for the Orlando Magic for the remainder of his career, retiring in 2008. Garrity subsequently attended Duke University's Fuqua School of Business. He graduated with an M.B.A. in 2011 and joined Bridgewater Associates, a hedge fund based in Connecticut, where he continues to work today.

(b) Service to the NBPA

In 1999, Garrity was elected as the Orlando Magic's Player Representative. In 2000, Garrity was elected to the Executive Committee as Secretary-Treasurer, and he was twice reelected in subsequent years. Garrity reported that as Secretary-Treasurer he paid particular attention to the Union's finances and investments, and it appears that he fulfilled his duties diligently. For example, he prepared a comprehensive analysis of proposals to increase pension plan benefits for NBPA members. Upon review, Bernard King, an outside attorney for the Union, remarked that Garrity had done "pretty heavy actuarial work for a basketball player."

Garrity stated that he generally had a good working relationship with Hunter, but acknowledged that he "pressed [Hunter] a lot," which sometimes led to disagreements. Hunter

concurred that Garrity questioned his decisions.⁵⁷ Perhaps because Garrity challenged him, Hunter viewed Garrity as an honest broker. When, for example, Hunter requested payment for his unused vacation time in 2008, he asked Garrity to “vet the matter” on his behalf, as discussed in detail in Section IV(A)(2). According to Hunter, he asked Garrity to review his payment for accrued vacation because Garrity was the “most conservative” member of the Executive Committee.

(c) Garrity’s Concerns About Conflicts of Interest

By early February 2009, Garrity had learned information about the hiring of Robyn Hunter and the potential ISN Bank deal that he found concerning. On February 2, 2009, Garrity sent an email to Messer that states:

I just learned that the NBPA staffed a new position to oversee player benefits and to act as a concierge to players. I have a few questions and thought you would be the best person to ask.

1. What exactly is the job description?
2. Who was hired?
3. Was the position posted internally?
4. Was the position posted to the general public?
5. How many candidates were interviewed for the job?

Messer responded, copying Hunter and Gary Hall, that “hiring personnel” was not one of her responsibilities, and that Garrity should reach out to Hunter or Hall if he had any questions. We were unable to locate a response to Garrity’s questions from either Hunter or Hall.

⁵⁷ Email records confirm that Garrity exercised independent judgment. For example, in 2005, when Hunter requested that Garrity approve a contract that would pay Prim Capital \$350,000, Garrity responded by asking questions about the expanded services Prim sought to provide and proposing provisions requiring Prim to disclose certain types of referral fees. Garrity also requested that the NBPA obtain a legal opinion letter stating that the proposed agreement between the NBPA and Prim “complies with all applicable federal and state securities and labor laws.”

Two days later, on February 4, Garrity wrote to Ron Klempner requesting a copy of the minutes from the Executive Committee's February 2008 meeting. Klempner replied that "Gary has asked to respond," and copied Hall. We searched for an email response to Garrity's request by Hall and again did not find one.

On February 4, Garrity also sent an email to Billy Hunter. The subject line of the message was "Serious concerns." It read:

I am preparing a letter to you voicing some serious concerns which I have relating to how you have been conducting union business. In the interest of fairness I have a couple of question[s] which I'd like to give you the opportunity to answer.

1. Was the bank you were working on as a potential investment by the nbpa through the summer of 2008 Interstate Net Bank of Cherry [Hill], NJ?
2. If yes, when did you become aware that your son Todd was a member of the board of directors of Interstate Net Bank. Records indicate that he has been a director there since at least April 30 2008.
3. When did you become aware that Carolyn Kaufman the investment consultant for the nbpa, was also a member of the board of directors for Interstate Net Bank?
4. Did you ever disclose to members of the nbpa executive committee the inherent conflict of interest that [existed]? (Ex. 36)

Hunter responded the same day. Notably, however, his email message did not directly address the substance of Garrity's concerns:

Dear Pat: I am perplexed and a bit dismayed by your recent inquiries and statements of concern. As you know I have always conducted myself with the Association's business as my foremost concern. Although you had ample opportunity over the past eight years to voice any concerns you did not do so. Now that you have retired you seem to be manufacturing issues. I am not inclined to respond to your fishing expedition. I wish you good luck and continued success in your future endeavors.

On February 11, Garrity sent a series of emails to Hunter, Suzanne Oldham and the Executive Committee regarding topics that he wanted to discuss at the upcoming Committee meeting slated for All-Star Weekend in Phoenix. Garrity first wrote to Oldham:

I'm preparing for the exec committee meeting. Has the agenda been finalized? Are we slated for a 4:00 p.m. start? I'd like to add an agenda item. I would like to meet privately with the executive committee, preferably at the beginning.

I would also like copies of all memos from the beginning of December 2007 until the end of April 2008 which discuss the ... union investing in a bank. I would also like the memo from Mr. Hunter to the Committee re: payment for accrued sick leave. Thanks so much.

Garrity then wrote to Hunter:

Billy, I'd appreciate some time at the beginning of the exec committee meeting to privately have a discussion with the board. The matter of your vacation pay is still unresolved. I'd like to discuss with them how to proceed. We also need to discuss the matter of the bank. Again, I think it is appropriate that the committee have that discussion privately, with Ron and Hal present to record what is discussed. I've asked Suzanne for copies of all memos between Dec 2007 and April 2008 referencing the bank. The last memo I believe is titled "ISN Bank/Playoff Pool". I have a record of responding to that email but no record of the memo itself. I would appreciate if you could provide me with the above mentioned information.

A couple of hours later, Garrity sent Hunter a proposed agenda for his discussion with the Committee:

I've attached a doc which contains some items I'd like to add to the agenda. I would like Theresa and Glenn [Eyrich] present for the matter of accrued vacation pay. I'd like to discuss the final two agenda items privately with the Committee. Ron and Hal should be present to record minutes and advise.

This investigation did not uncover any response by Hunter to these emails from Garrity.

The same day, Garrity also forwarded his agenda to the Executive Committee (without copying Hunter), and explained that he wanted to discuss it privately with them.

Garrity also sent a separate email to his former teammate Adonal Foyle, outlining his concerns with Hunter's conduct in greater detail.

(d) The February 2009 Executive Committee Meeting

Garrity traveled to Phoenix, Arizona in February 2009. Several witnesses reported that they knew that Garrity was planning to attend the scheduled Executive Committee meeting and expected a confrontation between Garrity and Hunter because it had become known that Garrity was raising questions about Hunter's decisions. In addition, several witnesses claimed that there was a feeling among the NBPA employees present in Phoenix that Hunter preferred that they avoid speaking to Garrity before the meeting.

According to a *Yahoo! Sports* article published in April 2012, certain members of the Executive Committee had been warned in advance of Garrity's concerns and skipped All-Star Weekend to "purposely steer[] clear of the confrontational scene." (Ex. 1) Garrity said that he did not know if players deliberately stayed away from the meeting for this reason, but he confirmed that many of the other details in the article were accurate.

Garrity reported that the day before the Executive Committee meeting, he met with Hunter for approximately sixty to ninety minutes in an empty ballroom at the Sheraton Phoenix Downtown Hotel. Hunter claimed that he could not recall this meeting with Garrity. We are persuaded, however, that the meeting did occur, in part because Garrity offered a detailed recollection of his conversation with Hunter.

According to Garrity, he raised three issues during the meeting: Hunter's request to be paid for accrued but unused vacation leave, Hunter's decision to hire Robyn Hunter and the conflicts of interest relating to ISN Bank. Garrity recalled that Hunter responded by insisting that his contract entitled him to the payment for his unused vacation days, and by focusing on Robyn's qualifications, and that Hunter attempted to deflect questions about ISN Bank by

questioning Garrity’s motives and by claiming that because Garrity was a retired player, he was no longer permitted to supervise the NBPA. When Garrity pointed out that Hunter had written him an email message in October 2008 stating that he was still a member of the Executive Committee despite his retirement, Hunter claimed that statement had been a mistake. Nevertheless, according to Garrity, by the time the meeting concluded, the two had reached an agreement that Garrity—even though retired—would be permitted to address the Committee the next day, and that after Garrity presented his concerns, he would leave the Committee meeting.

Yet, Hunter may have planned for a confrontation with Garrity at the Committee meeting. Sean Brandveen stated that the night before the Committee meeting, Hunter predicted that there would be a “hatchet fight” with Garrity. Hours before the meeting began, Hunter emailed Theresa Messer to say that he needed to meet with her. Messer said that she met with both Hunter and Hall, who told her that they planned to confront Garrity at the meeting, and that Glenn Eyrich of Calibre should be told not to attend the meeting because of the anticipated clash. Hunter, however, claimed he did not recall making the statements reported by Brandveen and Messer.

The Committee meeting took place in a conference room at the Sheraton on the afternoon of February 13. It appears that the entire meeting was attended by Derek Fisher, Adonal Foyle, Keyon Dooling and Dikembe Mutombo, all members of the Executive Committee, plus Billy Hunter, Gary Hall, Ron Klempner, Hal Biagas and Sean Brandveen.⁵⁸ Garrity was present at the beginning of the meeting, and left under the circumstances described below. After Garrity left, Theresa Messer, Kendalle Freeman, Carolyn Kaufman and Todd

⁵⁸ Although it appears that Brandveen attended the meeting, his presence is not reflected in the meeting minutes (which contain some inaccuracies, including the date of the meeting). Theo Ratliff said that he could not remember whether or not he attended the meeting; although he was included on a list of players who had previously confirmed their attendance, the minutes do not list him as an attendee.

Hunter, who were waiting outside the room, joined the meeting, although the latter two only stayed long enough to provide an investment report on behalf of Prim Capital.

It seems likely that Garrity was in the conference room for approximately 30 to 45 minutes in full, although we understand that his confrontation with Hall likely lasted only about five or ten minutes. During this time, Garrity attempted to voice his concerns, but Hall prevented Garrity from communicating his concerns to the Executive Committee members by repeatedly shouting over him, according to multiple witnesses. Hall insisted that Garrity was not permitted to speak because he was no longer on the Executive Committee, and that for him to do so would violate the Union's By-Laws. Hall also threatened that if Garrity did not leave, security would be summoned to escort him out.

It appears that the Executive Committee members who were present were, for the most part, passive observers of the clash between Garrity and Hall. Fisher did not attempt to overrule Hall; instead, Fisher indicated that the meeting was not the time or the place to discuss the issues that Garrity wanted to present. During his interview, Fisher claimed that during the meeting he was not sure whether Hall was right about the terms of the By-Laws and did not feel equipped to challenge Hall's assertion that it was not appropriate for Garrity to address the Committee. Dooling and Foyle reportedly remained quiet and appeared uncomfortable. Foyle told us that he felt at the time that Garrity was entitled to be heard and that it would be better to address the issues and give Hunter a chance to respond. Garrity was astonished that Dooling and Foyle, who were both former teammates of his, did not stand up to Hall or say that they wanted to hear his concerns.

Hunter told us that he remained "mute" during Hall's confrontation with Garrity, and did not take any actions to assist Garrity. In fact, he stated that, at the time, he "endorsed"

Hall's position that because Garrity was a retired player, he should not be permitted to speak to the Committee. Hunter also claimed that immediately prior to the meeting, he spoke to Garrity in the hallway outside of the room and invited Garrity to address the Executive Committee, but changed his mind and tacitly supported Hall's efforts to muzzle Garrity because he expected Garrity to talk about the payment for accrued vacation time, and Garrity instead began to discuss ISN Bank. We find these statements by Hunter implausible, because in the preceding days Garrity had repeatedly informed Hunter, orally and in writing, that he planned to speak to the Committee about ISN Bank.

Ultimately, Garrity left the room because Hall was shouting that he would call security and Garrity did not want to create a scene in the hotel lobby. Foyle recalled that after Garrity left the meeting, he read aloud a message that Garrity had sent him beforehand. There was, he remembered, a brief discussion of the issues raised in Garrity's email. When Messer and Freeman subsequently joined the meeting, they both felt that the atmosphere in the room was tense.

Notably, the minutes of the meeting make no mention of the confrontation between Garrity and Hall. (Ex. 21) In fact, they do not even reflect that Garrity was present. The confrontation appears to have been considered either part of an "executive session" or an event that took place prior to the start of the official meeting. One witness stated that in a conversation a few hours after the meeting, with Hall present, Hunter bragged about shutting down Garrity's attempt to speak to the Committee. Hunter claimed he did not recall such bragging.

(e) Conclusions

Hunter's treatment of Pat Garrity in February 2009 constitutes an instance in which Hunter put his personal interests in suppressing criticism ahead of the Union's best

interest. It also reflects poor judgment by Hunter. Garrity deserved the opportunity to address the Executive Committee privately, as he had repeatedly requested, in person and via email. It would have been prudent for Hunter to have recused himself from the Committee's meeting, so that the Committee could learn information necessary for it to carry out its own fiduciary duties.

As Hall's superior, Hunter was also ultimately responsible for Hall's actions. The notion that Garrity should not have been allowed to address the Executive Committee because he was retired and no longer Secretary-Treasurer is wholly unconvincing. There is no legitimate reason why a former officer of the Union should not have been permitted to address the Committee, particularly about serious issues such as conflicts of interest. No provisions of the By-Laws or other Union policy mandates such a restriction. After all, following Garrity's exit from the meeting, Carolyn Kaufman, Theresa Messer, Hal Biagas, Ron Klempner and Hunter—none of whom were Committee members—all addressed the Committee. Further, Hunter has allowed, if not encouraged, other players, such as Etan Thomas and Theo Ratliff, to continue serving on the Executive Committee even though they were not employed by an NBA team.

In addition, Hunter claimed that the ISN Bank issue was "old business" by February 2009, and suggested that it was out of bounds for Garrity to bring the issue to the Committee's attention. But Hunter was personally responsible for failing to disclose the facts that would have permitted Committee members to identify the conflicts of interest relating to his consideration of an investment in ISN Bank, and Garrity learned these critical facts from a source other than Hunter. The Committee had never previously been afforded an opportunity to consider the information that Garrity sought to raise. Further, a number of Executive Committee members told us during the investigation that having read the recent articles about ISN Bank, they would still like additional information and the opportunity to evaluate what occurred. These

players do not consider Hunter's consideration of a Union investment in ISN Bank to be a dead issue, even now.

Looking back on his actions, Hunter conceded during his interview that he should have permitted Garrity to speak freely to the Executive Committee. He stated: "In retrospect, maybe what I should have done is let Garrity come in, say what he had to say [and] give him his due. ... Maybe the wise thing would have been to let Pat have his day and move on. We probably wouldn't be here addressing this today if I had done that."

Finally, Hunter's treatment of Garrity in February 2009 harmed the Union. The silencing of Garrity's concerns not only allowed conflicts of interest to fester and later explode in the news stories that led to this investigation, but also, according to Derek Fisher, had a "chilling effect" on further efforts by Executive Committee members to question decisions made by Hunter in his role as NBPA Executive Director.

B. Questionable Uses of Union Money

As Executive Director of the NBPA, Hunter is obligated to manage and spend Union resources solely for the benefit of the NBPA and its members. In certain instances, however, Hunter has acted in a manner that calls into question his adherence to such obligations, as described below.

1. ISN Bank

Hunter considered investing millions of dollars of Union money in ISN Bank at a time when his son Todd was a member of ISN's Board of Directors. Even though the potential deal was eventually abandoned, Hunter's consideration of this investment was beset with undisclosed conflicts of interests and reflected poor judgment.

(a) Background

ISN Bank was a commercial bank located in Cherry Hill, New Jersey. It was founded in June 2001 as a privately-held corporation, with an initial capitalization of approximately \$7 million. By December 2007, ISN had approximately 320 shareholders, holding approximately 4 million shares valued at \$2.87 per share.

ISN specialized in loans for home construction projects, and was hit hard when the housing market crashed in 2007. According to a presentation ISN prepared for the Union, the bank was "plagued by very high levels of delinquent loans," and had a "highly inordinate" number of loans that were "classified as either substandard or doubtful." (Ex. 37) This situation led to "significant losses and erosion of capital." As a result, the FDIC issued a "proposed Cease and Desist Order" aimed at ISN's "unsafe and unsound banking practices." By late 2007, the bank's assets had dropped from a peak of \$250 million to \$194 million, its loan portfolio had shrunk from \$250 million to \$140 million and it was facing a year-to-date operating loss of more than \$7 million.

Faced with this crisis, ISN’s Board of Directors (the “ISN Board”) looked for investors who could help recapitalize the institution, as well as potential merger partners. According to Billy Hunter, “the bank had three options: close their doors, find some investors or merge with some other bank.” These efforts were unsuccessful, and ISN Bank was closed by the FDIC in September 2010.

(b) Prim Capital’s Connection to ISN Bank

Joe Lombardo was an early investor in ISN Bank, likely through a holding company he formed in approximately 2002 named Prim Interstate Holdings. According to Lombardo, neither he nor Prim Capital invested in ISN directly; instead, he organized a group of investors, including personal friends, who invested \$1 million in ISN. Lombardo claimed that he guaranteed to reimburse his investors personally if the deal went “belly up.” Hunter stated that he did not participate in Lombardo’s private placement, and did not have a personal investment in ISN Bank.

Through counsel, Lombardo informed us that Prim controlled 200,000 shares of ISN Bank.⁵⁹ As a result, he was entitled to name directors to the ISN Board. According to Kaufman, after serving a year or two himself, Lombardo asked her to serve in his place. She joined the ISN Board in 2004 and served until 2010. She also reported that she was required to purchase at least 250 shares of ISN stock before she could join the Board. In 2007, Lombardo arranged for Todd Hunter to be appointed to the ISN Board as well. Todd said that between 2007 and 2010 he attended approximately ten or fifteen board meetings, and was paid approximately \$30,000 in total for his service. Although Kaufman contended that each ISN

⁵⁹ Because Prim refused to provide the supporting documents we requested, we were unable to confirm these statements.

Board member was required to own at least 250 shares, Todd said that he owned only one share.⁶⁰

Todd stated that he viewed his participation on the ISN Board as a way to further develop his professional network, and claimed that his role on the board “definitely wasn’t to help bring business into the Bank.” Kaufman, in contrast, reported that other ISN Board members were looking to fill the Board with “fresh blood, people with contacts, people with money or both,” and that Todd was seen as having contacts, including at the NBPA.

(c) The NBPA’s Consideration of an Investment in ISN Bank

Hunter began to consider a potential investment in ISN Bank in late 2007, apparently after a discussion with Lombardo and Todd. On November 5, 2007, Todd wrote to his father: “Dad do you and Hall have time today around 2:30pm to do a call with Lombardo and I? We want to discuss the potential, Interstate Net Bank, opportunity.” After a series of preliminary calls, Hunter hosted a meeting at Union headquarters on December 11, 2007, that was attended by Lombardo and representatives from ISN Bank, including Ben Friedman, ISN’s President and CEO. Gary Hall, Theresa Messer and Todd Hunter attended the meeting as well. Hunter reported that it was unlikely that any members of the Executive Committee were in attendance because the meeting took place during the NBA season.

Roger Klein, a transactional attorney from Howrey, also attended the meeting. Prior to the meeting, Hunter had reached out to Alexis to request Howrey’s assistance in reviewing the potential investment in ISN. According to Alexis, her father explained that the NBPA was interested in purchasing a bank, and asked whether anyone at Howrey had the

⁶⁰ When asked whether Todd could have been permitted to serve on the Board after purchasing only one share, Kaufman said that she did not believe so. Billy Hunter made similar statements, reporting that he was under the impression that Todd was required to own (and did own) at least 200 shares of ISN stock.

expertise to advise on such a transaction. Alexis said that she contacted Klein, and then introduced him to her father.

During the meeting, ISN representatives made a pitch for a Union investment of approximately \$7 million, and presented the Union with at least two documents, a slide deck and a memo. (Exs. 37 and 38) The slide deck clearly identifies Carolyn Kaufman and Todd Hunter as ISN Board members. Both documents emphasize ISN's precarious financial situation and immediate need for capital, as well as the substantial risks associated with the deal. They warn that the Union's investment could not guarantee a successful turnaround and that the FDIC might still close the bank. A section of the memo titled "Risk and Assumptions" highlighted, among other concerns, that "this investment assumes that the capital provided will enable the Bank to comply with the [Cease and Desist] Order and to greatly reduce adversely classified loans. If the Bank is not able to reduce those loans in the anticipated method ..., there could be further regulatory intervention."

According to Klein, Lombardo was the most vocal participant in the meeting, and Lombardo clearly indicated that he had a personal interest in the deal and wanted it to go forward. Klein also stated that looking back, he "remember[s] thinking that this is a guy who stands to lose a lot of money if this [bank] goes down the tubes."

Lombardo stated that he told Hunter that because Kaufman and Todd were on the Board, Hunter needed to be cautious and "lawyer up." Lombardo denied that his advice to be careful and seek counsel was at all related to his personal financial stake in ISN Bank. He admitted, however, that he would have received a commission if his friends turned a profit on their investment and would have been liable for up to \$1 million if they lost money.

Although Hunter claimed that he could not remember Lombardo giving him the advice described above, Hunter acknowledged that he knew his son was a director of ISN Bank and was aware that Lombardo controlled ISN Bank stock. Indeed, he claimed that he discussed Todd's directorship and Lombardo's connection to ISN Bank with Klein "immediately," either during the meeting or in the days following it.

Despite the conflicts of interest, and ISN's distressed condition, Hunter continued to consider the deal after the December 11 meeting. He authorized Klein to perform additional due diligence, which included traveling to Cherry Hill to visit ISN's headquarters. According to Klein, by mid-January, he reported to Hunter that ISN Bank was "toxic." In fact, Klein believed that ISN's problems were clear "from day one" and that "there was no way this [deal] would fly."

Hunter has a different recollection about the advice Klein provided. According to Hunter, Klein said that although his gut instinct was to walk away, Hunter could have experts look at the opportunity further, because Hunter would not "want to pass up an opportunity to get the bank for cents on the dollar." In February 2008, Hunter engaged the Secura Group, an outside consultant, to conduct additional due diligence. The NBPA's contract with the Secura Group called for a \$25,000 advance payment. No evidence reviewed suggests Hunter requested advance approval for his decision to hire the Secura Group from the Executive Committee as the By-Laws required.

In March 2008, the Secura Group presented Hunter with its findings, and concluded that ISN Bank was not a good investment for the Union:

Our conclusion is that the Bank has a number of significant problems with respect to regulatory relations, management, capital, profitability, loan quality, deposits, and litigation . . . Given these problems, we believe that the proposed price is too high and the

Bank would likely require far more than the proposed \$6 million to \$7.5 million of new capital.

Hunter accepted the Secura Group’s conclusions and recommended to the Executive Committee on April 1, 2008 that the Union “not pursue the purchase of ISN Bank.” He noted, however, that he would continue to explore other possibilities for the Union to start a bank.

In total, Hunter spent Union funds amounting to approximately \$84,000 (\$39,104 for the Secura Group and \$44,608 for Howrey) to confirm what should have been clear from the start—that investing Union money in ISN was a bad idea.

(d) Hunter’s Failure to Disclose Conflicts of Interest

Hunter did not deny that the potential investment in ISN Bank presented conflicts of interest. Yet, he did not disclose these conflicts of interest to the Executive Committee prior to spending \$84,000 investigating the investment. Although he sent a number of emails to the Executive Committee about ISN Bank, none of them mention the connections between Lombardo, Todd and the bank. (Ex. 39) When asked why he did not make clear to the Committee that the ISN Bank opportunity had been brought to his attention by Lombardo, Hunter responded that he did not think such disclosure was necessary. And when asked why he did not immediately disclose the conflicts of interest to the Committee, Hunter responded that he did not “think it works like that in the normal world.” Rather, Hunter claimed that Roger Klein had advised him that he did not need to disclose Lombardo’s or Todd’s relationship to ISN because the Union was only “at the preliminary stages” of the deal and no one knew whether it would “get off the ground.” In contrast, Klein stated that he did not discuss the conflict of interest issues raised by the potential ISN Bank deal with Hunter at the time, and could not recall specifically advising Hunter that disclosures about the relationship between Prim and ISN Bank

were unnecessary until the deal progressed further. Nevertheless, he claimed that such advice was “not inconsistent with [his] current thinking.”

Hunter also defended his actions with respect to ISN Bank by pointing to the fact that the deal was ultimately abandoned, and by contending that \$80,000 was not a lot of money to spend on due diligence. Further, he claimed that if the deal had gone through, the bank’s board would have been restructured, and Kaufman and Todd would have left. In his opinion, taken together, these factors answer any concerns raised about his actions.

(e) Conclusions

A Union investment in ISN Bank represented an incredibly risky proposition, which heightened the need for Hunter to disclose its inherent conflicts of interest to the Executive Committee. When faced with the choice of disclosing conflicts of interest and seeking permission to nonetheless proceed or proceeding without such disclosure, the more prudent approach would have been to disclose the conflicts in the first instance and obtain approval for the course forward.

2. Payment of Charles Smith's Personal Legal Fees

On May 23, 2012, ESPN.com reported that Billy Hunter had used Union funds in support of “Charles Smith’s attempt to overthrow the National Basketball Retired Players Association” after he was fired from his position as NBRPA Executive Director. (Ex. 5) According to ESPN, after Smith was fired, Hunter withheld an annual Union contribution to the NBRPA and agreed to pay the legal fees associated with Smith’s efforts to challenge his ouster. We focus here on the payment, rather than the withholding of money, because the former raises questions about Hunter’s care with regard to the use of Union’s resources. For the reasons set forth below, even though the funds used to pay Smith’s legal bills were ultimately refunded to the Union, Hunter’s decision to authorize the payment was improper.⁶¹

(a) Background

The NBRPA was founded in 1992 as an association of former professional basketball players of the NBA, the American Basketball Association and the Harlem Globetrotters. The organization’s mission is “to assist members’ transition from the playing court into life after basketball.” In most recent years, Hunter has authorized annual donations of approximately \$250,000 to \$300,000 to the NBRPA from the NBPA Foundation, with additional support provided when the two organizations conduct joint summer meetings. The Foundation has given the NBRPA a total of approximately \$2.1 million since December 2005.

Hunter and Smith have a longstanding and close personal and professional relationship. Smith was a member of the NBPA Executive Committee at the time Hunter was hired, and reportedly strongly supported Hunter’s candidacy. Once at the NBPA, Hunter hired

⁶¹ Although we discussed the NBPA’s support for Charles Smith with multiple witnesses, including Billy Hunter, and reviewed email records on this subject, Smith refused to speak with us and did not authorize Bernard King, who represented him in his litigation with the NBRPA, to speak with us about these issues. The findings and conclusions set forth in this section are based on the limited facts and information we were able to gather.

Smith as one of the Union’s Regional Representatives. In February 2008, Smith sought Hunter’s advice on the NBRPA Executive Director opportunity. Hunter responded that Smith “clearly [had] the experience to manage the position” and further stated: “I am willing to assist you in growing the RPA.”

(b) Smith’s Termination from the NBRPA

In late 2008, the NBRPA appointed Smith as its Executive Director. Fewer than two years into his term, certain directors of the NBRPA Board of Directors accused Smith of making financial and policy decisions, such as changing the organization’s name and logo in violation of its group licensing agreement with the NBA, improperly and without Board approval. Smith, for his part, adamantly denied any wrongdoing.

The NBRPA Board fired Smith on November 19, 2010. But Smith did not walk away quietly. He contended that his termination breached the terms of his employment contract, and with the support of a group of NBRPA members, he subsequently sought to remove a group of NBRPA directors and be reinstated as Executive Director. Smith’s challenge was ultimately unsuccessful, prompting him to start another organization for retired players called the Professional Basketball Alumni Association (the “PBAA”).

(c) Hunter’s Response to Smith’s Termination

Upon learning of the controversy at the NBRPA, Hunter came out in support of Smith. He sent the NBRPA Board a letter expressing support for Smith and met with NBRPA members for the same purpose. In an email sent to the Executive Committee in November 2010, Hunter explained that Smith had been terminated, and stated: “I think Charles has done a good

job as head of the RNBPA [sic] and have agreed to support him.” Hunter backed Smith because he believed that Smith had been “improperly terminated” and had been given “short shrift.”⁶²

The initial decision to expend Union funds to aid Smith’s legal challenge may have been made, at least in part, by Gary Hall. Email records indicate that Hall moved quickly to assist Smith with his legal challenge to his termination. By February 2011, Smith had retained Hall’s former law firm, Blitman & King. We could not determine whether Hall agreed at the outset to pay the associated costs, but billing records show that over several months, Blitman counseled Smith on a variety of legal options, including litigation against the NBRPA for breach of contract, arbitration and the negotiation of a monetary settlement. According to Hunter, Blitman was working for Smith “at Gary’s direction.”

Hunter reported that he discussed the Union’s involvement in Smith’s legal defense with Bernard King on the day of Hall’s funeral in May 2011. During this conversation, King asked whether his firm should continue to assist Smith and expressed concerns about Smith’s ability to pay the firm’s fees. According to Hunter, he told King to continue working with Smith, that he was willing to commit between \$8,000 and \$10,000 toward Smith’s case, and to alert him if the fees began to approach or exceed that amount. Hunter also claimed that during a subsequent conversation with Smith, prior to the 2011 lockout, Smith agreed to repay the legal fees paid by Union.

⁶² Hunter also temporarily withheld, and ultimately reduced, the NBPA’s support for the NBRPA. In a January 2012 email to the Executive Committee, Hunter stated that the NBRPA had been in a state of turmoil because a schism had developed between rival factions, and that he had, as a result, not made a contribution to the NBRPA in 2010. He wrote that he instead “informed Bob Elliott, the Chairman of the NBRPA’s Board of Directors, that due to the state of affairs at the NBRPA and the formation of a competing retired players’ organization, the NBPA would wait until the dust settled before getting back involved.” Hunter went on to recommend to the Executive Committee that, going forward, the NBPA split the annual donation typically made to the NBRPA equally between the NBRPA and Smith’s new PBAA. According to Hunter, no Committee members objected to his recommendation, so he directed the NBPA Foundation to make a donation of \$150,000 to each organization in February 2012.

In December 2011, King sent Hunter bills for legal work done for Smith, which totaled approximately \$28,000. In a cover letter, King wrote:

I know you and I talked about this and my recollection is we discussed something in the nature of \$8,000 and that it would be a billing for services relative to the Retired Players Association. I'll let you and Charles figure out how you want to handle this, and ultimately I will do whatever you want done.

Hunter submitted the entire amount to the Union's Finance Department for payment.

Theresa Messer and Shelia Thompson both reported that they were concerned about Hunter's decision to pay Smith's legal fees with Union funds. Thompson said that she went to Hunter and told him that the Union could not make such a payment, but that Hunter was "indifferent" to her concern. Messer said that she was initially "uncomfortable" with the payment, which, to her, appeared to be made for Smith's personal benefit, since he was no longer the NBRPA Executive Director. Messer stated that because of her concerns, she consulted with Glenn Eyrich at Calibre, who recommended that the Union issue a tax form to Smith so that the payment would be treated as taxable income. Although Hunter said he was not aware that the Union issued this form to Smith, Messer said that she told Hunter at the time that she had issued the form. Neither Messer nor Thompson told us that Hunter had claimed that Smith was planning to pay the money back. Messer also reported that she spoke with Smith regarding the tax form, and he did not indicate that he would be repaying the Union. Hunter said that he could not recall discussing these issues with Messer or Thompson. He acknowledged, however, that the payment had been made at his direction.

In March 2012, Dan Wasserman, the Union's Director of Communications, learned that ESPN reporter Ric Bucher was planning to write a story about the payment, and informed Hunter about the likely article. Messer and Thomson also reported hearing about the potential article, and stated that it appeared that in response, Hunter held a series of "closed

door” meetings in his office. Shortly thereafter, King returned the Union’s payment. In a letter dated March 13, 2012, King wrote that “Charles Smith has satisfied his legal bill to our firm and I am forthwith returning the amount mistakenly sent by the Players Association.” When asked for his reaction to King’s assertion that the money had been “mistakenly sent,” Hunter said that he did not understand what King meant because he had indeed authorized the Union to make the payment.

No evidence reviewed suggests that Hunter discussed his decision to pay Smith’s legal bills with the Executive Committee. Indeed, at the time we interviewed them, two Executive Committee members were still unaware of the payment on Smith’s behalf, and others reported that they had not become aware of the payment until they read the recent articles discussing it.

(d) Conclusions

Hunter explained his decision to pay Smith’s legal bills by claiming that Smith, as Executive Director of the NBRPA, had furthered the Union’s mission, highlighting Smith’s efforts to provide medical and educational programs to retired players. Such factors, however, do not appear to justify a decision to finance Smith’s employment litigation against the NBRPA. Records indicate Smith was in fact seeking monetary relief in the form of reimbursement for lost income and costs. Hunter could not explain why it was in the Union’s best interest to support Smith’s claim for monetary relief.

Hunter appears to have made the decision to pay Smith’s legal bills unilaterally and in disregard of the Finance Department’s concerns. We are skeptical of Hunter’s claim that he based his decision to pay Smith’s legal bills on the understanding that Smith would reimburse the Union. Hunter said that Smith understood that the Union funds were merely “being advanced,” and that he “trusted” Smith to return the amount advanced. The evidence considered

does not support Hunter's statements. For example, this investigation did not uncover any written records evidencing an agreement by Smith to reimburse the Union, and no witness interviewed corroborated Hunter's explanation. If such an agreement existed, Hunter should have documented it in writing. Further, the Union's issuance of a Form 1099 to Smith is inconsistent with the notion that the payment was, in effect, a loan. Indeed, the payment was recorded as "Legal Expenses" in the Union's accounting systems. Without the benefit of discussing these issues with Smith or King, however, we are unable to reach a definite conclusion on whether a reimbursement agreement in fact existed. Nevertheless, the suspicion raised by multiple Union employees that the reimbursement from Blitman & King was prompted by the warning that a reporter was planning to publish an article questioning Hunter's decision to pay Smith's legal bills does not appear unreasonable.⁶³

In sum, Hunter's decision to use Union resources to pay Smith's legal bills was inappropriate and reflected poor judgment.

⁶³ Bucher did eventually write an article on this topic, although it was not published until May 22, 2012.

3. Hunter's Travel Expenses

This Report analyzes expenses incurred by the Union as a result of Hunter's travel for several reasons. First, as a general matter, more than a few labor officials have been subject over the years to criminal or civil liability for improperly charging personal travel and expenses to unions, so it was prudent to look for similar issues here. Second, Hunter travels frequently, at significant cost to the NBPA. Third, a substantial portion of Hunter's business travel included trips to or from the Bay Area (with flights through either the Oakland or San Francisco airports), where he lived for more than 25 years and still maintains a personal residence. This pattern heightened the concern that some of these trips might be personal, rather than business, in nature. Fourth, some witnesses claimed that Hunter might have manufactured business justifications to cover personal travel. Ultimately, due to the incompleteness and limited reliability of the underlying records, our analysis of Hunter's travel expenses is inconclusive.

(a) Background

Hunter travels extensively as the Union's Executive Director. He provided three main reasons for his work-related travel. First, Hunter travels to attend many of the meetings the Union holds annually with each NBA team to conduct elections, provide updates on new rules and learn what is important to players. Second, Hunter travels to attend NBA games and social events with players. Third, Hunter travels to explore business opportunities and support charitable endeavors, including by presenting contributions from the NBPA Foundation to charities.

All of Hunter's employment contracts have permitted him to fly first class when traveling for Union business. Outbound Travel, the Union's travel agent, books both his business and personal travel. According to Hunter, his practice is to ask Bob Ricardo of Outbound Travel to book the lowest-cost first-class option, and then direct Ricardo to charge either his business or personal credit card as appropriate.

Under the NBPA's Travel and Entertainment Policy, to obtain reimbursement for travel expenses, employees must submit expense reports and receipts to document their charges. It appears that, as a general matter, Hunter does not follow this policy. Rather, Hunter reviews his corporate credit card statements on a regular basis with an employee from the Union's Finance Department, currently staff accountant Tiffani Kenny, to "determine which expenses are business and which are personal."⁶⁴ According to Hunter, he typically writes notes on his credit card statements to indicate whether the charges listed were for business or personal expenses.

(b) Analysis of Union Records Relating to Hunter's Travel Expenses

We examined a variety of documents, including Hunter's corporate credit card statements (both the versions he annotated contemporaneously and clean copies obtained from Visa and American Express), the Union's vacation logs and attendance calendars, email communications and records from Outbound Travel. Our analysis covered the period between February 2007 and July 2012, primarily because it was difficult to obtain credit card statements and documents from Outbound Travel from prior to this time period. Even for the February 2007 to July 2012 period, records were limited and incomplete. For example, as discussed

⁶⁴ Hunter said that there have been a few occasions when, in reviewing these statements, he has identified airfare charges that had been mistakenly applied to his corporate credit card despite instructions given to Outbound Travel to charge his personal credit card. Kenny corroborated this account, saying that she remembered occasions when Hunter had flagged personal travel expenses mistakenly billed to the Union, and that the Union had executed chargebacks to Hunter in these situations. Ricardo confirmed that such mistakes had occurred over the years, and that the NBPA would call his office to fix these mistakes once they had been identified.

previously, Hunter does not keep a calendar, and he infrequently submits expense reports or supporting documentation for his business travel.

Our analysis focused on trips that Hunter took by air that included a stop in Oakland or San Francisco.⁶⁵ Twenty-six such trips within the selected time period were identified; some were one-way flights, others were round-trip flights and others involved travel between multiple cities. On a spreadsheet provided to Hunter, these 26 trips are identified as “Groups” A-Z. Hunter was also given copies of documents relating to these trips so that he could rely on a comprehensive factual record when answering questions about his travel.

During our interview of Hunter, we discussed seven trips that raised particular concerns about whether flights should have been charged to him personally rather than to the Union. Based on our discussions, and the information we provided, Hunter initially responded that four of the seven trips included individual flights that should be reclassified as personal rather than business expenses.

During the last day of his interview, Hunter asked for additional time to review the relevant materials and stated that he wanted an opportunity to address his travel expenses in writing. We agreed to this request. We also gave Hunter a revised spreadsheet listing the 26 trips, updated to mark those flights that he had initially agreed should be reclassified as personal expenses, and asked him to confirm that all of the flights listed on the spreadsheet were, in his opinion, correctly categorized as business or personal expenses. (Ex. 40)

Hunter’s attorneys responded in a letter dated November 16, 2012. (Ex. 41) Although Hunter had initially indicated that four of our “Groups” included flights that should be

⁶⁵ Had we focused on other trips Hunter took, we might have detected other issues or reached different conclusions. We believe it was prudent to focus on travel that included a Bay Area stop primarily because: (1) Hunter maintains a residence in Oakland; (2) certain witnesses said that he might have invented business reasons to take personal trips there; and (3) it would have been too burdensome and time-consuming to attempt to analyze each of the more than 200 trips that Hunter has taken in the past five years.

charged to his personal card, the letter stated that Hunter had changed his position and felt that only three of the trips included personal flights. Regarding those three trips, the November 16 letter states:

[W]ithout conceding that any trips were personal, we are constrained at this time not to object to [your] position that the legs of [three of] the trips to the Bay Area identified ... at the costs so indicated, may have been personal.

The combined cost of the flights that Hunter did not object to classifying as personal is approximately \$3,600. Regarding the fourth trip, Hunter's attorney wrote:

Notwithstanding Mr. Hunter's testimony to the contrary, upon further reflection, Mr. Hunter's best recollection is that he travelled home early to prepare for the February 14, 2009, Executive Committee meeting. Thus, we object to the ... trip being considered personal.

The November 16 letter does not specifically discuss any other flights. Instead, it includes the following broad statement:

Due to the passage of time it is difficult for our client to determine if all the trips were for business or personal purposes. Mr. Hunter's best recollection is that [his] trips to San Francisco were generally business related and in those instances when they were personal he directed Outbound Travel to charge the expense to his personal credit card.

Hunter's counsel also maintained that Hunter never charged the Union for hotel stays or food when traveling to the Bay Area, and never sought reimbursement for business phone calls made from his home or mobile phones. He asked that these savings to the Union be considered.

In our view, it is questionable that Hunter charged to the Union certain flights on six additional trips beyond the three that he conceded may have been personal.

On three of the six trips we continue to question, Hunter flew first to his home in Oakland before traveling to another Western city for a business meeting, instead of flying directly to the meeting. For example, in February 2009 (the trip defended in the November 16

letter), Hunter flew to San Francisco for four days before traveling to Phoenix to attend the NBPA's All-Star Weekend meetings and events. Hunter followed this pattern two additional times. He flew to San Francisco before traveling to Phoenix for a sports industry conference in May 2010, and he flew to San Francisco in February 2011 before going on to Los Angeles for that year's All-Star Weekend. Hunter's position was that such travel to his home in Oakland qualified as business because he was en route to work-related events, and he used the time in Oakland "to prepare" and "to get [his] head together" for upcoming meetings. In these cases, the Union paid the costs associated with Hunter choosing to travel to his home in Oakland to prepare for business events in other cities rather than traveling to the meetings directly. This is questionable because ordinarily for any job, stressful or not, the chance to relax and think at home is not typically chargeable to the employer. The total cost to the Union of Hunter's adding travel to the Bay Area in these instances—instead of flying directly to Phoenix or Los Angeles—was approximately \$1,400.⁶⁶

On two of the other trips we question, Hunter routed flights through the Bay Area for non-business purposes, but the Union paid the change fees for changing his tickets. These changes totaled approximately \$1,600.

The sixth trip we question is a round-trip flight from Newark to San Francisco, leaving September 24, 2009 and returning October 3, 2009. Hunter was on vacation during this 10-day period, according to the Union's vacation/absence calendar, yet he charged this flight to the NBPA. Hunter maintained that the trip consisted of "a combination of vacation and work," and claimed that while in the Bay Area he attended a Golden State Warriors game and met with a company looking for investors. In such instances, according to Hunter, it was appropriate for the

⁶⁶ This includes the full cost of the flights between Oakland/San Francisco and Phoenix or Los Angeles, plus any change fees incurred because of the additional flights.

Union to pay for his airfare. We are not persuaded that the Union should have paid for Hunter's ticket to the West Coast—which cost \$1,569—for a 10-day trip that consisted almost entirely of vacation simply because he attended one game and one meeting during his time off.

In sum, Hunter conceded that approximately \$3,600 in travel costs, relating to three trips, should be billed back to him, and we have identified approximately \$4,570 in additional costs, relating to six more trips, that we believe that the Union might consider charging him, amounting to a total of approximately \$8,170.

(c) Hunter's Travel to the Bay Area

Other than the questions raised directly above, we have no basis for questioning any other specific decisions by Hunter concerning travel expenses. Nevertheless, we remain concerned about a broader issue—the frequency of Hunter's travel to the Bay Area on business. The records we reviewed indicated that Hunter took 208 flights from February 2007 through July 2012 that were charged to the NBPA, at a total cost of approximately \$165,000.⁶⁷ Of these flights, we identified 70 that either departed from or arrived in Oakland or San Francisco, at a cost to the Union of approximately \$69,000.

When asked to explain why approximately one-third of his flights either started or ended in the Bay Area, even though only two out of the NBA's 30 teams are based there, Hunter claimed that he uses Oakland as a “hub” for travel in the Western United States. When he has meetings scheduled in other cities in the West (such as Las Vegas or Phoenix), he will often fly to Oakland rather than stay over in the primary destination. This sometimes requires adding one or two flights to or from the Bay Area to what would otherwise be a round-trip journey. According to Hunter, on some occasions, adding such flights to his trips resulted in *less cost to*

⁶⁷ An additional four flights were originally charged to Hunter's corporate credit card and then charged back to Hunter in full.

the Union than traveling round-trip only, because if he flew through the Bay Area, he could stay and eat at home and thus save the Union his hotel and food costs. These claims could not be confirmed with the materials available for review.

Hunter also asserted that his personal and professional background in Oakland led him to conduct more Union business there than in other places. Hunter explained that because he had lived and worked in Oakland for over three decades, he continued to receive proposals soliciting the NBPA's involvement in business and charitable endeavors from former colleagues and acquaintances, which in turn prompted travel to the Bay Area.

Although Hunter's explanations seem plausible on their face, they may not fully justify the significant number of flights that he routed through Oakland and San Francisco and charged to the Union. Because Hunter has nearly unlimited discretion to attend games or schedule business meetings on the West Coast, it is not difficult for him to plan trips that are, in his words, "a combination of vacation and work," yet paid for entirely by the NBPA.

(d) Conclusions

Primarily because of the passage of time and the incomplete nature of the relevant records, we are unable to draw firm conclusions about the appropriateness of the travel expenses that Hunter billed to the Union. We make only the following limited observations.

First, there would have been far more visibility into Hunter's travel had he consistently submitted expense reports and receipts, as required under Union policy.

Second, although we identified expenses amounting to \$8,170 that might not have been appropriately charged to the Union, Hunter's decisions to treat these expenses as business-related rather than personal may have been based in part on a mistaken view of what was appropriate. We also note that \$8,170 is not an astronomical amount and that because Hunter travels frequently and often combines business and personal travel (and even uses the same

travel agent for both), one might expect errors in expense reimbursement requests to occur from time to time, although the Union should have in place controls to identify such errors.

Finally, the Union should consider whether revisions to its Travel and Entertainment policy would be beneficial, and ensure that the policy is followed consistently in the future.

4. Consideration of Speculative Investment Ideas

Guided by a vision for transforming the NBPA into “more than a traditional sports labor association” and purportedly motivated to make the Union so “financially independent” that it would be able to “support players after retirement,” Hunter has devoted a substantial amount of his time and at least \$300,000 of the NBPA’s money toward exploring potential investments for the Union and its members. Hunter considered investing Union money in a variety of banks and other financial institutions, as well as real estate projects, an energy drink company, and a mixed martial arts fighting league based in Japan. Although Hunter generally disclosed these activities to the Executive Committee, they call into question his judgment and stewardship of Union resources. Some of the projects that attracted Hunter’s interest are described below. We emphasize that we have not identified all such projects here.

(a) Bank Investments

From 2005 to 2011, Hunter explored using Union funds to establish, acquire or invest in a bank or other financial institution. According to Hunter, he would consider such an investment again today if presented with the “right opportunity.”

Hunter said that he began to consider bank projects in 2005 after he was approached by a longtime friend, Bob Gnaizda, who invited him to attend meetings in Washington, D.C. with Ben Bernanke, the Chairman of the Federal Reserve, and other federal banking officials and banking executives. In September 2005, Hunter informed the Executive Committee that he was considering creating a Union-funded mortgage company:

For the past several months, I have been investigating the idea of forming a mortgage company sponsored by the NBPA. ... I am convinced that such a venture would be financially rewarding for the NBPA and individual player(s) and/or private investors. ... My suggestion is to purchase a pre-existing company, or establish a completely new company. The company would be capitalized

with contributions from the NBPA, individual NBA players, private individuals, and the US government.

Several Committee members responded positively to this proposal and remained supportive going forward. Others were more skeptical. Adonal Foyle, for example, said that he never considered the discussions about a bank investment to be serious because the Executive Committee did not have the expertise to properly assess such an investment.

Hunter proceeded to meet and communicate with a wide range of individuals and entities, including potential investors and business partners, consultants, lawyers, government officials, banking executives, a national accounting firm, a professor of banking, Prim Capital, family members and friends as he sought to learn more about the banking industry. Although the potential projects he contemplated varied significantly, Hunter generally appears to have envisioned that they would be funded by a group of investors that included the Union itself, individual Union members and other athletes, plus the NFLPA, which, according to Hunter, had expressed an interest in partnering with the NBPA on a bank deal. The full scope of the potential ideas he considered is unknown, but the evidence indicates that he devoted attention to the following projects at various points in time.

(i) Unnamed Community Bank

In August 2006, Hunter wrote to the Executive Committee:

Since we have chosen to create a federally chartered community bank we have to petition both the OCC and FDIC, banking regulatory agencies, for a bank charter. The bank's focus will be on granting loans for cars, houses, education, small businesses, and credit cards. I expect the bank to be chartered within 10-12 months. To assist with the application process I have retained the services of Richard Reading & Associates, a company which has successfully chartered 148 state and national banks.

By November 2007, however, Hunter had abandoned this effort. He told the Executive Committee that the project with Reading was "tabled" and that Reading had refunded the

\$25,000 retainer fee the Union had paid. According to Hunter, Reading “spent about six months doing nothing.”

(ii) ISN Bank

As discussed above in Section IV(B)(4), in late 2007 and early 2008, Hunter considered acquiring ISN Bank. This potential investment was beset with conflicts of interest.

(iii) Carver Federal Savings Bank

In April 2009, Hunter reported to the Executive Committee that he had recently met with representatives from Wellbridge Capital, a private equity firm based in Pennsylvania, which “was planning to make an offer to purchase Carver [Federal Savings Bank], and would be interested in forming a joint venture with the NBPA to jointly own the bank.” It appears that discussions with Wellbridge did not get far, though they continued through at least May 2009.

(iv) Troutman Sanders Projects

From mid-2009 through mid-2010, Hunter had discussions with lawyers from the firm Troutman Sanders (“Troutman”) regarding a potential collaboration to form or acquire a bank. In May 2009, Hunter informed the Executive Committee of a proposal from Troutman that “call[ed] for the initial purchase of a community bank and the establishment of several check cashing facilities.” Hunter then signed a Memorandum of Understanding dated June 1, 2009, with MetCap Holding LLC, a company formed by Troutman partners to advance the joint effort to establish a bank. He engaged Howrey, the law firm where his daughter Alexis was working at the time, to conduct due diligence, and ultimately paid Howrey approximately \$50,000 in connection with the project.

In July 2009, Hunter informed the Executive Committee that he had learned that Leonard Grunstein, a Troutman partner involved in the MetCap deal, had previously been forced from his position as Chairman of the Israel Discount Bank following the bank’s settlement of

alleged money-laundering charges. Hunter reported: “[O]ur due diligence to date has not revealed any malfeasance or misfeasance on [Grunstein’s] part. We will, however, pursue this matter further....” In August 2009, Hunter told the Committee that he had “inform[ed] [MetCap] of the Association’s decision to withdraw from the proposed Urban Bank joint-venture,” but he also passed on a request for MetCap to “appear before the Executive Committee and present conclusive proof of Len’s innocence.”

In May 2010, Grunstein sent materials, including a draft offering memorandum, to Hunter related to MetCap’s potential acquisition of Metropolitan National Bank or “MetBank.” In July 2010, Hunter wrote to Grunstein: “I presented the Met Bank proposal to the Executive Committee which concluded that this is an inopportune time to consider the proposal. Notwithstanding, I have not given up on the proposal and plan to re-present it at our scheduled meeting on August 11.” When we interviewed Hunter, he said that he did not present the MetBank proposal to the Executive Committee again, and that he subsequently informed Grunstein that he was not interested in moving forward with a potential deal.

(v) Elgin Clemons Project

In November 2010, Hunter retained another consultant, Elgin Clemons, “to identify investors to fund a study on the feasibility of the NBPA forming a bank and/or banking network with the NFLPA and various professional athletes.” He agreed to pay Clemons \$20,000 in three installments, but ended the relationship after the Union made two payments to Clemons totaling \$14,000. Hunter told us that Clemons “never produced a thing,” although he also claimed that Clemons had provided documentation sufficient to justify the \$14,000 payment.⁶⁸

⁶⁸ In 2011, Clemons surrendered his license to practice law in New York and Arkansas as a result of charges that he had engaged in transactions and conduct that violated state rules of professional conduct. See *In re Clemons*, 928 N.Y.S.2d 703 (N.Y. App. Div. 2011); *In re Clemons*, 380 S.W.3d 361 (Ark. 2011).

(b) Real Estate

In October 2002, the Union purchased its Harlem headquarters, and undertook a substantial renovation of the building. Although the purchase of the Union headquarters was not the focus of our investigation, it appears to have been a good investment for the Union. The Union's current anchor tenant is a popular restaurant, the Red Rooster, and the Union has reportedly received unsolicited offers from potential buyers for the building.

Other real estate ventures Hunter appears to have considered, but that have not come to fruition, include: a venture involving a luxury condominium development in Harlem; a parking garage in Harlem; a condominium development in Miami, Florida; and a mixed-use real estate development in Washington, D.C.

(c) China Projects

From early 2007 to early 2008, Hunter pursued a potential joint venture between the Union and a Chinese conglomerate, Citic Guoan. Hunter initially envisioned that the project would involve, among other things, “an extravaganza of live performers,” including Jay-Z and Beyoncé, that would take place during the 2008 Summer Olympics in Beijing; “street basketball” tournaments involving American and Chinese players; an “urban clothing line” that would be marketed in China; and the launch of a chain of soul food restaurants in China. (Ex. 42) Hunter said that he pursued this deal because Union members were interested in deals connecting basketball and music, and because he wanted to show them how to grow wealth. As discussed above, Hunter retained the Howrey firm to advise him on this project.

In May 2007, Hunter, on behalf of the Union, signed a memorandum of understanding with Citic Guoan to advance the potential joint venture. But Hunter's discussions with Citic Guoan ultimately unraveled, and no joint venture agreement was ever executed. In January 2008, Hunter reported to the Executive Committee that the deal fell apart because the

Union and Citic Guoan could not agree on deal terms and due to an inability to produce the planned “musical extravaganza.” All told, the Union spent more than \$130,000 in due diligence costs for this project, plus the costs for Hunter and others to travel to China for related meetings.

(d) Miscellaneous Ventures Presented to Union Members

In addition to evaluating potential investments for the Union, Hunter has served as a conduit for third parties who want to pitch investment ideas to NBA players. By his own admission, Hunter does little to screen these ideas before sending them on to Union members. A review of his email records shows that he has passed along suggestions or requests for investments in, among other things, a video game, real estate, financial products and a Congolese airline.

Hunter has also permitted entities seeking investors to address Union members directly. In August 2011, for example, Hunter arranged for one of his Oakland neighbors to present an electronic currency investment opportunity to players at a meeting in Los Angeles that was otherwise largely devoted to the ongoing lockout. Hunter acknowledged that he did not make any effort to evaluate the merits of the investment before inviting his neighbor to meet the players. Instead, he claimed that he had chosen “sophisticated” players to attend the pitch and that it was incumbent upon them and their financial advisers to decide whether such investments were appropriate. Following the presentation in Los Angeles, Todd Hunter described the electronic currency venture as “[h]ighly speculative.” When interviewed, however, Billy Hunter did not agree with his son’s characterization of the deal.

(e) Conclusions

Hunter’s consideration of potential investment ideas for the Union, many of which were highly speculative, reflects poor judgment. The cost of Hunter’s decision to explore potential investments is best described in his own words. In May 2008, in an email concerning

bank projects, he wrote to a potential consultant: “I have spent a lot of money on consultants and have nothing to show for it.” In a September 2009 email to a friend, he wrote:

Yesterday, I spent the entire day reviewing a proposal from a nationally chartered community bank. The owners of the bank are anxious to make a deal with us. They want to grow the bank and know we have the cash to make the deal work. I have been slow to pull the trigger because the more I learn about banking the less I seem to know. I need to spend more time familiarizing myself with the cost(s) associated with the daily administration of a bank, since there are many nuances that cause me concern. ... My situation is compounded by the expense of doing business. Since I know so little about the business and cannot devote my day to learning about it—I must rely on others for advice and instruction at significant cost. Over the past two months, I have spent nearly \$100K in legal fees on one deal and am [nowhere] near the finish line. (Ex. 43)

When interviewed, Hunter confirmed that his statements in this email were accurate. The evidence shows that the potential deals Hunter considered required numerous meetings, phone calls and emails, not to mention substantial review of documents, plus travel. It appears that although he informed the Executive Committee about many of these potential projects, Hunter did not routinely disclose the associated costs. In addition, without independent advice, which it lacked, the Committee was not equipped to evaluate Hunter’s potential investment ideas.

Hunter denied that his pursuit of investments for the Union distracted him from his core duties, maintaining that he was “multifaceted” and capable of multi-tasking. But two key employees reported that they felt that in his quest to find outside investment opportunities, Hunter had indeed neglected important responsibilities, including holding staff meetings, reviewing the organization’s finances and even preparing for the lockout and collective bargaining. Both also said that they had reported these concerns directly to Hunter.

Hunter’s view of risk also raises concerns. At the height of the worst financial crisis since the Great Depression, Hunter was considering starting or acquiring a bank, and was

even considering purchasing a severely distressed institution (ISN Bank). When interviewed, Hunter defended his attitude toward risk by noting that he had read an article that supposedly described a deal in which the private equity firm the Carlyle Group purchased “400 banks in default in one night,” sloughed off all their bad debts on the government, and made “\$2 billion profit overnight.” When we pointed out that the Carlyle Group was different from a labor union, Hunter replied: “But it’s the same concept.” We then asked if there were certain investments that are so risky they are not appropriate for a labor union to pursue, and Hunter responded, “I disagree. You can’t limit it.”

Notwithstanding the speculative nature of certain of the investments he considered, Hunter predicted success to the Executive Committee. For example, in October 2008, he wrote to the Committee: “History demonstrates that previous bank downturns have created tremendous opportunity for investors. … I believe that a bank jointly owned by the NBPA/NBA players will generate enormous business and be hugely successful.” Similarly, in a November 2008 email to Derek Fisher, after mentioning a series of potential investments, including a bank, a recording studio and a parking garage in Harlem, Hunter wrote: “[W]e must consider what we want the legacy of the NBPA to be during our respective tenures. I think it should be more than a traditional sports labor association.”

Going forward, the Union’s Player Representatives and Executive Committee members should give careful consideration to the costs and risks of the Union’s pursuit of potential investments and should determine what kinds of transactions are appropriate for the Union to consider.

5. Gifts to Executive Committee Members

During his 16-year tenure, Hunter has spent in excess of \$100,000 in Union funds to purchase luxury items as gifts for Union Presidents and other members of the Executive Committee.

(a) Background

According to Hunter, he has established a practice of giving each NBPA President a high-end watch upon his retirement, and has from time to time bestowed gifts upon the entire Executive Committee. NBPA financial records show that between December 2002 and June 2010, Hunter spent approximately \$90,000 on the following gifts:

- Louis Vuitton bags, which cost \$7,705 and were given as Christmas presents to the Executive Committee in December 2002;
- Alligator belts, which cost \$4,417 and were given to the Executive Committee during the 2003 Summer Meeting;
- Fountain pens, which cost \$7,256 and were also given to the Executive Committee during the 2003 Summer Meeting;
- A watch, which cost \$1,596 and was given to Charlotte Brandon, who founded the Mothers of Professional Basketball Players, upon her retirement from the organization in July 2005;
- A Breguet watch, which cost \$14,680 and was given to former NBPA President Antonio Davis in February 2007, upon his retirement from the Executive Committee;
- Custom-engraved watches, which cost \$22,360 and were given to the Executive Committee during the 2008 Summer Meeting;
- Louis Vuitton bags, which cost \$12,161 and were given to the members of the Executive Committee (other than Derek Fisher) during the 2010 Summer Meeting; and
- A Patek Philippe watch, which cost \$21,730 and was given to Derek Fisher during the 2010 Summer Meeting.

In addition, Hunter disclosed that he had given luxury watches to three former NBPA Presidents—Buck Williams, Patrick Ewing and Michael Curry—at the end of their respective tenures. We have not been able to locate financial records for these gifts, but Hunter stated that each of those watches cost the Union at least \$13,000, which amounts to a combined total of at least \$39,000. We also understand that Hunter designed custom 18-karat gold cufflinks and gave them to Executive Committee members at a meeting prior to 2011, though we do not know how much those gifts cost. It is clear, however, that the total amount Hunter spent on gifts well exceeds \$100,000.

(b) The June 2010 Gifts

In June 2010, Hunter spent \$34,000 on presents for members of the Executive Committee (a watch worth nearly \$22,000 for Derek Fisher and bags worth approximately \$12,000 in total for the other members of the Committee). We find Hunter’s actions here to be particularly puzzling.

In June 2010 Fisher was finishing the first year of a four-year term as President, and had not expressed plans to retire. Therefore, giving Fisher a watch at that time was inconsistent with Hunter’s practice of giving watches to outgoing Presidents.

Hunter stated that he gave Fisher the watch in 2010 because he recognized that a lockout might occur in 2011. According to Hunter, he told Fisher that if there was a lockout and the Union decertified, Fisher “might never get his watch,” and asked whether Fisher preferred to “take his chances” on the results of the collective bargaining or accept the watch at a time when it was guaranteed. Hunter also claimed: “[I]t would have been harder to give him the watch leading up to the lockout; politically it would have been different. … Players would have objected, they wanted to hold back money.” If anything, Hunter’s awareness of those sentiments

should have counseled *against* giving Fisher the watch at all, not prompted him to accelerate the gift.

In any event, Hunter claimed that when presented with a choice, Fisher opted to accept the watch right away. Fisher, however, did not agree with this account. To the contrary, he stated that he did not discuss the timing or reasons for the gift with Hunter. According to Fisher, he did not have an understanding at the time he received the watch as to whether it had been purchased with Union funds, although Hunter disagreed with that claim. Fisher also maintained that he was uncomfortable with the gift at the time he received it, and that, with the benefit of hindsight, he felt the watch may have been a gesture timed to ensure his loyalty to Hunter during the upcoming collective bargaining negotiations. In our view, Hunter should bear the brunt of the responsibility for any curious appearance that arises from this gift, and Fisher's decision to question Hunter's conduct and call for an internal inquiry in April 2012 fortifies this opinion.

In addition, as early as April 2010, Hunter and other Union leaders were urging players to prepare for the looming lockout by conserving funds. The minutes of the June 24, 2010 Player Representatives meeting show that "financial preparation for a lockout" was discussed. It is difficult to reconcile Hunter's decision to spend \$34,000 in Union funds to purchase luxury goods for the Executive Committee with a message of financial discipline. Yet, when questioned, Hunter defended that \$34,000 as relatively insignificant compared to the \$70 million in Union funds available at the time or the \$25 million that the Union could have spent on attorneys' fees during the lockout. He also rejected the notion that spending this amount contradicted the message that players should restrain their spending habits in preparation for a

lockout. He admitted, however, that \$22,000 represented the upper limit of what he thought would be appropriate to spend on a gift for a Union President.

(c) Conclusions

Hunter claimed that the purpose of the gifts was to thank Executive Committee members for their service. We agree that this is an appropriate goal. Nevertheless, we recommend that in the future, to the extent that Union funds are used to purchase gifts to express gratitude to Union officers or directors, the Union should set clear standards to regulate such gift-giving. Currently, no Union By-Laws or other policies exist to govern such practices. The Union might also consider imposing a “nominal” or “de minimis” limit for such gifts, and a rule that they should be presented only at the conclusion of the player’s service to the Union. We note that in a different context, the Department of Labor has set a limit for “nominal” or “de minimis” gifts of \$250.

Finally, one could argue that notwithstanding the Union’s lack of policies governing gifts to Executive Committee members, Hunter’s practices were too extravagant, even wasteful. For his part, Hunter justified his approach to giving these gifts by claiming that NBA players are accustomed to lavish spending and would not be impressed with inexpensive watches, given that the ones they wear typically do not cost less than \$10,000. In our estimation, it would have been more prudent for Hunter to focus on whether giving luxury gifts was in the best interest of all of the NBPA’s members.

V. Governance Deficiencies

A. NBPA Governance Deficiencies and Other Management Weaknesses

When we reviewed the Union’s governing documents, we discovered that they might not fully comport with the requirements of Delaware law, and that in some respects the Union is not operating in accordance with its By-Laws. In addition, we learned that Steptoe provided recommendations for governance revisions to Billy Hunter in November 2011, yet Hunter has taken no steps to address the deficiencies Steptoe identified. We analyze these governance issues below, noting where we agree or disagree with Steptoe’s advice.

We have also identified a number of internal controls deficiencies and problems in the area of human resources. We describe these matters briefly below, and point to potential solutions.

1. Corporate Governance Deficiencies

(a) The NBPA Charter and By-Laws

The NPBA is organized as a Delaware non-stock corporation and is, therefore, subject to the General Corporation Law of the State of Delaware (the “DGCL”), which also provides a framework for the Union’s corporate governance. The NBPA’s By-Laws also dictate how the Union is to be governed.

The November 23, 2011 email from Steptoe, discussed further in Section IV(A)(1), together with its attachments, suggest that the Executive Committee may be improperly constituted and its actions unauthorized. (Ex. 15) Although the bases for these views are not clear from the documents, Steptoe’s main concern appeared to relate to the extent of authority delegated to the Executive Committee. Under the DGCL, a board of directors may

delegate the day-to-day operation of a corporation to officers of the corporation.⁶⁹ Here, the By-Laws delegate power to the Executive Committee by providing that “[d]uring the interim period between the Board of Player Representatives meetings, the Executive Committee shall have the full power to direct the affairs of the Players Association consistent with the other provisions set forth in this Constitution.”

Delaware law, however, prohibits a board of directors from delegating certain powers to the officers, including the powers to recommend a merger of the corporation, a conversion, dissolution and similar fundamental corporate acts.⁷⁰ None of these appear to be issues for the NBPA, because the Executive Committee has not purported to take such actions. Thus, although the provision of the By-Laws delegating the full power of the Board of Player Representatives to the Executive Committee may not be consistent with Delaware law, we are aware of no actions taken improperly as a result of such potentially overbroad delegation.

Steptoe suggested that the Executive Committee was improperly constituted as a result of the over-broad delegation of authority. Without reaching a conclusion as to whether this view is correct, we recommend that the NBPA amend its By-Laws to clarify the extent of the delegation of responsibility by the Player Representatives to the Executive Committee.

(b) Player Representatives and Assistant Player Representatives

(i) Elections

The By-Laws provide that each team should elect its Player Representatives through a secret ballot election at a meeting convened promptly after the roster is set. This

⁶⁹ 8 Del. C. § 141.

⁷⁰ *Id.* at § 141(a) (“The business and affairs of every corporation organized under this chapter shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this chapter or in its certificate of incorporation.”); *see also In re Walt Disney Co. Deriv. Litig.*, 907 A.2d 693, 774 n.490 (Del. Ch. 2005) (“Section 141(a) of DGCL expressly permits a board of directors to delegate managerial duties to officers of the corporation, except to the extent that the corporation’s certificate of incorporation or bylaws may limit or prohibit such a delegation.”).

provision mirrors the LMRDA, which mandates that when a national labor union selects delegates who will then elect the union's officers, those delegates must themselves be elected by secret ballot. In the NBPA's case, because the Player Representatives serve as the delegates charged with electing the Executive Committee (i.e., the Union's officers), they must be elected by secret ballot. Department of Labor regulations, however, provide that secret ballots may not be necessary in elections where there is only one candidate.

We understand that the secret ballot requirement for Player Representative elections has not been followed consistently, if at all. Instead, Player Representatives are generally chosen by consensus or voice vote during meetings. Going forward, we urge the NBPA to follow the election procedures called for in the By-Laws, and elect Player Representatives by secret ballot. The NBPA should also consider amending its By-Laws to better reflect the Department of Labor regulations concerning unopposed elections.

In addition, Hunter or other Union employees have, on occasion, recommended that particular players serve as Player Representatives.⁷¹ (Ex. 44) Hunter stated: "Sometimes I'll get involved and say that I think someone should be the Rep." Players selected by Hunter have, in fact, served as Player Representatives. Hunter claimed, however, that teams do not always select the player he prefers. In a similar vein, Hunter has played a role in recommending candidates for service on the Executive Committee. (Ex. 45) In one recent instance, however, a star player who Hunter promoted for an Executive Committee position was in fact voted down.

Hunter and others at the NBPA have a legitimate interest in ensuring that the players chosen to serve as Player Representatives or on the Executive Committee are committed to devoting sufficient time and zeal to their duties. Nonetheless, Hunter's role in the election

⁷¹ For the avoidance of doubt, we emphasize that we have not found any instance of fraud occurring in elections for Union officers or directors.

process was questioned by multiple witnesses. Derek Fisher, for one, said that there was “no question” that Hunter was attempting to include on the Committee players who were “best for him,” although Fisher acknowledged that he had no evidence that votes had not been counted properly. Union employees made similar statements over the course of the investigation.

(ii) Voting Powers

The NBPA’s By-Laws specify that, once elected, if a Player Representative is absent from a Board meeting, “the Assistant Player Representative shall serve as his team’s delegate.” The By-Laws, therefore, specify the voting power of each class of Player Representatives and the manner in which each class should be elected, and they appear to be in accordance with Delaware law, which allows a corporation to provide for different voting powers for different directors.⁷² Nevertheless, Steptoe’s November 23, 2011 email suggests that if Assistant Player Representatives are not directors at all times, any votes they cast may be invalid. Accordingly, it may be advisable to amend the By-Laws to clarify further the role of the Assistant Player Representatives.

(iii) Player Representative Absences

The By-Laws currently give the Executive Committee and the Executive Director two options for appointing an Interim Player Representative for a team in the event that neither its Player Representative nor its Assistant Player Representative is present at a Board meeting. Specifically, if “a member of the Executive Committee who plays for that team” is available, he “shall serve as its delegate.” If such a player is not available, and the election of officers will take place at the meeting in question, “the Executive Director shall have the authority to appoint a team member as Interim Player Representative.”

⁷² 8 Del. C. § 141(c)(3).

Such actions would likely not be valid under Delaware law, which, by default, allows vacancies in the governing body of a non-stock corporation to be filled by majority vote of the remaining members of the governing body. Neither the Executive Committee members nor the Executive Director are members of the Board of Player Representatives, and thus they lack the power to fill Board vacancies.⁷³ We are unaware, however, of any actual instances of such improper appointments.

Steptoe proposed amending the By-Laws to eliminate (1) the provision that permits an Executive Committee member to serve as a temporary substitute for the Player Representative for his team and (2) the provision that permits the Executive Director to appoint an Interim Player Representative. We encourage the NBPA to adopt this recommendation.

(c) Composition of the Current Executive Committee

The By-Laws require that Executive Committee members be “in good standing,” which means, among other things, that they be “employed as players on any of the individual teams which comprise the NBA.” We have learned that this provision of the By-Laws has not been consistently followed by the Union. For example, Gary Hall prevented Pat Garrity from speaking at the February 2009 Committee meeting based on the view that Garrity, as a retired player, was no longer a Committee member. Yet, Etan Thomas and Theo Ratliff were regarded as Executive Committee members through the summer of 2012, if not longer, although neither of them had played in the league since 2011.

Based on our review of the By-Laws and information provided by the Union, the current Executive Committee may have only two members: Matt Bonner, who was elected as a Vice President in February 2011, for a three-year term, and Derek Fisher, who was elected as President in June 2009, for a four-year term. The terms of the other seven have either expired, or

⁷³ See 8 Del. C. §223(a).

they appear no longer eligible for service because they have not been “employed as players on any of the individual teams” this season (or both). We recommend that Executive Committee elections be held at the February 2013 All-Star Weekend Player Representatives meeting.

We also understand that questions have been raised as to Fisher’s current status as NBPA President, even though his term does not expire until June 2013. Although he is not, as of the date of this Report, employed by an NBA team, Fisher played with the Dallas Mavericks this season, may join another roster before the end of the season, and has expressed no plans to retire from professional basketball or step down as NBPA President before his term is complete. In addition, we understand that the Union is still treating Fisher as a member of the Executive Committee.

The By-Laws do not define with precision when a player who is no longer employed by a team loses his standing to be a member of the Union or his eligibility to hold office. In the NBA, it is not uncommon for players to be released, temporarily unemployed and then signed to new teams within the same season, but the By-Laws do not address such circumstances. Given that Fisher has played for an NBA team this season and has expressed no plans to retire, we believe that it is reasonable under the By-Laws to consider him a member in good standing. Further, we believe that it is appropriate for him to serve as NBPA President for the remainder of his term. Indeed, we believe that it is reasonable to interpret the By-Laws in this manner for any players who have played in a given season—if they are no longer employed by NBA teams but have not retired, they should be considered members in good standing and deemed eligible to participate in the Union for the remainder of the season. Nonetheless, we also recommend that the By-Laws be revised to address these issues and clarify when vacancies on

the Executive Committee occur, and under what circumstances a properly elected Committee member should be permitted to serve out his term

2. Internal Controls Deficiencies

As previously indicated, Deloitte was not retained to provide audit, compilation, review or attestation services and therefore does not express an opinion or other form of assurance with respect to the Union's system of internal controls. Nevertheless, outlined below are suggestions for enhancing the effectiveness and efficiency of the Union's internal controls. The following observations are incidental to the purpose of this engagement, should not be considered a comprehensive review of internal controls and require the independent assessment of NBPA management before implementation.

(a) Documentation for Petty Cash Transactions

The NBPA's Petty Cash Disbursement Policy provides that "[a]n employee may request a reimbursement from petty cash for disbursements of \$100 or less. A completed petty cash form with the receipt for the expense attached should be presented to the Director of Finance for payment. The Director of Finance reviews the form, approves the expense and reimburses the employee." This process has not been followed in some instances.

We also observed that the NBPA's petty cash account did not function as a traditional petty cash account, but rather was used to record large cash withdrawals that were used to pay vendors (such as musicians) who reportedly insisted on cash payments. Support was requested for 11 transactions booked as petty cash transactions, totaling approximately \$305,000, with individual payments ranging from \$5,000 to \$108,250. We obtained the requested support for nine transactions and partial support for the remaining two transactions. In some instances, however, the documentation provided was vague and/or incomplete.

The lack of clarity and insufficient support for petty cash transactions reduces transparency into the nature and use of the petty cash fund. We recommend that the Union use the petty cash account according to its established policy or amend the policy in a reasonable and appropriate manner. The Union should also consider using other cash equivalent options, such as cashier's checks, to pay vendors who request cash payments above a particular monetary threshold, and should also consider creating a separate general ledger account to record such disbursements.

(b) Employee Expense Reimbursements

Based on the NBPA's Travel and Entertainment Policy, an employee is required to submit an expense reimbursement form with relevant supporting documentation in order to receive reimbursement for approved business expenses. The expense reimbursement forms are supposed to be submitted to the employee's supervisor and the Director of Finance for review and approval. Next, the Finance Department is to review the expenses and confirm that they are adequately supported and represent legitimate business expenses of the Union.

The expense reimbursement policy has been inconsistently applied, and certain reimbursed expenses have not been adequately supported by receipts. Support was requested for 70 hotel charges, totaling approximately \$60,000, that were paid for using Billy Hunter's American Express corporate card and treated as business expenses. The Finance Department was unable to provide hotel folios for 47 of the 70 charges, amounting to approximately \$40,000. Although Hunter's monthly credit card statements included the transaction date and vendor details, they lacked other pertinent information necessary to evaluate the nature and purpose of the expenses. In addition, the available documents did not provide evidence that the expenses were reviewed in accordance with the Travel and Entertainment Policy. Employees in the

Finance Department reported that Hunter has been repeatedly asked to provide the necessary receipts and documentation, but has failed to do so on a consistent basis.

The lack of supporting documents for business expenses can result in reimbursements for expenses that do not comport with Union policy. Expense reports, supporting documentation and evidence of review by the Finance Department should be maintained and kept on file to ensure a sufficient audit trail. Indeed, Calibre previously identified these problems and brought them to the Union's attention in connection with the 2008, 2009 and 2011 audits. No steps to address this issue appear to have been taken.

(c) Procedures for Hiring Third Party Vendors

The NBPA does not have a formal procedure for engaging third-party professional services firms. The current process is informal and unstructured. Vendors are not required to submit formal proposals and are sometimes retained via email, without an executed engagement letter.

For example, we reviewed the amounts paid to three public relations firms since February 2005. Although the companies were paid a combined total of approximately \$775,000 for professional services as of the time of review, the Finance Department was able to provide only one of the requested contracts, which in turn supported payments of only \$15,000. No documentation was provided to suggest that a formal review and approval process was performed prior to hiring these vendors.

The NBPA should develop a formal process to identify and retain vendors. This process should result in documentation that specifies the scope of services to be performed, terms of the arrangement, potential selection process and cost structure. Formal contracts should be used to ensure that the Union has a strong baseline to evaluate services performed and invoices received. If such contracts call for expenditures of more than \$25,000 (or a revised

threshold set by the Board of Player Representatives), they should be properly approved by the Executive Committee.

(d) Auditors' Internal Controls Findings

We were provided with seven management letters, six of which were issued by Calibre and one letter from KPMG LLP (“KPMG”), the NBPA’s external auditors in fiscal year 2007. Although the Union addressed certain issues highlighted in these letters—the need to upgrade its general ledger accounting system and develop an accounting manual, among other things—other key recommendations have not been implemented. Some of these recommendations include the need for the Union to ensure that checks over a certain dollar threshold to vendors have the required two authorization signatures and comply with the Department of Labor documentation requirements for expense reporting.

We recommend that the Union’s management review and address all outstanding internal control related matters that were raised by the NBPA’s external auditors.

(e) Budget versus Actual Variance Review

The Union develops a financial report that includes an annual operating budget and specific budgets for special events, such as the All-Star Gala. This report is presented to the Executive Committee during its summer meeting. We reviewed the budgets for the NBPA’s All-Star Galas from 2007 through 2012, which averaged approximately \$600,000 in net expenses each year. No information received suggested that a formal post-event variance analysis was conducted. We also observed that the annual operating budget presented to the Executive Committee during the summer meeting did not appear to provide sufficient information for the Committee to understand the breakdown of all the cost categories.

We recommend that the Union adopt a more formal process for reviewing budgets against actual expenditures for special events. We also recommend providing Executive

Committee members with detailed information on the various cost categories presented in the annual operating budget to help them better understand the total costs of the Union's operations and make informed decisions.

3. Human Resources Deficiencies

The Union does not appear to be well managed from a human resources perspective. To begin with, no employee is currently charged with carrying out human resources duties, and the Union does not maintain centralized personnel files. We believe that the Union should consider creating and filling a Director of Human Resources position.

(a) Hiring and Evaluations

In multiple instances Hunter has created and filled positions without conducting formal job searches or interviewing more than one candidate. He determines each employee's compensation, including all salary increases. Before making salary adjustments, he does not, however, conduct performance evaluations, even though he recognized at least seven years ago that such evaluations were necessary. In an April 2005 email to Theresa Messer, Hunter provided a list of approved salary increases, and wrote:

Please implement the following salary increases effective January 1, 2005. Prospectively, salary increases will be granted solely on a merit basis and following a review and evaluation of each employee. This is not to say that the currently proposed salary increases are not warranted, simply that in some instances there is no standard by which to determine how well people are performing their duties and whether there is an increase in production, efficiency, and skill level from year to year.

When interviewed, Hunter admitted that he has not implemented the review and evaluation process he called for in this email.⁷⁴ We recommend that the Union conduct such reviews annually in the future.

(b) General Counsel Position

The NBPA's General Counsel position was vacant from 2002 through late 2005 and has been unfilled since Gary Hall passed away in May 2011. Filling this position would likely help the Union to function more efficiently.

(c) Compensation Structure

When interviewed, many Union employees told us that they felt that Hunter had generally kept salaries low, especially because they had compared their own compensation to salaries offered by other sports unions. For his part, Hunter claimed that some employees, particularly administrative staffers, earned more at the Union than they would be able to earn elsewhere. He stated that if he were to heed calls to increase employee salaries, he might have to reduce the workforce. He also claimed that he had previously offered to take a salary reduction to fund raises for other employees.

With respect to the Executive Director, we recommend that the Union's Board of Player Representatives and Executive Committee obtain independent advice during any future such negotiations concerning an Executive Director's employment contract or the terms of his compensation. Paul, Weiss should not provide such advice because doing so might call into question the independence of this Report.

⁷⁴ As discussed above, in certain years Hunter gave Megan Inaba and Hal Biagas larger raises than most, if not all, other employees. In the April 2005 email quoted above, Hunter proposed that Inaba receive a \$20,000 salary increase and Biagas receive a \$15,000 increase; in contrast, Hunter did not suggest a raise of more than \$5,500 for any other employee.

(d) Interpersonal Conflicts in the NBPA Office

As discussed above, the Union's staff is currently split into two camps—one that is loyal to Hunter and one that is opposed. If Hunter remains as Executive Director, the services of an outside consultant, mediator or other neutral third party might be able to improve relationships in the office. In addition, if Hunter retains his position, he may wish to make personnel changes, and should be entitled to do so (provided that no employee is terminated or otherwise punished for cooperating with this investigation or providing frank statements to us). In particular, we understand that the current relationship between Hunter and his assistant, Suzanne Oldham, has grown particularly strained and is not conducive to a peaceful or productive work environment.

4. Supervision of the Executive Director

During his tenure as Executive Director, Hunter has exercised a significant amount of control over the Executive Committee, the Board of Player Representatives and Union operations in general.

It appears that the NBPA staff has been unable to serve as a balance to Hunter's authority. The Union is a small organization, with fewer than 30 employees, and few senior executives. Two Hunter family members serve in director-level positions at the Union, and another two are employed by important Union vendors. Hunter told us that he enjoyed working with family members because he prized loyalty, but he did not seem to fully appreciate that allowing a Hunter family culture to develop at the Union could have negative consequences. For example, one Union employee reported that she and other staff members feel "surrounded" by the Hunter family. The employee who might be best able to serve as a counterweight to Hunter is the Union's General Counsel. But since approximately 2002, Hunter has either kept that position vacant or filled it with his closest friend.

Similarly, the Executive Committee often has not functioned as an effective check on Hunter's authority. The Committee members tend to lack expertise in finance, corporate governance and labor negotiations. There is also frequent turnover on the Committee; many members serve for only a few years. During the season, it is generally not feasible for the Committee to meet in person (other than over All-Star Weekend). Given the demands of their schedules, Committee members often have little time to devote to Union business. Meetings are conducted by telephone and important communications are circulated via email, practices that tend to increase Hunter's influence over the Executive Committee. In addition, multiple Union employees reported that in some instances Hunter has not provided sufficient information to Executive Committee members for them to make informed decisions.

For similar reasons, the Player Representatives generally do not supervise Hunter closely. They meet as a body only twice a year, and appear to be provided with even less information than the Executive Committee in between those meetings. Other sports unions, particularly the NFLPA, appear to require more participation from their player representatives, and we encourage the NBPA to consider implementing similar requirements.

Nevertheless, we urge the Player Representatives and Executive Committee members to devote more time and energy to fulfilling their responsibilities for the Union. Although we understand that there are often significant constraints on their time, particularly during the NBA season, the NBPA would function more effectively if the Executive Committee and Board of Player Representatives spent more time reviewing the Executive Director's actions and asserting their authority.

B. NBPA Foundation

The National Basketball Players Association Foundation (the “Foundation”) was incorporated in New York in May 1996. According to the Foundation’s Certificate of Incorporation, it was established for “exclusively charitable and educational” purposes. Hunter considers the mission of the Foundation to be “enhanc[ing] the public perception of NBA players” and “benefit[ting] the community in general.”

The Foundation has assisted many worthy charities and supported important causes. Nonetheless, our review revealed that in his management of the Foundation, Hunter has exhibited a disregard for its governing documents and for standards governing not-for-profit corporations.

1. Background

The Foundation is funded almost exclusively from fine and suspension-related payments collected by the NBA. Under the terms of the 2011 CBA, 50 percent of such payments must be remitted to the NBPA Foundation or to another charitable organization selected by the NBPA and approved by the NBA. Over the past ten years, the Foundation has, on average, received approximately \$2.25 million per year, and has typically disbursed approximately \$765,000 per year. As of June 2012, the Foundation held approximately \$26.5 million in assets, up from approximately \$19.4 million in June 2007, and approximately \$8.2 million in June 2002.⁷⁵ Prim Capital serves as the financial advisor for the Foundation.

Although the Foundation supports a wide range of charities, a few entities tend to receive larger gifts than others year after year. Over the past ten years, the following ten organizations have received the largest amounts in total:

⁷⁵ The dollar amounts listed in this paragraph are drawn from final financial statements for fiscal year 2011 and draft statements for fiscal year 2012.

Recipient Organization	Total Amount Received (2002-2012)
National Basketball Retired Players Association	\$2,094,000
Feed the Children	\$940,878
United States for UNICEF	\$500,000
Habitat for Humanity International	\$300,000
Dikembe Mutombo Foundation	\$265,000
6 th Man Foundation	\$260,000
Professional Basketball Alumni Association	\$150,000
Behind the Bench	\$132,500
Mothers of Professional Basketball Players	\$130,000
Rebuilding Together New Orleans	\$100,000
Children's Defense Fund, Broad Street Site	\$100,000

The Foundation has also made gifts to support various disaster relief efforts, including charitable endeavors related to Hurricane Sandy, the 2010 Haiti earthquake and the September 11 attacks. In addition, the Foundation sponsors annual food giveaways in cities across the country near the Thanksgiving and Christmas holidays.

The “direction and management of the affairs of the [Foundation]” are assigned to the Foundation’s Directors. Former NBA players Alex English, Charles “Buck” Williams and Charles Smith were designated as the Foundation’s initial directors. At the time, English was serving as interim Executive Director of the NBPA, and Williams and Smith were the Union’s

President and First Vice President, respectively. The by-laws of the Foundation (the “Foundation By-Laws”) called for these directors to hold office until the Foundation Board of Directors (the “Foundation Board”) held its first annual meeting and until their successors were elected.⁷⁶ (Ex. 46) During this investigation, no evidence was uncovered to suggest that such a meeting or such elections had occurred. Indeed, Hunter conceded that, during his tenure, there have been no elections for Foundation directors, and he could not specifically recall a single meeting of the Foundation Board.

The Foundation By-Laws also call for the election of officers, including a President, Vice-President and Executive Director for the Foundation. According to Hunter, these elections also have not occurred.

Recent Form 990s, which the Foundation files with the IRS, identify Derek Fisher and Keyon Dooling as Foundation directors and officers, and list Hunter as an officer. Although Hunter claimed that the NBPA’s Executive Committee had in the past appointed players to the Foundation Board, he conceded that such appointments were not in accordance with the Foundation’s By-Laws.

2. Governance Concerns

The New York Not-for-Profit Corporation Law (“NPCL”) imposes fiduciary duties on directors and officers of non-profit organizations, requiring that they “discharge the duties of their respective positions in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.”⁷⁷ The NPCL also authorizes actions against directors or officers of not-for-profit corporations for “[t]he neglect of, or failure to

⁷⁶ We understand that at least some Union employees believe that the structure of the initial Board was meant to roll over as new Executive Directors, Presidents and First Vice Presidents took office. The Foundation’s governing documents, however, are not drafted to that effect; they designate English, Williams and Smith by name, not position.

⁷⁷ NPCL § 717(a).

perform, or other violation of his duties in the management and disposition of corporate assets committed to his charge.”⁷⁸ The New York State Attorney General (“NYAG”), who is authorized to investigate “whether or not property held for charitable purposes has been and is being properly administered,” has defined the fiduciary duties of directors and officers of non-profit organizations to include “attending and participating in meetings, reading and understanding financial documents, ensuring that funds are properly managed, [and] asking questions and exercising sound judgment.”

In light of applicable laws and governance standards, the Foundation should have properly-appointed officers and directors, and should hold and document regular board meetings. Theresa Messer reported that she has told Hunter on multiple occasions that the Foundation should hold regular board meetings. Calibre CPA Group, the Union’s auditor, has raised similar concerns. In its audit report for the year ending June 30, 2007, Calibre noted that “there were no minutes kept of meetings of the [Foundation] Board of Directors,” and warned that failure to maintain such minutes “could create a situation where certain actions are later questioned or disputed because there is no written documentation of the Board’s decision.” Calibre also reported that the Foundation had failed to document Hunter’s approval of contributions on a consistent basis or provide documentation that Foundation contributions were made to eligible tax-exempt organizations. Yet, Hunter has not taken action in response to the advice Messer and Calibre have offered.

It appears that Hunter exercises a significant amount of control over the Foundation, and often functions as the sole decision-maker with respect to its donations. There is no formal process for requesting Foundation grants. Although some requests have been made in writing, Hunter said that written requests or applications are not required. The Foundation

⁷⁸ NPCL § 720(a),(b).

lacks comprehensive and reliable records about the organizations that have received Foundation funds, and the purposes for which they requested funds. Apart from checking an organization's tax-exempt status, little, if any, due diligence is performed on grant recipients. Indeed, we discovered that a number of donations were not supported by formal requests but instead only by canceled checks, or, in some instances, also an informal email from Hunter authorizing the donation.

There appear to be no formal Foundation procedures for evaluating grant requests. Union employees could offer little insight into how recipients for Foundation gifts were chosen, and expressed concerns about the lack of transparency in funding decisions. Indeed, Hunter described his process for evaluating funding requests as "ad hoc." On some occasions, however, Hunter has informed or solicited the input of the NBPA Executive Committee (or at least certain Committee members) with respect to Foundation donations, primarily before making substantial gifts.

3. Appearance Concerns

In May 2010, the Foundation made a \$20,000 contribution to Abyssinian Baptist Church, where Hunter is a member. Hunter explained that the donation was ultimately given to Youth on the Move, which is affiliated with the church and was in the process of obtaining its status as 501(c)(3) charitable organization. Hunter serves on the board of directors for Youth on the Move.

Hunter acknowledged that he may have informally discussed this donation with "a couple" of Executive Committee members, but stated that he did not seek their approval or formally disclose his affiliation with the organization. Hunter also said that he did not consider it a conflict of interest for the Foundation to make a donation to an organization for which he serves as a board member, because Youth on the Move is a worthy organization that was

struggling to obtain funding. Although providing support to an organization such as Youth on the Move is a worthy endeavor, it was not wise for Hunter to do so without fully disclosing his personal connection to the organization or recusing himself from the decision.

In addition, multiple NBPA employees expressed a belief that Hunter's personal familiarity with potential grant recipients appeared to factor into his grant-making decisions. Hunter has authorized five Foundation contributions, totaling \$33,500, to five organizations that are based in the Bay Area, where he lived and worked for many years.

The Foundation currently lacks a conflict of interest policy to govern situations such as those described above. We recommend the adoption of a policy that addresses Foundation officers' and directors' requests for donations to organizations to which they are connected.

Finally, Hunter has directed Foundation funds to several organizations founded by or affiliated with members of the Executive Committee. The Union should consider implementing guidelines that regulate under what circumstances Foundation money may be given to such entities, to guard against the perception that the Foundation is being run for the benefit of a small group of Union insiders.

4. Conclusions

The evidence we reviewed does not support a finding that Hunter misappropriated Foundation money. Nevertheless, we recommend that the Foundation take steps to bring its operations in line with its By-Laws and promote consistency, transparency and accountability in its activities.

VI. Recommendations

On August 16, 2012, we provided 15 preliminary recommendations to the NBPA. We present an updated and expanded list below. We believe that these recommendations will enhance the Union's operations and help prevent the recurrence of the problems that led, in part, to this investigation.

As an initial matter, the Union needs a full slate of Player Representatives. We understand that teams have begun to elect Player Representatives for the 2012-13 season, and that additional elections will take place soon. In addition, the NBPA needs to fill the open seats on the Executive Committee. In our view, Matt Bonner and Derek Fisher are the only current members of the Committee, and all other positions on the Committee are currently vacant.

The Executive Committee members and Player Representatives, guided by the input of the membership at large, should then decide who should fill the position of Executive Director going forward. As discussed, we believe that the NBPA's Executive Committee members and Player Representatives have two choices: (1) decline to ratify Mr. Hunter's contract retroactively, appoint an interim Acting Director and search for a new Executive Director; or (2) permit Mr. Hunter to continue running the NBPA and properly approve a contract for him. To the extent that the Player Representatives and the Executive Committee choose the second option, we suggest that they consider negotiating a new agreement with Mr. Hunter, instead of simply ratifying the contract he signed in 2010.

Once these more immediate issues have been addressed, the Union should go on to consider the recommendations below, which concern corporate governance, human resources, conflicts of interest and the Foundation.

Corporate Governance

The Union should ensure that its By-Laws are followed carefully. In addition, the Union should amend its By-Laws to:

1. Clarify the extent of the delegation of responsibility by the Player Representatives to the Executive Committee, to conform to Delaware law.
2. Eliminate the provision that allows the Executive Committee or the Executive Director to appoint Player Representatives or Assistant Player Representatives.

The Union should also consider making additional amendments to the By-Laws, including to:

3. Reflect the Department of Labor regulations concerning unopposed elections for Player Representatives.
4. Clarify further the roles and responsibilities of the Assistant Player Representatives.
5. Clarify when vacancies on the Executive Committee occur, and under what circumstances a properly elected Committee member should be permitted to serve out his term.
6. Clarify the roles and responsibilities of the Executive Director, the General Counsel and the Director of Finance.

We recommend that the Union's Legal Department review the By-Laws and determine whether additional changes are necessary or desirable.

Additional recommendations include the following:

7. The Union should adopt all of the recommendations made by its outside auditor, Calibre.
8. To the extent not already addressed herein, the recommendations concerning the Union's internal controls discussed above in Section V(A)(2) should be followed.
9. The Executive Committee and Player Representatives should have the benefit of independent legal and financial advice as needed or requested, particularly when negotiating any employment contract with an Executive Director.

10. The Union's record-keeping efforts should be improved. Minutes of all meetings of the Executive Committee and Player Representatives should be prepared.
11. The Executive Committee and Player Representatives should exercise more supervision over the Executive Director and should consider defining his duties and responsibilities with greater specificity. There are a number of ways to accomplish these goals, including but not limited to:
 - a. Specifying the Executive Director's duties in greater detail in his employment contract; and
 - b. Reviewing the Executive Director's performance on an annual basis.
12. The Executive Director should not be permitted to accrue an excessive amount of paid vacation time, if any.
13. The Executive Committee and Player Representatives should consider setting standards to govern the Union's consideration of non-traditional investment opportunities.
14. The Union should consider setting standards for any gifts given to Executive Committee members or Player Representatives. It might be appropriate, for example, to set a limit on the amount that may be spent or to limit gifts to donations from the NBPA Foundation to a charity of a player's choosing.
15. The Union should consider providing all Executive Committee members and Player Representatives an orientation that supplies guidance on their roles and responsibilities and principles of good corporate governance.

Human Resources

16. The Union should consider revamping its approach to Human Resources, including by:
 - a. Creating a Human Resources Manual that specifies hiring procedures;
 - b. Preparing formal job descriptions for each position that list required qualifications and expected responsibilities;
 - c. Reviewing each employee's compensation to ensure that it is set at a level commensurate with industry norms, and with each employee's credentials, training and responsibilities;

- d. Conducting and documenting annual performance reviews of employees;
 - e. Evaluating the NBPA's organizational structure to determine whether changes are necessary, including with respect to reporting lines;
 - f. Filling the vacant General Counsel position; and
 - g. Creating and filling a Director of Human Resources position.
17. The Union should review the Employee Handbook and the Travel and Entertainment Policy and determine whether they should be revised to reflect best practices.
18. The Union should consider creating a hotline that Union staff and members can call anonymously to report violations of the NBPA By-Laws or other Union policies.

Conflicts of Interest

- 19. The Union should adopt a more comprehensive and stringent conflicts of interest policy.
 - a. The Union should consider including in such a policy a bright-line anti-nepotism rule prohibiting the employment of immediate family members of NBPA employees, directors or officers.
 - b. Such a rule would prohibit the Union from continuing to employ Robyn Hunter and Megan Inaba if Billy Hunter is retained as Executive Director.
 - c. To the extent that the Union adopts an anti-nepotism rule, it should also consider prohibiting the use of Union vendors who employ immediate family members of NBPA employees, directors or officers, or outlining procedures for disclosing and managing such conflicts of interest.
- 20. The Union should consider not using the services of Prim Capital.
 - a. One way to curtail the ongoing appearance problem related to the Union's continued relationship with Prim would be for the Union to look for another financial services provider.
 - b. Further, Prim has refused to provide the Union with requested information about supplemental fees it may receive as a result of its relationship with the NBPA, and in our opinion has not cooperated fully with this investigation.

- c. When choosing whether to retain Prim or a new financial services provider, the Union should request and evaluate proposals from at least three potential vendors.

NBPA Foundation

- 21. The Union's Legal Department should review the by-laws of the NBPA Foundation and determine whether changes are necessary or desirable.
- 22. The Foundation should carefully follow its by-laws and observe laws and standards applicable to New York non-profit organizations. In particular the Foundation should:
 - a. Properly appoint officers and directors, hold board meetings and keep records of such meetings;
 - b. Adopt clear policies and procedures for evaluating grant applicants and conduct due diligence on potential grant recipients; and
 - c. Adopt a conflicts of interest policy.
- 23. The Foundation should strengthen its record-keeping requirements and practices.

VII. Conclusion

In conclusion, we encourage the members of the NBPA to review this Report, and to take an active role in shaping the future of their Union.

Dated: January 17, 2013

Paul, Weiss, Rifkind, Wharton & Garrison LLP
(Counsel to the Special Committee)

Theodore V. Wells, Jr.
David W. Brown
Amy E. Gold

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EXHIBIT 1



NBPA executive director Billy Hunter sought union investment for bank with ties to son

Wed, Apr 25, 2012 3:24 PM EDT

On the weekend of the 2009 All-Star game in Phoenix, Pat Garrity, the treasurer of the National Basketball Players Association, walked into a conference room inside the Sheraton Phoenix determined to make one final stand in his decade of service to the union. Garrity had warned peers and NBPA executive director Billy Hunter prior to the '09 executive committee meeting that he planned to challenge Hunter on business practices, and several players purposely steered clear of the confrontational scene.

In the aftermath of the U.S. banking crisis in 2008, Garrity had grown increasingly suspicious of an investment bank project that Hunter had been pitching to the executive committee and player representatives. For Garrity and some peers in the NBPA, the investment made no sense.

Hunter had sought a \$7 million to \$9 million investment from the union into Interstate Net Bank of Cherry Hill, N.J., a financial institution that federal and state banking regulators had slapped with debilitating "cease-and-desist" orders, sources said.

Garrity discovered information online that left him feeling obligated to confront Billy Hunter: Hunter's son, Todd, had a seat on the board of directors of Interstate Net Bank.

[Y! exclusive: How NBPA director Billy Hunter distributed funds to family members]

Todd Hunter is also a vice president for Prim Capital, which has a consulting contract with the NBPA that has paid the company in excess of \$2.5 million since 2006, according to U.S. Department of Labor filings.

"Why didn't you disclose any of this?" Garrity asked Hunter several times at the 2009 meeting, witnesses told Yahoo! Sports.

When reached by phone, Garrity confirmed the description of events that sources provided Yahoo! Sports. He declined to further comment. Hunter declined comment for this story through a union spokesman.

At the meeting, Hunter left the talking to longtime ally and NBPA chief counsel, Gary Hall, and Hall wasn't offering answers. Garrity and Hall screamed back and forth, and Garrity's questions weren't addressed, witnesses said.

Finally, witnesses said, Hall – who died on May 11, 2011 – told Garrity that he was a retired player, no longer welcome on the executive committee, and that security would be called to remove him unless he left on his own. With executive committee members Keyon Dooling and Adonal Foyle appearing uncomfortable – and NBPA president Derek Fisher refusing to use his authority to demand Garrity be allowed to speak over Hall's yelling – Garrity left the room, left the NBPA and never returned again. Fisher declined comment.

The potential conflicts were far deeper and connective than Garrity realized at the time, a Yahoo! Sports investigation has discovered. Prim Capital controlled 200,000 shares of ISN Bank stock, according to a 2010 ISN Bank letter to stockholders. In addition to Todd Hunter, another Prim employee, executive Carolyn Kaufman, joined the bank's board of directors of ISN in 2004 and was paid \$97,000 and \$90,000 in consecutive years, according to a KPMG audit of ISN Bank in January 2008 that Yahoo! Sports obtained. She owned 250 shares of the stock, according to the March 2010 ISN letter to stockholders. The audits had been available online.

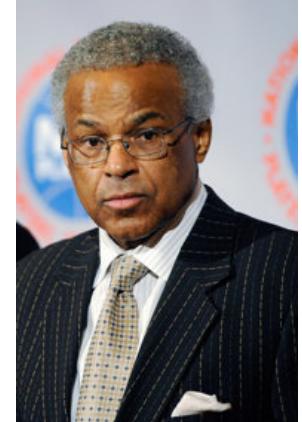
"Ms. Kaufman was appointed to the board at the request of Prim Capital, which owns 200,000 shares. The combined 200,250 shares represent 4.9 percent of the outstanding shares," the 2010 letter from ISN senior vice president and CFO William Easterday said.

Todd Hunter joined the bank's board of directors in 2007, the 2008 audit report says. Records show the bank's deterioration dropped stipends for board members to \$12,000 per year in 2007. Todd Hunter did not return multiple messages seeking comment. Kaufman also didn't return a message.

The NBPA retained Howrey LLP, a New York law firm, to work as legal counsel on "banking projects," sources told Yahoo! Sports. During most of this engagement, Howrey employed Alexis Hunter, Billy Hunter's daughter.

Howrey received its first payment of \$60,035 from the NBPA in September 2007 – the same month it hired Alexis Hunter as an associate. She stayed employed at Howrey until March 2011, days before the firm was forced into Chapter 7 bankruptcy by its creditors.

During Alexis Hunter's employment with the firm, the NBPA paid Howrey \$316,550, according to U.S. Department of Labor filings.



Billy Hunter is executive director of the union for the NBA's players.
(Getty Images)

After Howrey shut down in March, Alexis Hunter was hired as special counsel at the New York-based law firm of Steptoe & Johnson in April 2011 – within the same period the NBPA hired Steptoe & Johnson to take on a bulk of its legal work for the pending NBA lockout. Alexis Hunter appeared in the Southern District Court of New York in September and October on behalf of the NBPA requesting the court dismiss an antitrust claim by the NBA. Alexis Hunter didn't return a voicemail seeking comment.

"We made multi-hour presentations to the union before they eventually selected us to assist them in that case," Steptoe & Johnson labor attorney Lawrence Katz told Yahoo! Sports.

Asked when those meetings occurred, Katz said, "Oh, late spring ... March or April of 2011."

When asked if Alexis Hunter's relationship with her father, Billy Hunter, had anything to do with her hiring or Steptoe securing the NBPA's business, Katz declined comment.

Asked whether the union's engagement of the firm that employed Hunter's daughter might represent a conflict of interest, Katz said: "I don't see how. ... I think the question is answered by saying the lawyers the union hired were very well-qualified to practice in this area. Between myself and Steve Wheless [we've been practicing in this area] for over 60 years.

"So it's not as if we got the business as a gift."

Steptoe & Johnson has billed the NBPA more than \$1 million for its work since April 2011, sources close to the firm told Yahoo! Sports.

Steptoe & Johnson and Hunter pushed forward on a legal strategy that called for filing unfair labor practice charges with the National Labor Relations Board against the NBA in August. At the time, this was an unpopular choice with many prominent player agents, who wanted to decertify the union and file an antitrust suit in federal court against the NBA. Steptoe's attorneys and Hunter insisted to players the NLRB would hear the players' case in relatively fast order, but it never happened.

In December, the union finally dropped unfair labor practice charges and abandoned the case in preparation for disbanding the Players Association to reach a lockout settlement with the NBA.

Two more of Billy Hunter's family members – daughter Robyn Hunter and daughter-in-law Megan Inaba – have senior staff positions in the NBPA's New York office. Robyn Hunter made \$86,198 from July 1, 2010, to June 30, 2011, as director of benefits and concierge services, according to Department of Labor filings.

[Related: NBPA compensation by the numbers]

Inaba, the wife of Todd Hunter, was paid \$180,444 from July 1, 2010, to June 30, 2011. Among her responsibilities are coordinating the union's All-Star weekend gala and summer meetings, as well as running the union's Twitter account and handling other social media responsibilities. In her position as director of special events, Inaba has averaged the sixth-highest salary in the NBPA over the past five years: \$148,633 per year, according to the filings.

The NBPA's charter does not contain a nepotism policy, sources said. "There's nothing illegal," Billy Hunter told The New York Times on Monday, "and you're not going to find anything illegal, you or anybody else, if that's what you're looking for. I'm not afraid of that."

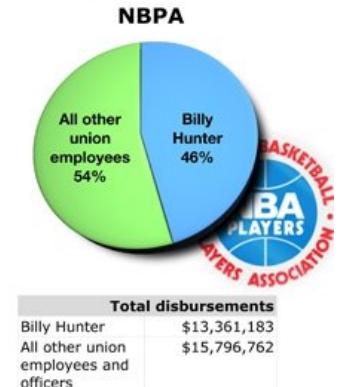
As NBA players lost \$400 million in salary during last summer's lockout – and \$3 billion over the course of the new 10-year collective bargaining agreement – Billy Hunter, his family and the entities that employed them made approximately \$3,430,953 from July 1, 2010, to June 30, 2011, according to labor filings.

"The real issue here is whether these potential conflicts were disclosed and the failure of someone who has a fiduciary duty [to union members] to make that disclosure presents a compelling question," Ronald Shechtman, managing partner and chair of Pryor Cashman's Labor and Employment Group, told Yahoo! Sports. "Not only is there a duty to disclose, there is a duty to explain the rationale for routing the business that way so that the fiduciaries [players] can make a judgment that the decision is based on good reason or good cause other than the fact that someone is a relation."

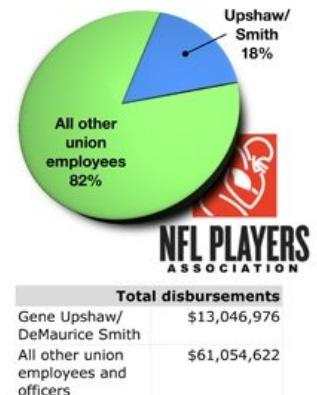
These were central themes to Garrity's objections in February 2009 in Phoenix: Due process for hiring, and the appearance of Hunter's family ties impacting union business and finances. Garrity wanted answers about Hunter's motivation for investing into a small New Jersey bank that the Philadelphia Business Journal reported, "was a toxic mix of brokered deposits, construction and land development loans and questionable management."

Union compensation comparison

Percentage of all union disbursements to employees and officers over a five-year period.
(2006-2011)



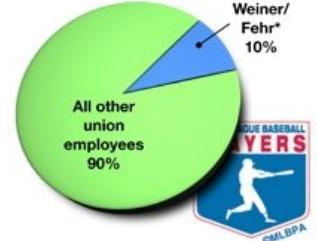
NFLPA



NFL PLAYERS ASSOCIATION

Total disbursements	
Gene Upshaw/ DeMaurice Smith	\$13,046,976
All other union employees and officers	\$61,054,622

MLBPA



MLB PLAYERS ASSOCIATION

Total disbursements	
Michael Weiner/ Donald Fehr*	\$4,820,457
All other union employees and officers	\$43,852,085

*An \$11.6 million lump sum payment to Donald Fehr upon his retirement from the MLBPA was not included in this analysis as it was non-traditional income.

Beyond the banking issue, Garrity raised questions about the process that led to the hiring of Hunter's daughter, Robyn, into a newly created staff position of director of benefits and concierge services. What was the human resources process? Was the job posted? Who else was interviewed?

League sources told Yahoo! Sports that the NBPA's health care provider, Cigna, had offered a premium service that would've afforded the Players Association access to a telephone concierge service to answer and assist players on benefits issues. Because the NBA was such an elite account for Cigna, the service would've come free of charge. Billy Hunter rejected the idea, sources said, and within months hired his daughter in a role with some duties similar to the ones that had been offered to the Players Association.

The pursuit of the \$7 million to \$9 million bank investment didn't end in the February 2009 meeting when Garrity raised questions with Derek Fisher, union lawyers and several members of the executive committee in the room. Despite ISN Bank officials sending dire shareholder letters over these same months, Hunter stayed on course seeking an investment from the NBPA. Four months after Garrity confronted Hunter, the push for investment into the failing ISN Bank was still alive at an NBPA meeting in Las Vegas in late June 2009, sources said.

The pursuit of ISN Bank eventually ended as ISN spiraled beyond revival in early 2010, sources said. The New Jersey Department of Banking and Insurance closed the bank in September 2010. The FDIC bailout of Interstate Net Bank cost taxpayers \$23.9 million.

At least one banking executive who was familiar with ISN was concerned about the solvency and stability of the bank. Gerry Banmiller, CEO of First Colonial Bank in Collingswood, N.J., told the Philadelphia Business Journal that he received "more than one phone call" in 2008 asking whether his bank would be interested in purchasing ISN.

"But published information about the bank led me to believe that we couldn't have resurrected it," Banmiller told the Journal. "It was in the tomb to stay."

The network of Hunter family members in positions of potential conflict and influence with NBPA business has been a crux of Fisher's push for a review of the NBPA's business and financial practices, sources said. Washington Wizards guard Mo Evans, a member of the union's executive committee, told reporters in Washington the committee has addressed potential nepotism issues with Billy Hunter after Fisher's inquiries, and that Hunter addressed any concerns "to our satisfaction."

Hunter and the eight-man executive committee have pushed back on Fisher's desire for the audit, and the executive committee recently voted to ask Fisher for his resignation as union president.

"The allegations that are now being directed at me are defamatory," Fisher said in a statement on Friday. "But I urge our members to order an independent review beginning immediately and that will be proven along with finding out definitively if there are any issues with the NBPA's business practices and finances."

Before Fisher recently confronted Hunter and demanded a review of the union's business and financial practices, Garrity had been the last player in a position of power to truly challenge the union's executive director. As Garrity was shouted down, Fisher and his peers did nothing to back him that day, sources said. Fisher kept saying it wasn't the time or place for such a discussion, witnesses said. When Fisher wouldn't back him, witnesses said, Garrity seemed to understand it was pointless to keep pressing Hunter and Hall.

After Garrity left the 2009 meeting, sources said Hunter made a request: He told the executive committee he was owed several years of missed vacation, and that Hunter deserved \$1 million in compensation. Eventually, the committee granted it.

Garrity and members of the executive committee had been aware of Todd Hunter's role with Prim Capital, an outside contractor to the NBPA. Todd Hunter had worked for Prim Capital of Independence, Ohio, since September 2002, when he was hired as a vice president for the financial planning and investment strategy company. Prim Capital had pitched Billy Hunter and NBPA leadership at the union's summer meeting in 2002 and entered into a signed agreement to run the union's financial awareness program for its 450 players in early 2003.

Todd Hunter often runs seminars with each of the 30 NBA teams each season, and an NBA official present at the seminars offers a disclaimer on the league's behalf prior to Prim's presentation. "The disclaimer is specific to Prim as they are contracted by the union as opposed to other presenters who are contracted by both of us [the union and the league]," NBA spokesman Tim Frank told Yahoo! Sports.

Prim Capital's chairman and president, Joe Lombardo, worked with Billy Hunter and the NBPA in two previous employments at Merrill Lynch and Prudential, and started Prim Capital in 1997. For most of the 2002-03 NBA season, Prim Capital entered into an agreement with the Players Association to provide a "comprehensive investment portfolio analysis program." Lombardo didn't return a message.

NBPA payouts

Billy Hunter's daughter-in-law, Megan Inaba, was the sixth-highest-paid employee at the NBPA from 2006-2011 with an average salary of \$148,633 per year. The NBPA averaged 31 employees per year over that time.

2006-
2011
averages

	Billy Hunter	Exec. Director	\$2.7M
	Megan Inaba	Director of Special Events	\$148,633
			
			
	Deborah Rothstein/ Deborah Murman	Director Career Counseling	\$116,990
			
			
	Jeff Lamp	Career Counselor	\$82,116
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
			
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Yahoo! Sports obtained the NBPA's 2002-2003 consulting agreement with Prim, which was an exhibit to a complaint in a lawsuit between CSI Capital Management and Prim. The agreement reads, "The NBPA believes that its members will benefit if they have an opportunity to engage in an objective company like Prim."

At the beginning of Prim's agreement with the NBPA in 2003, Prim performed financial reviews for players that included the chance to cut themselves into the monies purported to be recovered on the players' behalf. The agreement allowed Prim to share in 50 percent of the savings obtained through restructuring fees through existing money managers. If Prim lowered a player's fees, Prim shared in the savings.

CSI Capital Management of San Francisco disagreed with the idea the union was helping to provide independent audits. CSI sued Prim for unfair business practices, slander and that Prim's ostensibly "free and objective" audits were actually being provided in an attempt to encourage players to secure Prim's services. Prim filed a countersuit against CSI and eventually a settlement was reached.

Philip Scott Ryan, an attorney for CSI, wrote in a letter to Billy Hunter that "allowing Prim to do audits for your union members is equivalent to having an agent auditing other agent's work. The absence of objectivity and the pressure of unending conflicts of interest are obvious."

The NBPA and Prim changed the structure of agreements after the CSI lawsuit, and the union began to pay Prim a flat annual fee for the services, sources said. Prim has been forbidden to take the players as clients. Over the past five years, government filings show the NBPA paid Prim an average of \$501,986 a year for its services.

Other investigation coverage by Yahoo! Sports:

- [Sources: Syracuse basketball program repeatedly violated internal drug policy](#)
- [Sources: Auburn guard Varez Ward at center of federal point-shaving investigation](#)
- [Miami booster spells out illicit benefits to players](#)
- [Ohio State coach Jim Tressel knew of players' violations](#)

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EXHIBIT 2



Nepotism Concern Roils NBA Union as Players Question Hire

By Mason Levinson and Aaron Kuriloff - Apr 25, 2012

The [National Basketball Players Association](#), whose business practices are being questioned by President Derek Fisher, paid almost \$4.8 million to [Executive Director](#) Billy Hunter's family members and their professional firms since 2001, according to public records.

Fisher was asked to resign last week by the union's leadership after he sought an outside review of finances. The request for him to step down came after the association's executive committee spoke with Hunter on a conference call.

Hunter, a former U.S. attorney who led the players through two work stoppages, has a daughter and daughter-in-law on staff at the union. Another daughter is special counsel at a law firm used by the association, and Hunter's son is a principal at a financial planning and investment firm that last fiscal year was paid \$45,526 a month to run the union's financial awareness program and advise on investments, according to filings with the U.S. Labor Department.

"It's not a criminal act, but it's not something I would do," said Marvin Miller, who led baseball players through three strikes and two lockouts as their salaries rose 12-fold between 1966 and 1982.

Union spokesman [Dan Wasserman](#) said the executive committee knows about the Hunter family's positions with the organization. He said Hunter was unavailable to comment.

"There's been full disclosure," Wasserman said in a telephone interview.

Hunter said in an interview two days ago with the [New York Times \(NYT\)](#) that his family members are highly credentialed and "in many instances, they're being paid at or below the market."

"My kids have been vetted; the players have seen them," Hunter told the newspaper. "They're probably more competent than most of the people on my staff."

'Ethical Concern'

While Hunter isn't breaking any law or violating association rules, having so many relatives making money from the union is enough for an independent examination, said Robert Barbato, a business ethics professor at the Rochester Institute of Technology.

"The involvement of so many family members who are receiving significant economic benefits raises enough of an ethical concern that an independent review seems required," Barbato said in an e-mail. "Unless there is a reasonable explanation for calling for his resignation, I'm especially concerned that the executive committee has tried to silence [Derek Fisher](#)."

Union Conference Call

Hunter, 69, discussed his family's role in the union and the organization's finances during the conference call last week with its executive committee, said the Washington Wizards' Maurice Evans, a member of the nine-player group. After it concluded, the committee asked for Fisher's resignation, saying he failed to uphold his duties as president. Fisher didn't participate in the call.

Fisher, who signed with the Oklahoma City Thunder last month, in an April 20 statement said he was "extremely disappointed" with the executive committee.

"I have tried to convey the legal and moral obligations we have as union officers," said Fisher, 37. "Sadly, the executive committee has now waged a personal character attack on me to divert attention from the real issue."

According to the union's constitution, the executive director of the 450-member organization has the authority to hire and establish salaries for administrative and legal staffs, outside counsel and other advisers.

Hunter took over as executive director in 1996. A former National Football League player, he was the U.S. Attorney for the Northern District of [California](#) from 1977-84.

Partner at Prim

His son, Todd, is one of three partners at [Prim Capital Corp.](#), a Cleveland-based firm that runs the union's financial awareness program and advises the organization on its investments. The union had about \$210 million in assets as of July 2011, according to its annual filing with the U.S. Department of Labor.

The association has paid Prim almost \$3 million since 2005, according to filings.

Prim has been working for the union since at least 1999, and Todd Hunter joined in 2002, Prim spokeswoman Carolyn Kaufman said in a telephone interview. Todd Hunter didn't work on union matters until 2008, she said. Prim's contract with the union bars the company from taking players as money management clients, she said.

Todd Hunter didn't respond to voicemail and e-mail requests for comment.

Wasserman said the work was put out for bid and Prim was selected over at least three other companies.

Hunter's Daughter

[Billy Hunter](#)'s daughter Alexis has worked for two law firms that were hired by the union since he took over. According to her LinkedIn profile, she left the U.S. Attorney's office in [San Francisco](#) in 2007 and joined Washington-based Howrey LLP in September 2007. The union made its first payment to Howrey, of \$60,035, on Sept. 21, 2007, and \$380,917 in total before she left the firm for Steptoe & Johnson LLP in April 2011, according to the filings.

The next month, the union hired her new firm to file an unfair labor practice charge against the NBA with the [National Labor Relations Board](#). In October, she was listed as an attorney of record for the union in a reply to a lawsuit brought against the players by the NBA. Records of how much Washington-based Steptoe & Johnson billed the union during the lockout, when team owners shut down the league, will be on the 2012 filing, which hasn't been submitted.

Wasserman said the union hired Howrey because its former general counsel Gary Hall, who died a year ago, had a relationship with an attorney there. The union switched to Steptoe & Johnson when he moved there. Howrey filed for chapter 11 bankruptcy protection and dissolved last year.

Billy Hunter's daughter Robyn, the union's benefits director, was on the organization's payroll with an annual salary of \$82,954, according to the 2011 Labor Department filing. She has been paid \$201,234 since joining the union near the start of 2009.

Daughter-In-Law

Todd Hunter's wife, Megan Inaba, currently the union's director of special events, has been on the payroll since 2001 -- before she and Todd Hunter were married -- and has made almost \$1.2 million. She was paid \$70,948 as the union's director of career programs in 2002. According to the 2011 filing, she was paid \$173,219, fifth most at the union, and more than the \$163,458 paid to Pamela Wheeler, director of operations for the women's players union.

In total, Hunter's relatives and their firms, excluding the executive director, have been paid \$4,768,685 since 2001, the filings show.

"That about says it all," Philadelphia 76ers center Spencer Hawes, the team's alternate representative to the union, said in an interview. "I don't see what it hurts to try and see how the money is spent."

Hunter's Salary

Hunter himself made \$2.39 million in salary, according to the 2011 filing, the most of the three major-sports unions based in the U.S. NFL union chief DeMaurice Smith made \$1.38 million, according to the 2011 filing. Baseball's [Michael Weiner](#) made \$1 million.

Former NBA player and executive board member Jerome Williams said the structure of the basketball union merits examination.

"It's a fine line because of how many players are represented and the amount of money that's influenced by one person," Williams, 38, said via telephone. "As a former vice president, I would have to advise the group that it would be wise to diversify."

Last week, the executive committee first agreed with Fisher's call for an outside examination of the union. The players changed their minds after hearing from Hunter in the conference call.

In calling for his resignation in an April 20 statement, the committee accused Fisher of conduct detrimental to the union and not acting in the players' best interest.

Annual Audits

The union in that statement said it performs annual audits and shares the results with the executive committee and player representatives. The association completed an audit in February and will share the results at its summer meeting. In addition, the statement said the union would conduct a business review "in a timely manner." It wasn't specific.

The executive committee is composed of Fisher, the [Boston Celtics'](#) Keyon Dooling; the [Miami Heat's](#) [James Jones](#); the San Antonio Spurs' Matt Bonner; the [Washington Wizards'](#) Roger Mason and Evans; the [Los Angeles Clippers'](#) Chris Paul; the [Los Angeles Lakers'](#) Theo Ratliff; and Etan Thomas, who isn't on a roster.

Basketball Hall of Fame member Bob Cousy, one of the founders of the players association in 1954, said Fisher might have trouble gaining support from his peers.

"I doubt whether they're seriously interested in the whole thing unless it affects them directly," the 83-year-old Cousy said in a telephone interview. "At that age, all these man- children are busy doing their own thing."

Declined Invitation

Evans told reporters on April 20 that Fisher declined an invitation from the executive committee to defend himself on a conference call with Hunter. Nepotism at the union was among the topics discussed on the call, Evans said.

"Billy answered those questions to our satisfaction, was very open and candid with us, and we were satisfied, and again, the players were disappointed because Derek has yet to address us," he said.

Miller, 95, said in a telephone interview that hiring family makes him squeamish.

"I would never do it," he said.

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EXHIBIT 3

MIA
WASIKOWSKA

April 24, 2012

Struggle Between Leaders of Players Union Creates Chaos

By HOWARD BECK

Five months after settling a damaging lockout, the N.B.A. players union is facing a more existential threat: an internal power struggle that has thrown the association into chaos.

Derek Fisher, the elected president of the Players Association, is demanding a far-ranging audit of its finances, staffing and business practices — a move that is viewed as an assault on [Billy Hunter](#), the union's longtime executive director. The audit was rejected by the eight other players on the union's executive committee, who in turn have asked Fisher to resign.

Fisher is standing firm, leaving a vast rift that is consuming the union's attention just as the N.B.A. is wrapping up a surprisingly successful regular season after the 149-day lockout.

"I think the relationship has suffered seriously, suffered a severe injury," Hunter, referring to himself and Fisher, said in an interview. "And the question is whether or not we've suffered irreparable damage. And it may very well be that that's the case."

"I'm sure he doesn't trust me," Hunter continued, adding, "I don't want to be in a situation where I got to look over my back every five minutes."

The remarks were Hunter's first since reports of union infighting surfaced last week, starting with a Yahoo Sports article that revealed [Fisher's push for a so-called business review](#). Fisher declined to comment for this article. He has been largely silent, other than issuing a statement in which he rejected the call for his resignation.

Fisher, a 16-year veteran and five-time champion with the Los Angeles Lakers who is now with the Oklahoma City Thunder, has been the union president since 2006. Hunter has been the union's executive director since 1996.

In an hourlong interview Monday night at the union's Harlem offices, Hunter was by turns relaxed, defiant, feisty and defensive. He alternately welcomed the audit and dismissed the need for it. He denied any role in the board's vote of no-confidence in Fisher ("I had nothing to do with that").

Hunter also defended himself against charges of nepotism stemming from the union's employment of his daughter and daughter-in-law, and of two outside firms that employ his son and another daughter. Each hiring was vetted and approved by the executive committee, he said.

"Let me say this to you: My children are highly credentialed," Hunter said. "In many instances, they're being paid at or below the market."

Fisher has never raised the nepotism charge publicly and has generally remained mum on his motives for the audit. But Maurice Evans, a union vice president, provided some insight last week when he referred to nepotism and "misappropriation of funds" as issues that the committee had addressed with Hunter in response to Fisher's concerns.

"Billy answered those questions to our satisfaction," Evans told reporters in Washington.

Those remarks triggered a flurry of articles detailing the employment of Hunter's children.

¶ Robyn Hunter, his daughter, is the union's director of player benefits.

¶ Megan Inaba, his daughter-in-law, is the union's director of special events and partnerships and a lawyer who was involved in the labor talks.

¶ Todd Hunter, who is married to Inaba, is a principal at Prim Capital, a Cleveland-based firm that provides financial-planning seminars for N.B.A. players.

¶ Alexis Hunter, another daughter, is special counsel at Steptoe & Johnson, a Washington law firm that handled the union's unfair-labor-practice charge against the N.B.A. last year. She was among the lawyers who worked on the case.

"There's nothing illegal," Hunter said, "and you're not going to find anything illegal, you or anybody else, if that's what you're looking for. I'm not afraid of that."

Hunter explained in detail the qualifications of each relative and how each one came to be employed by the union.

Prim — the firm that employs Todd Hunter — has been working with the union since the early 1990s and was originally retained by Charles Grantham, the union's previous executive director. Todd Hunter has worked for Prim for 10 years, and has worked on the union account for the last four, Billy Hunter said.

He said that Inaba joined the union's staff in 2000 — six years before she married his son.

Robyn, who holds an M.B.A. from Syracuse, worked for the Dallas Mavericks before joining the union staff in 2008.

At Steptoe & Johnson, Alexis works for a partner, James Hibey, who has served as an outside counsel to the union, both with Steptoe and a previous firm, Howrey, where Alexis also worked.

Hunter said the executive committee had not raised any concerns over the years, with one exception: Pat Garrity, then with the Orlando Magic, lodged the only vote against hiring Robyn. Hunter said the union had administrative "firewalls" to prevent any conflicts stemming from his relatives' employment.

"My kids have been vetted; the players have seen them," Hunter said, adding, "They're probably more competent than most of the people on my staff."

Roger Mason Jr., a union vice president, said that he was aware of the family connections but that "I never paid much mind to it, to be honest with you."

There is nothing illegal or perhaps even unethical about Hunter's hiring family members, as long as he received approval from the executive committee, said John Coffee, a law professor at Columbia University, who specializes in corporate governance and white-collar crime.

Still, Coffee called it "poor governance" and said, "I think this does deserve some attention."

Regarding the audit, Hunter said the union already submitted to annual financial audits and conducted a more thorough audit of its operations after each of the previous two labor deals, in 1999 and in 2005. "And every audit's been clean," he said.

But the business review that Fisher is seeking would be more exhaustive, covering not only finances but staffing, procedures, the hiring of third-party vendors and even the union's bylaws.

Patton Boggs, a firm hired by Fisher, planned to begin its review April 16, but the executive committee voted that day to cease the effort.

Hunter and other committee members say that Fisher did not receive proper authorization to hire the firm.

But a quorum of the board — five members — voted unanimously during an April 13 conference call to proceed with the audit, according to the minutes of that meeting, a copy of which was distributed to all committee members and obtained by The New York Times. That day, Fisher sent an e-mail to all eight members confirming what they had decided.

The other players on the April 13 call contend they did not approve anything, and they are distributing a memorandum with their version of events to the 30 player representatives. That memo asserts that Keyon Dooling left the call before a vote was taken, that Mason and Chris Paul abstained, and that James Jones voted only to appoint a subcommittee to review the matter.

Hunter said he sent an e-mail to the committee stating that he would not oppose an audit, "But I urged them to investigate Derek's motives."

Three days after the initial meeting, the board voted unanimously to kill the audit and asked Fisher to resign.

"Nobody is saying it's not right to audit," Mason said. "Nobody is saying it's not right to look at whatever Derek is charging Mr. Hunter with. What we're saying is, there's a certain way it has to be done."

EXHIBIT 4

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NBA players should want answers for union's ongoing controversy

Thu, Apr 26, 2012 10:48 AM EDT

NEW YORK – As last summer's NBA lockout dragged on, the questions, puzzlement and second-guessing grew.

Why wasn't the National Basketball Player's Association decertifying? Why wasn't the union following the NFLPA lead of disbanding and filing an antitrust suit, a maneuver that put football owners back on their heels and saved the players as much as they could in final negotiations?

Why was the NBPA instead employing a legal strategy that consisted of an unfair labor complaint being filed with the National Labor Relations Board?

Some of the lawyers that worked the NFL lockout couldn't make sense of it. Agents for NBA players fumed and ranted and held conference calls, plotting for a way to change course.

This was never going to work, so many said. And, indeed, in the end, it didn't.

It wasn't until November when the players gave up on the unfair practices lawsuit and began moving toward disbandment and continued to consolidate an antitrust suit that a settlement with the NBA was reached.

[Related: [NBPA's Billy Hunter sought union investment for bank with ties to son](#)]

By then, however, the owners had whittled the revenue sharing percentage from 57-43 in favor of the players to 50-50. That represented a loss of \$3 billion in future salaries.

Three billion.

This was an epic labor beat-down by the owners, a near complete annihilation.

Now comes word, courtesy of a Yahoo! Sports investigation, that the law firm that helped craft the union's labor strategy, Steptoe & Johnson, was paid more than \$1 million by the NBPA since April 2011.

That was around the same time the firm hired a new special counsel – Alexis Hunter, daughter of NBPA executive director Billy Hunter.

Hunter's family has several connections to the union. Billy has a daughter and a daughter-in-law working directly for the NBPA. A son, two daughters and a daughter-in-law have worked for the NBPA or companies that did business with the NBPA. Hunter also sought a \$7 million investment from the union into a failing New Jersey bank, which had ties to Billy's son, Todd. The investment never happened.

The NBPA says the hirings were vetted and explained to the membership. This should cause concern for the players, but, apparently, they aren't moved.



NBPA executive director Billy Hunter oversaw the union's lockout talks. (Getty Images ...)

That's fine. It was the union's lockout strategy that should concern the players the most. If Billy Hunter is showing favoritism to his kids, well, that may not be an ideal practice, but I think LeBron James, Kobe Bryant and the rest of the players will survive.

Losing a collective \$3 billion in future salaries is different.

[Related: [NBPA compensation by the numbers](#)]

Questioning why Hunter held onto the NLRB strategy for so long is fair. As is analyzing whether Steptoe & Johnson was the best choice for the NBPA – and how that decision was even made.

In the end, the plan cost the NBPA time and leverage and money. It almost cost them an entire season. There are too many broke former players for the current ones not to realize they deserve and should demand the best from their union leaders.

Perhaps there are appropriate answers to everything. Steptoe & Johnson cite their deep experience in these kinds of cases, and it stands to reason they didn't hope to lose. Maybe Hunter really believed in the course of action and it just didn't work.

I don't know.

But it's also unlikely all the players know all the answers. Not without a full outside review.

The internal workings of the player's union aren't particularly interesting to most fans. A lot of people were rooting for the owners anyway. At the end of the day, the players are rich, the teams are rich and the playoffs are about to finally start.

Who cares, right?

Well, you'd think the players would care. You'd think they'd care deeply. Apparently they don't, and that, of all things, might be the most curious part of this entire battle.

If \$3 billion doesn't get their attention, what will?

[Related: [Billy Hunter's family ties to NBPA](#)]

The one player speaking out loudest about the need for audits and cries about nepotism is NBPA president and Oklahoma City Thunder guard Derek Fisher. He's been at odds with Hunter since the lockout began, embroiled in a bitter battle that's gone public complete with spin and accusations.

It was a circus. It remains a circus.

Fisher's basic point calling for an independent investigation seems rather reasonable at this juncture. Except the NBPA executive committee, made up of players, just voted 8-0 for him to resign.

"I have tried to convey the legal and moral obligations we have as union officers," Fisher said recently in a statement. "Sadly, the executive committee has now waged a personal character attack on me to divert attention from the real issue."

The "Blame Fisher" faction has worked hard throughout the fall and even across the season to paint him as a stooge for the owners and an overmatched negotiator. It wasn't difficult to find an unnamed source to rip Fisher – the sources actively sought out reporters from Y! Sports and other media organizations.

PR stunts, though, can't cloud the reality there are questions that demand further answers. Reasonable players should look at Steptoe & Johnson's strategy and ask questions. They should wonder why Fisher is getting pushed out and why former union treasurer Pat Garrity was shouted down in 2009 when he asked why Hunter wanted to invest in a failing bank with ties to his son.



NBPA president Derek Fisher, left, has asked for an independent audit of the union. (Getty Images)

If there is nothing to hide, there is nothing to hide. To try to shout down the questions is wrong. That the players can't see it or don't understand it or simply don't care about it says all you need to know about their union.

They deserved to get their clocks cleaned in the lockout.

Somewhere a NBA owner is sitting around cursing that he and his peers didn't push harder for more givebacks in the league's labor battle with the union. Forget \$3 billion in concessions. Getting an additional billion or two might have been possible considering the circus they were negotiating against.

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EXHIBIT 5



ESPN.com: NBA

[\[Print without images\]](#)

Tuesday, May 22, 2012

Sources: Union aid for ex-VP probed

By Ric Bucher
ESPN The Magazine

NBA players union executive director Billy Hunter utilized union funds to support former NBA forward Charles Smith's attempt to overthrow the National Basketball Retired Players Association, sources say, one of several maneuvers that inspired union president [Derek Fisher](#) to call for a business review of the union's activity.

The players' union is currently being investigated by the U.S. Attorney's office in Manhattan, sources have confirmed.

Recent reports by both Yahoo! Sports and Bloomberg News detailed a number of other expenditures and hirings made by Hunter without executive committee oversight. The financial support of Smith is another one, sources said.

Smith, a former players' union vice president and staunch supporter of hiring Hunter in 1996, was ousted as NBRPA executive director in the fall of 2010 after pursuing deals that violated its existing group licensing agreements without executive committee approval.



Hunter

Several months later, as Smith fought to win back his position, the NBPA's late lead counsel, Gary Hall, told a retired players' association representative that the NBPA was in full support of Smith, would pay his legal fees and play "the race card," if necessary, sources said. Smith is black and [Danny Schayes](#), selected to replace him, is white. Hall's comments were made, sources added, with Hunter present.

The hiring of Hall, a close friend of Hunter's for more than 30 years, prompted accusations of cronyism from several player agents because no formal job search was conducted. Hall, 67, died last spring. Schayes could not be reached for comment.

The NBPA's support of Smith resulted in the players' union withholding its annual contribution of \$300,000 to the retired players during the height of the dispute and hiring the law firm Blitman-King to work on his behalf, sources said. The players' union's 2010-11 expense report filed with the Department of Labor shows that Blitman-King received a total of \$31,608 from the players' union, although the reason for the payments is not identified. Hall worked for Blitman-King before Hunter hired him as his lead counsel in 2005.

Smith and several supporters attempted what retired players association sources refer to as "a coup" during the 2011 NBA All-Star Weekend, demanding that the executive committee that ousted Smith step down en masse for abusing their power. Smith has since started a separate organization for NBA

retired players called the Professional Basketball Alumni and sources say Hunter is now splitting the annual \$300,000 contribution between the PBA and the NBRPA.

All these maneuvers were made and fees paid without the knowledge of the players' union's executive committee at the time, a committee source said. It is not clear if or when members of the executive committee were informed after the fact.

Arnie Fielkow, a former New Orleans politician hired as the NBRPA's CEO last fall, declined to comment on the battle with Smith but did indicate there was a rift with the NBPA at one point.

"We do have a relationship back with the union again," he said. "We're looking to strengthen that relationship."

Hunter also declined comment, a union spokesman said, and senior partner Bernard T. King of Blitman-King did not return a call to his office. Smith also refused to address his relationship with Hunter, writing in a text, "I wish the RPA leadership well. I hope they find some more important things than to be concerned about the Professional Basketball Alumni. Sounds like they want me back. Lol."

After initially supporting Fisher's request for an independent review of the players' union's activity, the eight-man executive committee reversed its position and asked Fisher to step down as union president, a request that Fisher has refused.

Several labor attorneys, speaking on condition of anonymity, said the legality of Hunter's maneuvers would depend on the players' union's by-laws.

"I don't think you can say it's illegal, per se," said Ronald Schechtman, managing partner and chair of Pryor Cashman's Labor and Employment Group, of Hunter using union funds without executive committee approval. "Each organization develops its own relationship between senior management and the board. Hunter has been there forever. There's more latitude than there would be with a newer executive."

The question in supporting Smith so aggressively is whether the players' union had any business picking sides and using its resources to undermine an organization meant to serve its constituents in the future. Supporters to have Smith reinstated were only able to gather 90 signatures, roughly 15 percent of the 500-plus players with an NBRPA membership, at the time, a source said.

"It raises questions as to why (Hunter) didn't inform the board about something so political," Schechtman said. "There are times when an executive director and the board become part of a conflict. (But) there's a fair question of whether he was acting for the good of the organization or he was going rogue."

EXHIBIT 6



**NBPA STATEMENT REGARDING THE RECEIPT OF A SUBPOENA FROM
THE US ATTORNEY'S OFFICE AND THE DECISION OF THE EXECUTIVE
COMMITTEE TO CONDUCT AN INTERNAL INQUIRY**

Dan Wasserman to: undisclosed-recipients: ;
Bcc: David W Brown

04/27/2012 03:41 PM

History: This message has been replied to and forwarded.



FOR IMMEDIATE RELEASE

**NBPA STATEMENT REGARDING THE RECEIPT OF A SUBPOENA FROM THE US ATTORNEY'S OFFICE
AND THE DECISION OF THE EXECUTIVE COMMITTEE TO CONDUCT AN INTERNAL INQUIRY**

New York, NY April 27, 2012-- The National Basketball Players Association (NBPA) confirmed today that it has received a subpoena for documents from the U.S. Attorney's Office in Manhattan. The NBPA will cooperate fully with the government's investigation.

It is no secret that in recent weeks, the leadership, finances and business practices of the NBPA have been questioned. Yesterday, the NBPA's Executive Committee appointed a six-member Special Committee, consisting of members of the Executive Committee and other Player Representatives, to oversee an internal inquiry that will include a financial audit.

The Special Committee has retained Theodore V. Wells, Jr. and the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP to conduct the internal inquiry. Mr. Wells and Paul, Weiss will report directly to the Special Committee. NBPA Executive Director Billy Hunter has pledged his full cooperation with the internal inquiry, although he has recused himself from the process to ensure that it is an independent one.

The NBPA looks forward to putting these matters to rest and to continuing to assist all NBA players in achieving their goals, both on and off the court.

EXHIBIT 7

**CONSTITUTION AND BY-LAWS
OF THE
NATIONAL BASKETBALL PLAYERS ASSOCIATION**

As Amended June 22, 1990, February 11, 1994, February 10, 1996, July 1999,
July 2000

ARTICLE I

Name

This organization shall be known as the National Basketball Players Association (hereinafter also referred to as the "Players Association"). This document shall be known as the Constitution and By-Laws of the National Basketball Players Association.

The principal office of the Players Association is presently located at 1700 Broadway, New York, New York 10019.

ARTICLE II

Objects

First: To unite in this one labor organization all basketball players eligible for membership regardless of race, creed, color, age or national origin and to promote a high sense of loyalty among all members.

Second: To represent its members and to establish through collective bargaining with the National Basketball Association (hereinafter "NBA") and the management of the various individual teams comprising the NBA improved working conditions, economic benefits and job security.

Third: To engage in whatever educational, legislative, political, civic, social welfare, community or other activities which will advance and safeguard the economic security and general social welfare of employees in this industry (both during and after their playing careers) and/or any other industry.

Fourth: To function as an autonomous labor organization and to enter into whatever cooperative efforts with other labor organizations that the Players Association deems to be in the best interests of its members.

Fifth: To take all steps and actions consistent with the Constitution, By-Laws and policies of the Players Association to implement and carry out the objectives, rights, activities and responsibilities of this organization.

ARTICLE III

Eligibility

Section 1. All persons who are employed as players on any of the individual teams which comprise the NBA shall be eligible for membership without regard to race, creed, color, age or national origin.

Section 2. All persons formerly employed as players on any of the individual teams which comprise the NBA or who hereafter retire from such employment shall be eligible for associate membership status. Associate members shall not be permitted to run for or hold office, or to cast a vote in

connection with any election or other matter involving the Association's conduct of its affairs.

Section 3. No person employed as an executive, manager, or coach or player coach by any NBA team or Women's National Basketball Association ("WNBA") team or by the NBA or WNBA shall be eligible to become or remain a member.

Section 4. Any person eligible for membership in this organization may become a member by executing an application form and paying the Association's annual membership dues and assessments.

ARTICLE IV.

GOVERNANCE: OFFICERS, EXECUTIVE COMMITTEE AND BOARD OF PLAYER REPRESENTATIVES

Section 1. The officers of the NBPA shall be the President, First Vice President, Secretary-Treasurer and six (6) Vice Presidents (hereinafter collectively referred to as the Executive Committee). The next election of Officers shall take place in accordance with the procedures described in Article VIII below. The term of office for the President and First Vice President shall be four (4) years. The Secretary-Treasurer and the six (6) Vice Presidents shall serve three (3) year terms of office. The persons duly elected to Officer positions shall perform the functions set forth in this Constitution and By-Laws.

Section 2. The Board of Player Representatives shall consist of a Player Representative for each NBA team, elected as set forth herein. There shall be one (1) Player Representative and one (1) Assistant Player Representative for each NBA team (hereinafter jointly referred to as the "Player Representatives") who shall be duly elected from the members in good standing of each NBA team for a one (1) year term in a secret ballot election at a meeting convened as soon as practicable after the roster is set. Until such time as a Player Representative and an alternative are selected, the predecessor representatives (so long as they remain on the same team) shall continue to serve. The Player Representative for each team also shall serve as the team's delegate to the Board of Player Representatives meetings. In his absence, the Assistant Player Representative shall serve as his team's delegate. If neither the Player Representative nor the Assistant Player Representative is present at a Board of Player Representatives meeting, a member of the Executive Committee who plays for that team shall serve as its delegate. The notice of the meetings convened by each team to nominate and elect a Player Representative and the ballot itself shall specify that each of those persons elected shall be eligible to serve as a delegate to the next meeting of the Board of Player Representatives at which an election of officers will take place. In the event that neither the Player Representative nor the Assistant Player Representative is available, then the Executive Director shall have the authority to appoint a team member as Interim Player Representative. Player

Representative vacancies shall be filled promptly by a secret ballot election among the members in good standing of that team at a meeting convened upon reasonable notice to the membership that nominations and an election shall take place at that meeting.

Section 3. Vacancies among the Officers shall be filled by the Executive Committee on an interim basis for the balance of the period before the next Board of Player Representatives meeting takes place. At the next meeting, an election shall take place and the person elected to office shall hold that position for a new term (e.g., 3 years for Vice President); provided, however, that if a vacancy in the Presidency occurs at a time when a First Vice President is in office, the First Vice President shall immediately assume the Presidency and continue in that office for the remainder of his predecessor's term.

Section 4. The Board of Player Representatives shall constitute the highest policymaking body of the Players Association. The Board of Player Representatives shall nominate and elect the Officers, formulate and/or revise policy, act on all the Association's affairs and shall have the authority to increase membership dues and/or levy general or special assessments upon the membership. Regular meetings of the Board of Player Representatives shall be convened in February and July of each year or at such other times as may be set by the Executive Committee; a Special meeting shall be convened upon request of the Executive Committee. At any meeting of the Board of Player

Representatives, a majority of the Player Representatives as elected or appointed pursuant to Section 2 of this Article IV shall constitute a quorum.

Section 5. During the interim period between the Board of Player Representatives meetings, the Executive Committee shall have the full power to direct the affairs of the Players Association consistent with the other provisions set forth in this Constitution.

President

Section 6. The President shall attend and preside at all Board of Player Representatives meetings and at all sessions of the Executive Committee. The President shall convene, in consultation with the Executive Director, periodic meetings of the Board of Player Representatives at least two (2) times per year. The President shall convene regular and/or Special Meetings of the Executive Committee twice a year and, in addition, whenever requested by a majority of the members of the Executive Committee. The Executive Committee shall supervise the activities of the Association's Executive Director.

Section 7. The President shall enforce the Constitution and, in doing so, interpret the meaning of the Constitution, subject to the approval of the Executive Committee.

Section 8. The President shall appoint the members of all Committees and subcommittees of the Players Association consistent with the provisions of this Constitution.

Secretary-Treasurer

Section 9. The Secretary-Treasurer shall be the chief financial officer of the Players Association and his office will maintain custody of the files, records, books and documents of the Association. The Secretary-Treasurer shall make the necessary arrangements for the maintenance of financial books and records, the receipt of all funds and the deposit of all such funds in institutions approved by the Executive Committee. The Secretary-Treasurer shall arrange to have the Association's books audited annually by an outside auditing firm after the close of the fiscal year (June 30th).

Section 10. In recognition of the fact that the Secretary-Treasurer is a full-time professional basketball player, he shall be authorized to delegate to the Executive Director the responsibility for conducting the day-to-day administrative affairs of his office, including, but not limited to, receiving and collecting all monies due to the Players Association, paying all bills and expenses, and maintaining all important correspondence relating to the Association's activities.

Section 11. The Secretary-Treasurer shall cause to be prepared the minutes of all meetings of the Executive Committee and the Player Representatives.

First Vice President

Section 12. The First Vice President shall be the second highest officer in the Association. He shall serve in the President's stead if the

President is unavailable to preside over any Association meeting. He also shall succeed to the Presidency if for any reason the President is unable to carry out the responsibilities of his office.

Vice Presidents

Section 13. The six (6) Vice Presidents shall assist the Players Association in the performance of its activities and shall work under the direction of the President. They shall also perform such committee assignments as called upon.

Miscellaneous

Section 14. The salaries, if any, of the Officers shall be determined by the Player Representatives.

Section 15. Bonds. The Secretary-Treasurer shall give a bond in an amount fixed by the Executive Committee to insure the faithful discharge of his duties. In addition, bonds for other Officers, the Executive Director, and other employees of the Players Association, to the extent and in such amounts deemed necessary by the Executive Committee, shall be provided. The cost of all such bonds referred to above shall be paid out of the funds of the Players Association.

Section 16. Player Representatives, Executive Committee members and subcommittee members shall be entitled to reimbursement for all reasonable expenses incurred in attending any meeting duly convened pursuant to the Constitution and By-Laws.

ARTICLE V.

EXECUTIVE DIRECTOR

Section 1. The Executive Director shall be appointed by the Board of Player Representatives and the Executive Committee of the Players Association. The appointment of an Executive Director, and the terms of his employment contract, must be approved by two-thirds (2/3) of the combined total of all Board of Player Representatives and Executive Committee members.

Section 2. The Executive Director shall carry out the policies of the Association and direct all the affairs of the Players Association on a day-to-day basis between meetings of the Executive Committee, subject to the approval of the Executive Committee.

Section 3. The Executive Director shall have full authority, subject to an annual budget approved by the Executive Committee: (a) to hire, discharge or lay off and establish salaries, benefits and terms and conditions of employment for the entire administrative staff (including, but not limited to, any person performing a secretarial, receptionist, administrative, clerical, statistical, bookkeeping or computer function) and legal staff (including, but not limited to, the General Counsel and any staff attorney(s) or paralegal); and (b) to engage such outside counsel and technical assistance as necessary to carry out the Association's programs.

Section 4. The Executive Director shall: (a) conduct the collective bargaining relationship between the Players Association and the NBA (including, but not limited to, conducting negotiations, administering the grievance-arbitration process, and representing the Association in meetings with the NBA or individual teams dealing with any employment related issue); (b) supervise the administration and enforcement of the Player Agent Regulations program; (c) serve as a Players Association representative on committees established pursuant to the collective bargaining agreement; and (d) engage in all other activities to serve the interest of the membership consistent with this Constitution. In carrying out any of these functions, the Executive Director shall have available to him the assistance of his staff, the General Counsel who shall work under his direct supervision, such outside legal counsel as he may retain (in conjunction with the General Counsel) on behalf of the Players Association, and such other advisors (pensions, insurance, public relations, computer programmers, auditors and investment managers, e.g.) whose services the Association may choose to utilize.

Section 5. The Executive Director shall be responsible for providing assistance to the Secretary-Treasurer in carrying out the administrative functions of that office set forth in Article IV, §§ 11-13, including, but not limited to, preparing and maintaining the official minutes of meetings of the Executive Committee and the Board of Player Representatives; preparing and disseminating all notices of general or special meetings of those bodies and all

election notices; maintaining custody of all files, records, books and documents of the Players Association; and handling the Players Association's day-to-day financial transaction consistent with the provisions of this Constitution.

ARTICLE VI.

ORGANIZATIONAL STRUCTURE

Section 1. The Executive Committee and Committee System

The Executive Committee shall direct the affairs of the Association between the meetings of the Board of Player Representatives. The Executive Committee also shall convene at least semi-annually (upon at least five days' notice of the time and place) to review all the affairs of the Association, including its financial condition and the activities of the Executive Director and the various Association subcommittees. The Executive Committee shall prepare the Association's annual budget, subject to the approval of the Board of Player Representatives.

Section 2. In carrying out its activities, the Executive Committee may, from time to time, establish any subcommittee which, in its judgment, would serve the Players Association's interests. The number and composition of any such subcommittee shall be determined by the Executive Committee.

Section 3. At any meeting of the Executive Committee, a majority of the members shall constitute a quorum, and the Committee may act by a majority vote of those present.

ARTICLE VII.

DUES

Section 1. There shall be no initiation fee for admission to membership.

Section 2. The annual dues of the NBPA members shall be ten thousand dollars (\$10,000). The annual dues shall be payable by each member no later than by June 30th of each year. The annual dues may be increased by a majority vote of the representatives voting at a Board of Player Representatives meeting, provided that the representatives receive written notice at least 15 days in advance that a dues increase will be considered at the meeting.

Section 3. Members also shall be obligated to pay any general or special assessments duly imposed upon them by a majority vote of the Board of Player Representatives, provided that the representatives receive written notice at least 15 days in advance of any such vote.

Section 4. Any member in arrears in the payment of dues or assessments for ninety (90) days shall be automatically expelled from membership, provided that he has received a written notice of his arrearage at least thirty (30) days prior to the effective date of the automatic expulsion.

Once expelled, a member shall not be reinstated in good standing except upon such terms as the Executive Committee may decide.

Section 5. Associate members shall be charged reduced dues in an annual amount to be determined by the Executive Committee, but they shall not be subject to any general or special assessments. Any Associate member in arrears in his dues for ninety (90) days automatically shall lose his Associate status provided that he has received written notice of his arrearage at least thirty (30) days before the effective date of expulsion.

ARTICLE VIII.

ELECTION OF OFFICERS AT MEETING OF PLAYER REPRESENTATIVES

Section 1. Regular meetings of the Board of Player Representatives shall be convened, to the extent practicable, in February and September of each year. A special meeting shall be convened upon request of a majority of the Executive Committee which shall be empowered to change the dates of such meetings.

Section 2. A Notice of the Board of Player Representatives meeting at which there will be a Nomination and Election of Officers shall be sent to each Player Representative at least twenty (20) days prior to the convening of the meeting.

Section 3. Each NBA team shall be entitled to one (1) representative who shall be the elected Player Representative or, in his absence, the assistant player representative for each such team. Each Player Representative in

attendance at the meeting must be a member in good standing. Each Player Representative shall be entitled to cast one (1) vote.

Section 4. The nomination of candidates for each of the offices to be filled shall take place at the meeting. Nominations shall be made from the floor. Any member in good standing shall be eligible to be nominated and to hold office. In the event that only one (1) person is nominated for any office, no election shall be conducted for that office and such person shall automatically be declared the person elected for that office, provided he is a member in good standing.

Section 5. After the nominations have concluded, a secret ballot election among the Player Representatives shall be conducted for each office (except where only one (1) person is nominated to fill any office). The ballot shall contain the names of all nominees for each of the offices. The candidates' names shall appear on the ballot in the order they were nominated. In the election of six (6) Vice Presidents, each representative shall be permitted to vote for a maximum of six candidates. The six candidates who receive the highest number of valid ballots shall be declared elected. If there is a tie vote for the sixth position, then a rerun secret ballot election promptly shall be conducted among those candidates who were tied. With respect to the elections of President, First Vice President, and Secretary-Treasurer, the candidate receiving the highest number of valid ballots shall be elected. If there is a tie vote, a rerun secret ballot election promptly shall be conducted.

Those candidates who were tied shall be placed on the ballot. The preparation of the ballots, the conduct of the election and certifying the tally of ballots shall be the responsibility of a three (3) member Election Committee to be appointed by the President. No candidate for office shall be a member of the Election Committee. The Election Committee, with guidance from legal counsel, shall provide for and implement safeguards necessary to insure a fair election. Each candidate shall have the right to designate one (1) person to serve as observer during the voting and the counting of the ballots. The procedures and ground rules established by the Election Committee shall conform to the requirements of the Labor-Management Reporting and Disclosure Act ("LMRDA") of 1959, amended.

After the tallying of ballots has been completed and the Election Committee has certified the results of the election for each office, the Election Committee shall announce the official results of the election for each office. Thereafter, the Chair shall offer any unsuccessful candidate the opportunity to protest the outcome of the election to the Board of Player Representatives. The Election Committee shall have an opportunity to respond to the substance of any such protest. The Board of Player Representatives then shall decide whether the protest is meritorious. If a majority votes to uphold the protest, the Association shall take appropriate remedial steps, including, but not limited to, recounting the ballots or conducting forthwith a rerun secret ballot election for that office (e.g.). If, on the other hand, a majority votes to deny

the protest, that action shall be deemed to exhaust the protestor's internal union remedies and he shall be left to pursue his statutory rights under the LMRDA.

Section 6. With respect to the election of any officer, the Players Association shall take appropriate steps to insure that every candidate is afforded the rights provided by the LMRDA.

ARTICLE IX.

DISCIPLINE

Section 1. Any member may be penalized for committing any one or more of the following offenses: (1) performing as a professional basketball player for any NBA team during the course of any lawful strike initiated or sanctioned by the Association; (2) becoming a member of or working in the interest of any rival labor organization which exists in whole or in part to represent professional basketball players for purposes of negotiating wages, hours and terms and conditions of employment with NBA teams; (3) knowingly using the services of any player agent to negotiate his compensation agreement or to process a grievance under that agreement or the collective bargaining agreement between the NBA and the Association unless the player agent has been certified by the Association; (4) misappropriating the monies of the Association; (5) deliberately interfering with any Association officer in the performance of his official duties; and (6)

deliberately interfering with the Association's performance of its legal and contractual obligations.

Section 2. Any member who is found guilty of engaging in any such prohibited conduct may be expelled, suspended and/or fined; provided, however, that no member shall be disciplined unless he has been served with specific written charges by another member or an Association officer, given a reasonable time to prepare his defense, and afforded a full and fair hearing before an impartial three (3) member Trial Board appointed by the President. After the close of the hearing, the Trial Board shall issue a report, including findings of fact determining whether the accused member was guilty of any prohibited conduct and, if so, setting forth the penalty that the Trial Board, in its judgment, deems proper under the circumstances present. Any player found guilty by the Trial Board may appeal that decision to the Executive Committee, provided that a written appeal is submitted to the Executive Committee (c/o the NBPA) within 20 days of the player's receipt of the decision.

Section 3. To insure that the procedures set forth in Section 2 above are properly implemented, the Executive Committee, in consultation with the General Counsel, shall establish rules of procedure applicable to any case in which a member is charged with having engaged in prohibited conduct.

ARTICLE X.

CONTRACTS

Section 1. A collective bargaining agreement between the Players Association and the NBA shall be subject to a membership ratification vote in which a majority of the ballots cast by members in good standing is required to approve the agreement. Each member agrees to be bound by the provisions of all existing agreements between the Association and the NBA and/or its member teams or as they may hereafter be amended.

Section 2. Any other contract to which the Association may be a party shall be signed by the President or the Executive Director and, when in the amount of \$25,000 or more, shall be subject to the approval of the Executive Committee.

Section 3. No strike shall be called without the approval of three-fourths (3/4) of the Board of Player Representatives.

ARTICLE XI.

EFFECTIVE DATE

The Constitution as amended shall become effective immediately upon its adoption at the July 2000 meeting of Player Representatives.

ARTICLE XII.

AMENDMENTS

The Constitution may be amended hereafter by a two-thirds (2/3) vote of the Board of Player Representatives in attendance at any of their meetings.

ARTICLE XIII.

MERGERS AND AFFILIATIONS

The Officers of the Players Association shall have the authority to effectuate the merger or affiliation of any other labor organization with the NBPA. The Officers also shall have the authority to effectuate the merger or affiliation of the NBPA with any other labor organization, provided that any such action shall require approval by a majority of the valid ballots cast among the membership in a secret ballot referendum vote.

ARTICLE XIV.

SEVERABILITY

In the event any clause or provision of this Constitution is determined to be unlawful or unenforceable, in whole or in part, such clause or provision shall, in the jurisdiction in which and to the extent that it is unlawful or unenforceable, be deemed to be severable from all other clauses or provisions of this Constitution, and all other clauses or provisions of this Constitution shall remain in full force and effect.

ARTICLE XV

Indemnification

Section 1. Right to Indemnification of members of the Board of Player Representatives ("Player Representatives") and Officers. Subject to the other provisions of this article, the Players Association shall indemnify and advance expenses to every Player Representative and officer (and to such person's heirs, executors, administrators or other legal representatives) in the manner and to the full extent permitted by applicable law as it presently exists, or may

hereafter be amended, against any and all amounts (including judgments, fines, payments in settlement, attorneys' fees and other expenses) reasonably incurred by or on behalf of such person in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative ("a proceeding"), in which such Player Representative or officer was or is made or is threatened to be made a party or is otherwise involved by reason of the fact that such person is or was a Player Representative or officer of the Players Association, or is or was serving at the request of the Players Association as a director, officer, employee, fiduciary or member of any other corporation, partnership, joint venture, trust, organization or other enterprise. The Players Association shall not be required to indemnify a person in connection with a proceeding initiated by such person if the proceeding was not authorized by the Board of Player Representatives of the Players Association.

Section 2. Advancement of Expenses of Players Representatives and Officers. The Players Association shall pay the expenses of Player Representatives and officers incurred in defending any proceeding in advance of its final disposition ("advancement of expenses"); provided, however, that the payment of expenses incurred by a Player Representative or officer in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the Player Representative or officer to repay all amounts advanced if it should be ultimately determined that the Player

Representative or officer is not entitled to be indemnified under this article or otherwise.

Section 3. Indemnification of Employees. Subject to the other provisions of this article, the Players Association may indemnify and advance expenses to every employee who is not a Player Representative or officer (and to such person's heirs, executors, administrators or other legal representatives) in the manner and to the full extent permitted by applicable law as it presently exists, or may hereafter be amended against any and all amounts (including judgments, fines, payments in settlement, attorneys' fees and other expenses) reasonably incurred by or on behalf of such person in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative ("a proceeding"), in which such employee was or is made or is threatened to be made a party or is otherwise involved by reason of the fact that such person is or was an employee of the Players Association, or is or was serving at the request of the Players Association as a director, officer, employee, fiduciary or member of any other corporation, partnership, joint venture, trust, organization or other enterprise. The ultimate determination of entitlement to indemnification of employees who are not officers and Player Representatives shall be made in such manner as is provided by applicable law. The Players Association shall not be required to indemnify a person in connection with a proceeding initiated by

such person if the proceeding was not authorized by the Board of Player Representatives of the Players Association.

Section 4. Advancement of Expenses of Employees. The advancement of expenses of an employee who is not an officer or Player Representative shall be made by or in the manner provided by resolution of the Board of Player Representatives or by a committee of the Board of Player Representatives or of the Players Association.

Section 5. Non-Exclusivity of Rights. The rights conferred on any person by this Article XV shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the certificate of incorporation, these by-laws, agreement, vote of Members or disinterested Player Representatives or otherwise.

Section 6. Other Indemnification. The Players Association's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer or employee of another corporation, partnership, joint venture, trust, organization or other enterprise shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust, organization or other enterprise.

Section 7. Insurance. The Board of Player Representatives may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Players Association's expense insurance: (a) to

indemnify the Players Association for any obligation which it incurs as a result of the indemnification of Player Representatives, officers and employees under the provisions of this Article XV; and (b) to indemnify or insure Player Representatives, officers and employees against liability in instances in which they may not otherwise be indemnified by the Players Association under the provisions of this Article XV.

Section 8. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article XV shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE XVI

Miscellaneous

Section 1. Notice. Any notice required to be given by these by-laws may be given personally or by telephone, telecopier, electronic mail, U.S. mail, courier service, or any other means reasonably calculated to reach the person being provided notice using such address or other information as appears in the records of the Players Association. Any written notice required to be given by these by-laws may be given personally or by telecopier, electronic mail, U.S. mail, courier service, or any other means reasonably calculated to reach the person being provided notice using such address or other information as appears in the records of the Players Association. Such notice shall be deemed to be given at the time of the initiation of the

communication or the time of mailing, except as otherwise provided in these by-laws. In addition, except as otherwise required by law or these by-laws, notice need not be given of any adjourned meeting other than by announcement at the meeting which is being adjourned.

Section 2. Waiver of Notice. Whenever any notice is required to be given, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members, Players Representatives, or members of a committee of Players Representatives need be specified in any written waiver of notice, except as otherwise provided in these by-laws.

EXHIBIT 8

National Basketball Players Association

CONFLICTS OF INTEREST

The NBPA prohibits its employees from engaging in any activity, practice or act which conflicts with, or appears to conflict with, the interests of the NBPA or its members.

It is impossible to describe all of the situations which may cause or give the appearance of a conflict of interest. Therefore, the prohibitions included in this policy are not exhaustive and only include some of the more clear-cut examples. Employees have an obligation to avoid conflicts of interest and to refer questions and concerns about potential conflicts to their supervisor.

Employees are not to engage in, directly or indirectly, any conduct which is disloyal, disruptive, competitive, or damaging to the NBPA.

Employees are not to accept full-time, part-time or temporary employment with any organization which does business with the NBPA or is a competitor of the NBPA. This prohibition on employment includes serving as an advisor or consultant to any such organization, unless that activity is conducted as a representative of the NBPA.

Employees must disclose any financial interest they or their immediate family have in any firm which does business with the NBPA or which competes with the NBPA. The NBPA may require divestiture of such interest if it deems the interest to be in conflict with its best interests.

Employees and their immediate family are not to accept gifts, except those of nominal value, from any person or firm doing, or seeking to do business with the NBPA. The meaning of gifts for purposes of this policy includes the acceptance of more than nominal entertainment and free long-distance travel and lodging.

Employees are not to give, offer, or promise, directly or indirectly, anything of value to any representative of a supplier, or a potential supplier, or of a financial institution in connection with any transaction or business that the NBPA may have with such supplier, potential supplier, or financial institution.

(continued on next page)

National Basketball Players Association

The productive efforts of an employee during NBPA time and/or using NBPA facilities are the sole property of the NBPA. These efforts include, but are not limited to:

- artwork
- audio-visual presentations
- handouts

Any deviation from this policy will require a specific exception, in advance, issued by the Executive Director.

EXHIBIT 9

INTRODUCTION

These guidelines have been prepared to help you understand what is expected when you travel on behalf of the National Basketball Players' Association ("NBPA" or "Association") and to serve as a reference guide to current travel and entertainment policies. These policies are applicable to NBPA employees Team Representatives and Education Counselors. This handout also contains expense reimbursement information. These policies shall immediately replace all prior travel, expense and reimbursement policies.

NBPA employees and Team Representatives should use extreme discretion when traveling as an Association representative. NBPA Employees and Team Representatives are responsible for knowing the policies and understanding their accountability to their supervisor and/or the Executive Director of the Association.

We encourage you to read this handout thoroughly and to familiarize yourself with these travel, expense reimbursement and entertainment policies. Keep the handout in a convenient place so that when you have a question about travel and entertainment, it can serve as a readily available resource. Of course, you may always feel free to discuss a matter with the Executive Director and/or the General Counsel.

G.WILLIAM HUNTER

REIMBURSEMENT:

General Information

- All reasonable and necessary business travel and entertainment expenses will be reimbursed.
- The NBPA Travel Expense Reports are for travel expenses only. For non-travel expenses (memberships, dues, subscriptions, seminar fees, etc.) billed to your personal credit card, please submit an invoice, registration form or online confirmation along with proof of payment on the NBPA Non-Travel Expense form. All local travel and entertainment expenses must be submitted on this form also. If the NBPA Travel/Non-Travel Expense Report does not have the proper documentation or approval, it will be returned to the individual. **Do not request reimbursement without valid original receipts. You will not be reimbursed.**
- All NBPA Travel and Non-Travel Expense Reports should be submitted to **Gary A. Hall, General Counsel**.
- If travel expenses are to be split between the NBPA and a NBPA employee, the NBPA Travel Expense Report should reflect what portion of the expenses are to be reimbursed and which expenses are non-reimbursable.
- If a NBPA employee is paying for someone else's expenses and should be reimbursed, the NBPA Travel Expense Report must identify each person for whom expenses were paid.

Submission of Expenses

- NBPA Travel Expense Reports should be completed within fifteen (15) business days of completion of travel or incurring the expense. Expense Reports submitted after 30 days will be the responsibility of the NBPA employee and may not be paid by the NBPA.

Approval Requirements

- All employee travel must be pre-approved by the Executive Director. Before submitting a NBPA Travel or Non-Travel Expense Report for reimbursement, each NBPA employee must obtain the signature of his/her immediate supervisor; Team Representatives should obtain the approval of Mr. Purvis Short. Career Counselors should obtain the approval of expense reports from Mrs. Deborah Rothstein-Murman.
- **NBPA Employees shall use Outbound Travel to book air, hotel, sedan service and car rental reservations for business travel.** Making airline reservations through any other resource is a violation of policy unless prior approval is obtained from the Executive Director. Air reservations made through alternate travel resources can cause denied reimbursement.
- All rail (AMTRAK) reservations should be made through your office Assistant.
- Use of personal aircraft or rental of private aircraft are not approved methods of NBPA travel and will not be reimbursed.
- All business travel should be confined to those occasions when it is deemed necessary and cost effective. Employee travel requests shall be reviewed, and evaluated for overall benefit, by the Executive Director and approved in advance of the trip.

AIR/RAIL TRAVEL

Advance Booking

- All flights should be booked at least fourteen (14) days in advance to take advantage of lower fares.

Class of Travel

- All NBPA employees must travel coach and/or business class for domestic and international travel, unless otherwise approved by the Executive Director. Upgrades to business or first-class seats are not reimbursable.

Lowest Available Airfare

- NBPA employees are required and obligated to accept the lowest available airfare as defined below:
 - When the flight is direct and when the flight arrives/departs within two hours of an employee's requested time;
 - The fare is non-refundable;
 - When the flight is on a major carrier.
- Approval by the Executive Director, or his designee, is required before the NBPA's Travel Agency can book a flight that does not adhere to the points above.

Frequent Flyer Programs

- NBPA employees may retain frequent flyer program benefits for their personal use or for business-related upgrades. Employees may not retain, for their personal use, points earned with the Corporate American Express Card when the card is used to pay for group business and/or NBPA social activity, in those instances the points belong to the NBPA. Participation in the aforementioned programs must not influence flight selection, resulting in incremental cost to the NBPA beyond the lowest available airfare, as defined above. **The NBPA will not reimburse employees for program membership fees or other costs associated with these programs.**

NBPA Employees Traveling Together

- No more than five members of any individual department may travel on the same flight.
- No more than three members of Senior Management may travel on the same flight.

Lost Baggage

- The airlines are ultimately responsible for the retrieval of and compensation for lost luggage. The NBPA will not reimburse employees for personal items lost while traveling on business. NBPA employees should consider purchasing luggage insurance, however, luggage insurance costs varies and is not reimbursable by the NBPA.
- Further, employees are responsible for the care of NBPA property, such as laptops, when they are traveling. Loss of NBPA property due to employee negligence will result in a

charge to the NBPA employee equal to the amount needed to cover the NBPA's insurance deductible which can be as much as \$1,000.

- To minimize luggage loss:
 - Always carry valuables (jewelry, laptops, and cameras) on board the aircraft.
 - Always carry important/sensitive/confidential items on board the aircraft.
 - Clearly tag luggage with your name, address, and phone number.
 - Retain baggage claim receipts for checked baggage.
- If your bags are lost en route:
 - Obtain a lost luggage report from an airline representative.
 - Itemize the contents of your bag, including receipts when possible.
 - Include a copy of your airline ticket and baggage claim stubs.
 - Keep a copy of the report, airline ticket, and claim stubs.

Excess Baggage

- NBPA employees will be reimbursed for excess baggage charges only if one or more of the following apply:
 - The NBPA employee is traveling with heavy or bulky materials or equipment necessary for business.
 - The excess baggage consists of company equipment, records, or property.
 - The NBPA employee is traveling for more than five days.

Denied Boarding Compensation

- Airlines occasionally offer free tickets or other cash allowances to compensate employees for delays and inconveniences due to overbooking, flight cancellations, equipment changes, and so forth. Employees may volunteer for denied boarding compensation only under the following circumstances:
 - The employee is flying outside of normal working hours AND
 - The delay in the trip will not result in any interruption or loss of business AND
 - The delay will not result in hotel or meal charges, or other miscellaneous expenses.
- Employees who are involuntarily denied boarding should immediately obtain a free voucher and may use it for personal travel.

Overnight Delays

- Should an airline delay necessitate an unplanned overnight stay, the employee should first attempt to secure a hotel voucher from the airline. If unsuccessful, the employee should arrange accommodations through the travel office.

Cancellations of Non-Refundable and Refundable Tickets

When a cancellation is necessary and is beyond the employee's control, please contact Outbound Travel immediately for the possibility of future use.

- To expedite refunds, unused or partially used airline tickets must be returned immediately to the designated travel agency and notice given to the Executive Director.
- Unused airline tickets or flight coupons must never be discarded or destroyed, as these documents may have a cash value.

Lost or Stolen Airline Tickets

- The employee should immediately report the lost or stolen ticket to the designated travel agency and to the Executive Director. There is a charge each time a lost ticket application is filed. The employee is not responsible for the lost ticket application fee if the circumstances are beyond his/her control.

Payment Procedures

- Air travel costs must be paid with your corporate American Express credit card.

Documentation for Reimbursement

- Only used tickets will be reimbursed.
- For each flight listed on your expense report, attach the following documentation:

For electronic tickets

- Passenger receipt, provided by designated agent or by airline at airport, must show form of payment – for Airtran, Southwest or Jet Blue airlines or bookings online, please obtain a copy of the confirmation showing the payment summary.
- Documentation (passenger receipts) for change fees due to itinerary revisions

For designated agent-issued paper tickets

- A copy of your itinerary, provided by designated agent
 - Passenger receipt, found in ticket packet with form of payment shown
 - Documentation (passenger receipts) for change fees due to itinerary revisions
- The NBPA has designated e-ticketing as the preferred method for all domestic flights. Paper tickets are approved only for international travel. Fees associated with generation of paper tickets for domestic flights are the client's or employee's responsibility.

- If another travel agency is used for business-related travel, the agency fees will be the employee's responsibility. If the travel is being charged to the NBPA, the fees are the employee's responsibility.
- For exchanged tickets, all passenger receipts must be submitted and attached to the NBPA Travel Expense report for reimbursement.

LODGING

Hotel Selection Guidelines

- Employees are to utilize preferred hotel properties at which the NBPA has negotiated rates. The NBPA, through Outbound Travel, will display the preferred hotel during the online booking session. Employees should reserve the preferred hotel unless there is a specific reason why it cannot be booked per policy (e.g., location, seminar attendance).
- When preferred hotel properties are not available, employees are required to select business-class accommodations (comparable to Marriott or Hyatt in the range of \$250.00 to \$275.00).
- Employees should ask about preferred corporate rates at certain hotels.
- Whenever hotels offer special and/or guaranteed rates, the employee must take advantage of these savings.
- Employees remaining at their destination a week or longer should notify the NBPA travel agency, Outbound Travel to inquire about weekly rates or long-term discounts.

Hotel Rooms

- Employees may accept room upgrades to suites or executive floor rooms if the upgrade is at no additional cost to the NBPA.

If you are unable to reach the NBPA travel agency, Outbound Travel, it is the employee's responsibility to cancel guaranteed reservations should plans change. Employees should note that cancellation deadlines are based on the local time at the property. Hotel cancellation fees due to the negligence of the employee will not be reimbursed. Please request the cancellation number from the hotel, or the NBPA's travel agency at the time of cancellation.

Frequent Guest Programs

- Awards from these programs may be retained by the employees for personal use. However, membership in such programs must not influence hotel selection that would result in incremental cost beyond the NBPA's set limit for daily rates.

Telephone

- When possible, please utilize a cell phone or calling card to avoid surcharges assessed by hotels.
- Business calls charged to the employee's room are reimbursable provided they are documented on the hotel receipt.
- Personal calls should be infrequent and no more than 10 minutes in duration. Personal calls outside this limitation may not be reimbursed.

Laundry and Dry Cleaning

- These expenses are reimbursable if a NBPA employee or Team Representative is traveling for five or more consecutive days.

Movie Rentals

- These expenses are considered personal and are not reimbursable unless approved by the client.

Health Club Fees

- These expenses are considered a luxury and are not reimbursable.

Documentation for Reimbursement

- A detailed hotel receipt showing payment is required for reimbursement.
- Meals expenses should be separated and must be listed under the Meals category on the NBPA Travel Expense report. Attendees and company affiliations must be listed, if applicable.
- If the hotel invoice does not show a payment made or indicates a "Balance Due" or "Will be settled to...," a final paid invoice should be requested from the hotel and submitted.

Meals

Where the NBPA provides meals at out of town meetings the Employee shall not be given per diem for meal expenses. If the NBPA does not provide meals applicable per diem rates shall apply.

- Meal expenses incurred by the employee on an out-of-town business trip should adhere to the following guidelines:
 - Breakfast: Reasonable based on geographic location
 - Lunch: Reasonable based on geographic location
 - Dinner: Reasonable based on geographic location

Documentation for Reimbursement

- All meal expenses must be documented and receipts must be attached to the expense report.
- The American Express or personal credit card statement is not sufficient documentation for reimbursement.
- Compliance with Internal Revenue Service (IRS) regulations requires that the following information be included on expense reports as support for all business meal and entertainment expenses:
 - Name, title, and company of all attendees
 - Specific business topic discussed

- Failure to comply with IRS reporting requirements can result in a loss of expense deductibility to the NBPA and/or individual tax liability.

Entertainment

Definition

- Entertainment costs are those incurred when hosting clients at a restaurant, theater, sporting event, or other venue when a business discussion takes place immediately before, during, or after the event.

Cost

- All client entertainment should have prior written authorization by the Executive Director.

Documentation for Reimbursement

- Entertainment expenses must be documented and receipts must be attached to the NBPA Travel Expense or Non-Travel expense form.

Internal Revenue Service Requirements

- Compliance with Internal Revenue Service (IRS) regulations requires that the following information be included on expense reports as support for all business meal and entertainment expenses:
 - Name, title, and company of all attendees
 - Specific business topic discussed
- Failure to comply with IRS reporting requirements can result in a loss of expense deductibility to the NBPA and/or individual tax liability.

Gifts and Gift Certificates

- Please list the names and company affiliations of the recipients, as required by the IRS, for reimbursement purposes.

Car rental

- Employees should rent cars only when necessary to conduct NBPA business.
- All rentals should be mid-size cars or smaller unless three or more people are traveling together or if you are carrying projectors, easels, presentation materials, or other large objects necessary to conduct your business.
- The NBPA will not pay for parking or traffic tickets received while using any automobile for business. Employees are expected to adhere to traffic rules and regulations and drive carefully.
- Employees under the age of 25 should pay particular attention to the restrictions of the car rental agency as many agencies do not permit rental to this age group.

Insurance

- If an American Express Card is used, employees should waive all additional insurance coverage. If you are using another card, please check with your card issuer to determine if they offer coverage.
- NBPA insurance covers "Liability Insurance"; as such, employees may decline this coverage on the rental agreement.
- When renting a vehicle outside the United States,
- If you do not understand auto insurance procedures, please contact a lawyer from the legal department to clarify.
- All policies listed by the car rental agency related to "authorized drivers" are to be respected and adhered to. The NBPA will not cover damages to rental vehicles when operated outside the agency policies. Repair costs will be the sole responsibility of the driver.

Refueling

- Employees are encouraged to refuel rental cars before turning them to the vendor, a practice that can save as much as 50 percent of the fuel cost.

Documentation for Reimbursement

- Car rentals charged to a credit card should be documented on an expense report. The original car rental receipt showing payment should be attached to the expense report.

Other transportation

Personal Car

- Use of personal cars for business will be reimbursed at the standard rate prescribed by the IRS, which they update periodically. For 2010, the mileage reimbursement rate is \$.50 per mile. For 2011, the mileage reimbursement rate is \$.51 cents per mile. Employees must indicate on the expense report the exact number of miles being reimbursed.
- The mileage allowance covers all vehicle costs (fuel, repairs, and insurance) other than parking and tolls. Please do not submit gas receipts when claiming mileage.
- The NBPA will not pay the expense of parking or traffic tickets received while using any automobile for business. Employees are expected to adhere to traffic rules and regulations and drive carefully.

Local Travel Expenses

- Mass Transit. Travel expenses associated with Mass Transit, whether train, bus, etc., are to be reimbursed in full.

Parking, Taxi or Tolls. Fees related to parking, taxi or tolls are reimbursed in full, in addition to other reimbursements for mileage or mass transit expenses.
- Meals. Meals consumed while on local travel are not considered eligible for reimbursement, unless approved in advance by the Executive Director

Car Service

- Employees requiring car service should use the NBPA's designated sedan service company (Elite).
- The NBPA urges the use of taxi and/or livery cars when traveling on business in New York City. Employees should use discretion when using the sedan service.
- Sedan service can be used for travel between the NBPA office and local airports. Cab service should be considered as a viable option.

Taxi

- Cab fare to and from places of business, hotels, airports, or railroad stations in connection with a business activity is reimbursable. Receipts are required for all transportation expenses.

Documentation for Reimbursement

- For the sedan services, if paid by credit card, please attach a receipt showing payment. If the sedan service is being direct billed to NBPA, please do not list on your NBPA Travel Expense Report.
- Original receipts are required for all taxicab reimbursements.
- For local cab fares, please complete a NBPA Non-Travel Expense Report. If related to business travel (to/from airports, etc.), please include with NBPA Travel Expense Report.

General policies and guidelines

Companion Travel

- Travel expenses incurred by a spouse or other companion are not reimbursable as a business expense unless it can be shown that the person's presence was essential and directly related to effective accomplishment of NBPA business or the person is invited by the NBPA.
- In these limited instances, the employee must obtain advance written approval from the Executive Director. Travel expenses such as air, etc., for a spouse or other companion must be included on the employee's expense report. (Approval should be attached.)

Extending Business Travel for Pleasure

- Employees spending personal time at a business travel site -- either before or after the intended business takes place -- must follow the guidelines below:
 - If the extension results in a higher airfare, the NBPA employee must pay the difference in price.
 - The employee must pay for expenses related to the personal days. The NBPA will not reimburse for hotels, meals, or other expenses on days preceding or following business travel.

- The employee must pay for expenses incurred by his/her personal travel companions. The NBPA will not reimburse for any expenses incurred by his/her spouses, partners, children, or others not employed by the NBPA.
- The employee must properly request and document vacation time for personal travel.

Other Expenses

Reimbursable

- The following incidental expenses, when directly related to business travel, are reimbursable:
 - Tips
 - Parking
 - Currency conversion fees
 - Employees check fees
 - Passport fees
 - Telephone: Employees should use company-issued cell phones or calling cards. Use of railfones or airfones is discouraged.

Non-Reimbursable

- The following expenses are not reimbursable:
 - Child-care fees
 - Pet-care fees.
 - Airline club dues
 - Barber/hairstylist
 - In-flight movies and refreshments
 - Luggage, briefcases
 - Toiletries
 - Health Club
 - Spa fees
 - Other personal effects

Tipping Guidelines

If, when, whom and how much? There are no hard and fast rules about tipping. At its simplest, it is a reward for a job well done or work that goes above and beyond the expected. The following is provided to demystify the area of gratuities and to provide guidelines for customary and reasonable amounts.

Most Common

- Restaurants: 15% or 20%
- Alcohol: 10%
- Portage/Skycap: \$1 to \$2 per bag
- Housekeeping: \$3 to \$5 per night
- Room Service: 15% of the bill *unless* there is a service charge
- Valet: \$2 per car
- Airport/hotel shuttle drivers: \$1 per bag
- Taxi drivers: 15% of the fare

****Foreign Travel** – Different guidelines apply to tipping when traveling out of the USA. Customs and cultures vary among different countries.

REIMBURSEMENT

Method of Payment

- Expense reports are processed by the Finance Department within 5 business days after receipt and when the reports comply with the NBPA's policies and procedures.
- A system generated email is sent to the employee once the reimbursement has been scheduled for payment. The email will include the projected date of payment as well as the payment method. The payment advice will be attached to the email in PDF form.

EXHIBIT 10

CONTRACT OF EMPLOYMENT

NOW, THEREFORE, in consideration of the foregoing promises and the mutual covenants set forth herein, the parties hereto, G. William Hunter, sometimes referred to hereinafter as "Employee" and/or Executive Director for the National Basketball Players Association, ("NBPA") and Derek Fisher as President of the Executive Committee of the NBPA, referred to hereinafter as "Employer," and/or Executive Committee, agree as follows:

1. TERM AND DUTIES: Effective July 1, 2011, the Executive Committee hereby retains and extends the contract of employment of G. William Hunter as the Executive Director for the NBPA for a four-year period which shall end June 30, 2015 with an option for an additional year, under the same terms and conditions as the four year term. The option shall be exercisable at Mr. Hunter's discretion. Mr. Hunter shall provide the Executive Committee with notice as to whether he shall exercise said option by January of 2015. Further, Mr. Hunter agrees that, under the general supervision of the Association's Executive Committee, he will continue to perform all the duties for which he is responsible as described fully in the Constitution and By-Laws of the NBPA (dated June 22, 1990, as amended February 3, 1996, which is incorporated herein by reference) as may hereafter be further amended; provided however that any such amendment shall not require that the Employee perform duties which are inconsistent with those duties customarily associated with the position of Executive Director.

2. COMPENSATION: In consideration for performing the entire spectrum of the Executive Director's duties hereunder, on a full-time basis, Mr. Hunter shall be compensated as follows:

July 1, 2011 – June 30, 2012	\$3.0 million
July 1, 2012 – June 30, 2013	\$3.0 million
July 1, 2013 – June 30, 2014	\$3.0 million
July 1, 2014 – June 30, 2015	\$3.0 million
Option Year If Exercised	\$3.0 million

3. RENEWAL TERM: On or before January 15, 2015, the Executive Committee shall advise Mr. Hunter, in writing, either that it has elected (a) not to renew this Agreement (in which event this Agreement shall expire by its terms either on July 1, 2015, and/or July 16, 2016 (if option exercised). If the Executive Committee elects not to renew Mr. Hunter's contract, during the last six months of this Agreement, Mr. Hunter shall be accorded reasonable time to obtain future employment); or (b) to extend this Agreement for an additional one-year term (July 1, 2016 through July 1, 2017) at a salary to be negotiated but in no event shall the salary for a sixth year be less than the \$3.0 million for the option year of the contract, and shall be, payable in equal bimonthly installments. If the Executive Committee does not notify Mr. Hunter of renewal or non-renewal by January 15, 2015, then this Agreement will be deemed automatically renewed for an additional year (this assumes the option year exercised, i.e., until July 1, 2017).

4. BENEFITS AND EXPENSES: In further consideration for the performance by Mr. Hunter of the duties of Executive Director throughout the Term, the Employer shall provide, at its cost, comprehensive

life insurance coverage (that will provide a death benefit two and one-half (2 1/2) times Mr. Hunter's salary at the time of his death), complete coverage under the Employer's comprehensive health insurance program (which includes medical/dental coverage for Mr. Hunter, his spouse and eligible dependents), disability insurance and a car allowance of \$1,200.00 per month during the Term. Mr. Hunter shall accrue seven (7) weeks paid vacation per year which vacation may be carried forward for a two year period; provided, however that he shall not take any vacation in excess of five (5) consecutive weeks without prior approval of the Executive Committee. Mr. Hunter shall also be reimbursed for all reasonable expenses (including, but not limited to; first class transportation and hotel accommodations equivalent to those that the *NBA* teams provide for their players, and pager and cellular phone costs/expenses) incurred in the course of his employment upon presenting appropriate documentation to the Association's Director of Finance. On a monthly basis, Mr. Hunter shall arrange to have the Director of Finance provide to the Association's Secretary Treasurer and the President a copy of the Association's monthly check registry and backup documents with respect to the Employee's, expense voucher.

5. RETIREMENT BENEFITS: Mr. Hunter, however, shall also be eligible to participate in the NBPA Staff 401(k) retirement plan.

6. TERMINATION PROVISIONS: The Executive Committee may only terminate Mr. Hunter's employment contract "for cause", and upon a majority vote of the Executive Committee and thereafter, upon delivering written notice thereof to Mr. Hunter. For purposes of this Agreement, "for cause" shall mean: (i) embezzlement, theft, larceny, material fraud or other acts of dishonesty; (ii) failure to perform the duties of his position as set forth in this Agreement within thirty (30) days of written notice from the Employer to take specific corrective action; (iii) conviction of, or entrance of a plea of guilty or *nolo contendere to*, a felony or other crime which has or may have a material adverse effect on the Employee's ability to carry out his duties under this Agreement or upon the reputation of the NBPA. Upon termination for cause, the NBPA's sole and exclusive obligation will be to pay the Employee his compensation for the time remaining on the contract from the date of termination to the end of the contract year and, any accrued, but unused, vacation, and any outstanding reimbursements. Mr. Hunter shall not be entitled to any additional compensation after termination for cause except as set forth herein. .

a. The Executive Committee, by majority vote, may terminate Mr. Hunter's employment at any time without cause, effective immediately, upon delivering written notice thereof to the Employee. Upon termination without cause, the NBPA's sole and exclusive obligation will be to pay the Employee his annual salary and benefits (to the extent benefits are allowed to continue under law) for the remaining entirety of the contract Term, and the Employee shall be entitled any accrued, but unused or unpaid, vacation or compensation, and any unreimbursed expenses incurred in conformance with this Agreement prior to such termination; provided that, if such termination is due to the Employee's inability to perform his duties hereunder as a result of illness or disability, as disability is defined in the disability policy referenced in Paragraph 4 hereof (the "Disability Policy"), then payment to the Employee of his annual salary for such termination will first be made, if applicable, from Disability Policy. If the Disability Policy does not apply, or does not fully apply, the NBPA shall be obligated to pay the Employee his annual salary (or balance thereof) as provided in this Paragraph 6(a) hereof shall continue. If termination is due to the Employee's death, then in lieu of the Employer's aforementioned obligation to pay the Employee his annual salary and benefits through the end of the term, the death benefit (two and one-halftimes (2 1/2) times the Employee's salary at the time of his death) received by the Employee's estate or his beneficiaries under the life insurance policy referenced in Paragraph 4 hereof shall satisfy such obligation; provided however that the Employer

will be responsible for payment to the Employee's estate or beneficiaries of any deficit in the death benefit referenced above.

b. Mr. Hunter upon ninety (90) days prior written notice to the Employer, may terminate his employment pursuant to the provisions set forth in this Agreement. Upon such termination, the Employer's sole and exclusive obligation will be to pay the Employee his compensation as set forth hereinabove and unused vacation, accrued to the date of termination, and to reimburse him for any reasonable business expenses incurred on behalf of the Employer prior to termination.

7. NOTICE: Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and personally delivered or sent by registered or certified mail addressed as follows:

If to the Employer: National Basketball Players Association
Attn: President
310 Lenox Avenue – Third Floor
New York, New York 10027
Telephone: (212) [REDACTED]
Facsimile: (212) [REDACTED]

If to the Employee: G. William Hunter, Esq.
[REDACTED]
Telephone: (212) [REDACTED]
Facsimile: (510) [REDACTED]

Inadvertent failure to provide a courtesy copy shall not be deemed a breach of this Agreement. The effective date of any notice provided herein shall be the date reflected on the receipt received by the sender or recipient as evidence of delivery. Either party may, by notice in writing to the other party, change the address to which notices to that party are to be given.

8. SEVERABILITY: The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any provisions.

9. BENEFIT: The rights and obligations of the National Basketball Association ("NBPA") under this Agreement shall inure to the benefit of and shall be binding upon the parties, their personal Representatives, successors and assigns, provided that Employee may not assign this Agreement, including, but not limited to, any successor arising out of a restructuring or reorganization of the NBPA.

10. ARBITRATION: If a dispute arises between the parties concerning the meaning, interpretation, application or enforcement of this Agreement, including, but not limited to, a dispute concerning whether the Employer has "cause" to discharge the Employee, that dispute shall be resolved exclusively through arbitration in accordance with the American Arbitration Association procedures for Labor Arbitration. To invoke the right to arbitration under this provision, the grieving party must make a timely request for arbitration i.e., within ninety (90) days from the date the grieving party knew, or

reasonably should have known, of the event which gives rise to the dispute. Absent the filing of a timely request for arbitration, the action taken shall be deemed final and binding and not subject to any further review. The arbitrator(s) award shall be final and binding upon the parties to this Agreement. The arbitrator(s) may award reasonable attorney's fees and arbitration costs to the prevailing party.

11. AUTHORITY: Each person signing below on behalf of the Association represents and warrants that he has the authority to sign on behalf of the Association, and to bind the Association to the terms set forth herein.

12. ENTIRE AGREEMENT: This Agreement (including all exhibits, schedules and documents contemplated herein) contains the entire understanding of the parties hereto relating to the subject matter hereof and supersedes all prior and contemporaneous negotiations, agreements and understandings, written or oral, between the parties. There are no other representations or warranties between the parties and all reliance with respect to representations is solely upon the representations and agreements contained in this Agreement. This Agreement cannot be changed or modified except by an instrument signed by the party to be bound. A waiver (which must be in writing) by either party of any term or condition of this Agreement in any instance should not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof.

13. LEGAL COUNSEL: The Employer and the Employee have had the unrestricted opportunity to be represented by independent legal counsel of either party's choice for purposes of advising the Employer and the Employee in connection with the negotiation and execution of this Agreement. If the Employer or the Employee has not been represented by legal counsel of its choice in connection with this Agreement, such party acknowledges and agrees that its failure to be represented by independent legal counsel in connection with this Agreement was determined solely by such party.

14. CONSTRUCTION: Each party hereto has had an opportunity to review and revise this Agreement, and the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation or construction of this Agreement.

15. COUNTERPARTS: This Agreement may be executed in counterparts, in which event executed copies taken together or a copy with all of the signature pages attached thereto, shall constitute one and the same instrument.

W^W

W^W

W^W

W^W

The parties hereto have executed this Agreement in person or by a duly authorized officer as of the day and year stated in the commencement.

EMPLOYER:

NATIONAL BASKETBALL PLAYERS
ASSOCIATION: Dated: June 23, 2010

EMPLOYEE:

G. William Hunter
Dated: June 23 2010



Derek Fisher
President



G. William Hunter
G. William Hunter
Executive Director

EXHIBIT 11

Message

From: Gary Hall [Gary.Hall@████████]
Sent: 4/22/2010 4:44:12 PM
To: 'ddllff2@████████' [ddllff2@████████]; 'jhoops.jones@████████' [jhoops.jones@████████]; 'keyondooling@████████' [keyondooling@████████]; 'bevolbrother@████████' [bevolbrother@████████]; 'masonjr8@████████' [masonjr8@████████]; 'cepaul3@████████' [cepaul3@████████]; 'shotblocker@████████' [shotblocker@████████]; 'akhenaton36@████████' [akhenaton36@████████]
Subject: FW: Contract of Employment
Attachments: Contract001.PDF

Gentleman:

I am providing you each with a copy of Billy's employment contract. Regarding, the Executive Directors of Major League Baseball PA and the National Football PA I was able to determine the following: Michael Weiner has just been appointed Executive Director of the PA in baseball and does not have a 'finalized' contract. Gene Upshaw the former Executive Director of the NFLPA was making approximately \$6.4 million with incentives. His successor, D. Maurice Smith has an first contract of three years and makes about \$2.8 million per year.

If possible can we schedule a conference call for tomorrow Friday at 12 noon eastern standard time using the same dial in number 212-████████ and pass code ████████ ..if no one joins the call I will reschedule for sometime next week. Please call with any questions.

Gary A. Hall
General Counsel
National Basketball Players Assn
310 Lenox Avenue, Third Floor
New York, New York 10027
Ph: 212-████████
Fax: 212-████████
Email: gary.hall@████████

-----Original Message-----

From: scanner7665@████████ [mailto:scanner7665@████████]
Sent: Monday, April 19, 2010 4:09 PM
To: gary.hall@████████
Subject: Contract of Employment

This e-mail and any attachments may contain confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, any use or distribution of this e-mail or its attachments is prohibited.

Sent by: Guest [scanner7665@████████]
Number of Images: 6
Attachment File Type: PDF

National Basketball Players Association
310 Lenox Avenue
New York, NY 10027
Phone: (212) ██████████
Fax: (212) ██████████
<http://www.nbpap.org>

EXHIBIT 12

Message

From: William Hunter [William.Hunter@████████]
Sent: 6/9/2010 1:27:00 PM
To: keydooling@████████; bevobrother@████████; jhoops.jones@████████; masonjr8@████████;
cepaul3@████████; shotblocker@████████
CC: Derek Fisher [ddllff2@████████]; afoyle3131@████████; akhenaton_36@████████
Subject: Extension

Gentlemen—Gary has informed me that you granted me a contract extension. Thanks for the vote of confidence, I assure you that I will continue to represent you proudly, competently, and enthusiastically.

EXHIBIT 13

Minutes of the
Executive Committee
Summer Meeting

of the

National Basketball Players Association

Held at

Wynn Las Vegas
Las Vegas, Nevada

June 23, 2010

Executive Committee Members
Present:

Derek Fisher, President; Adonal Foyle, First Vice President; James Jones, Secretary & Treasurer; Keyon Dooling, Maurice Evans, Roger Mason, Theo Ratliffe, Etan Thomas, Vice Presidents

NBPA Representatives Present:

G. William Hunter, Executive Director; Gary Hall, General Counsel; Ron Klempner, Deputy General Counsel; Yared Alula, Sean Brandveen, Counsels; Brent Herlihy, Law Clerk; Dan Wasserman, Director of Communications; Theresa Clark Messer, Director of Finance; Robert Gadson, Director of Security & Agent Administration

Present for a Portion of the Meeting:

Carolyn Kaufman, Director, and Todd Hunter, Principal, of Prim Capital Corporation; Glenn Eyrich, Partner, of Calibre CPA Group

I. CALL TO ORDER

The meeting was called to order at 3:08 p.m.

II. INVESTMENT COMMITTEE REPORT

Mr. Hunter introduced Carolyn Kaufman, Director, of Prim Capital Corporation, to present the Investment Committee Report. Ms. Kaufman distributed slides and a CD containing detailed financial reports. She then reported on the NBPA's portfolio performance relative to market benchmarks. Ms. Kaufman outlined current asset class diversification relative to the Investment Policy Statement and recommended that the

NBPA move more of its portfolio into fixed income and cash as a potential lockout approaches. After review and discussion,

MOTION was regularly made and duly seconded to amend the Investment Policy Statement to authorize the NBPA's investment advisors, Prim Capital, to maintain liquidity through the collective bargaining negotiation period.

MOTION UNANIMOUSLY ADOPTED

Ms. Kaufman then introduced Todd Hunter, Principal, of Prim Capital Corporation, to introduce a NBPA-exclusive investment opportunity with Putnam Investments. Mr. Hunter also discussed an exclusive opportunity through PNC for NBA players to open a no-penalty CD with a 1.00% interest rate floor.

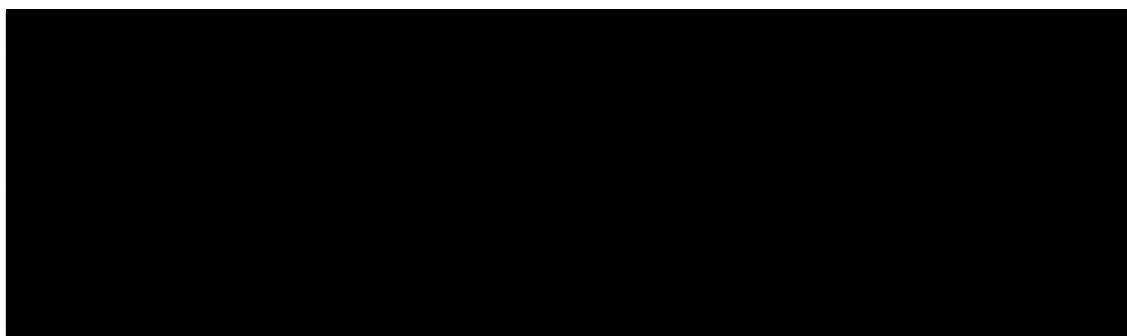
III. AUDIT COMMITTEE REPORT

Glenn Eyrich presented audited 10-month financial results through April 30, 2010. He displayed and discussed the balance sheet, including a trend analysis of net assets, and 10-month revenue and expense variance, including a review of historical revenue and expense trends. Theresa Clark Messer, NBPA Director of Finance, then reviewed the 2009-2010 projected performance (revenue and expenses) vs. the 2009-2010 budget. Ms. Messer then presented the 2010-2011 budget proposal, which included \$20.005 million in revenue, \$17.536 million in expenses for a net increase in assets of \$2.468 million. Mr. Hunter noted that \$3 million of negotiation expenses should be sufficient if a resolution is reached in the upcoming fiscal year and that the unspent portion would likely be rolled over into 2011-2012. Ms. Messer offered detail on several other line items, including professional fees, travel and entertainment expenses, and building expenses. After review and discussion,

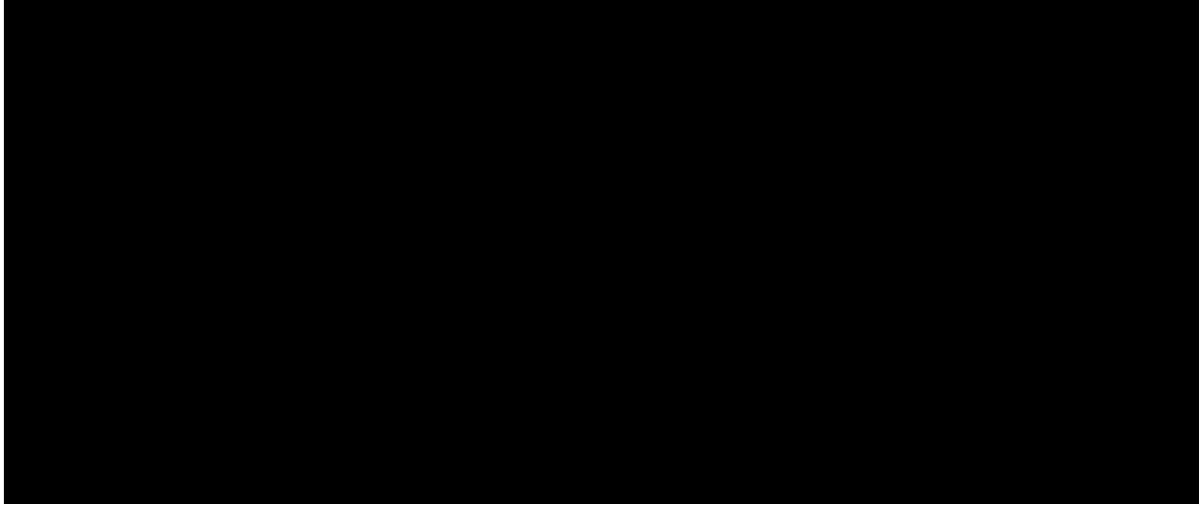
MOTION was regularly made and duly seconded to approve 2010-2011 budget.

MOTION UNANIMOUSLY ADOPTED

IV. REVIEW OF PLAYER REPRESENTATIVES MEETING AGENDA



V. COLLECTIVE BARGAINING PROPOSAL



VI. ADJOURNMENT

There being no further business to come before the meeting, it was duly adjourned.

THIS IS TO CERTIFY that the above minutes were duly approved at the meeting of the Executive Committee held on _____.

NBPA PRESIDENT

NBPA EXECUTIVE DIRECTOR

EXHIBIT 14

Minutes of the
Summer Meeting of
Player Representatives

of the

National Basketball Players Association

Held at

Wynn Las Vegas
Las Vegas, Nevada

June 24, 2010

Executive Committee Members Present: Derek Fisher, President; Adonal Foyle, First Vice President; James Jones, Secretary & Treasurer; Keyon Dooling, Maurice Evans, Roger Mason, Theo Ratliffe, Vice Presidents

Player Representatives Present: [TO COME]

I. WELCOME AND ROLL CALL

The meeting was called to order at 9:30 a.m.

II. NBPA HEADQUARTERS UPDATE

A video of Marcus Samuelsson, chef and owner of the Red Rooster restaurant, which will soon open on the first floor of the NBPA headquarters building, was played for the players. Mr. Samuelsson then addressed the players, describing the new restaurant. He then left the meeting.

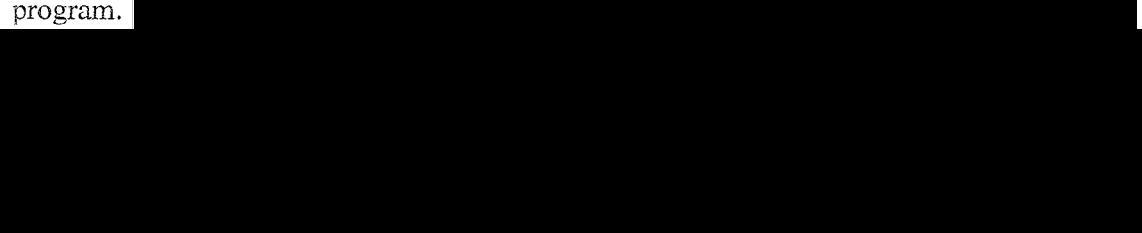
III. COMPETITION COMMITTEE

A representative for the Competition Committee reported on the only potential change currently under consideration, adding tenths of seconds to the shot clock.

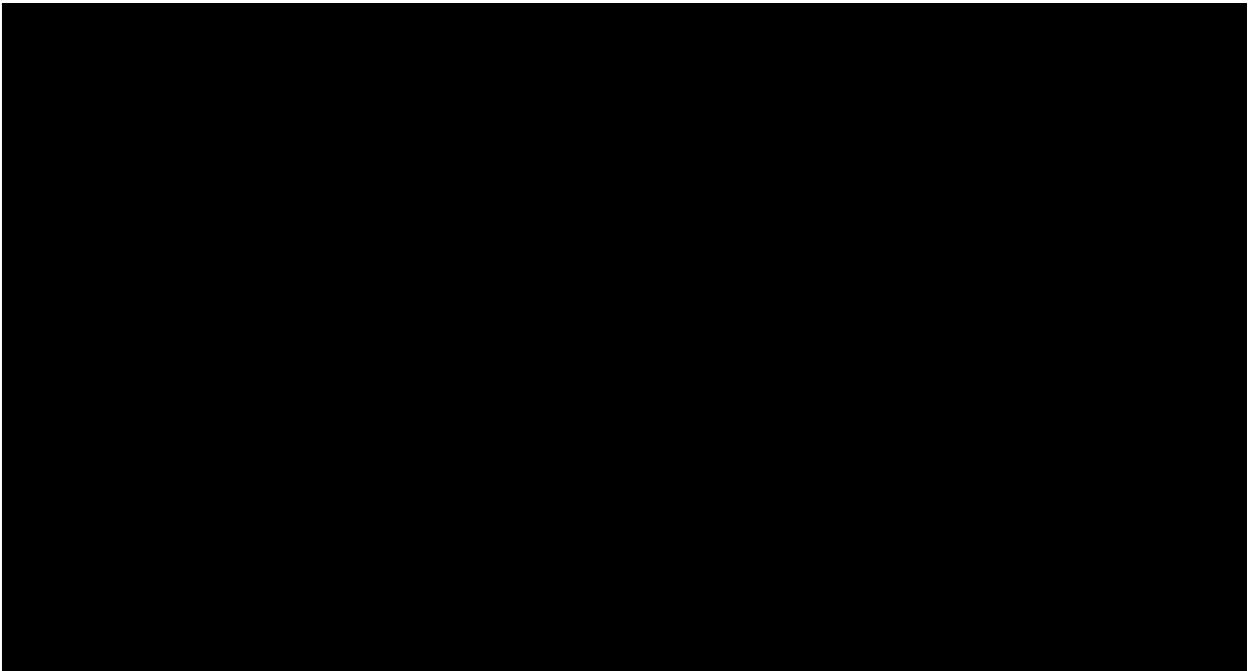
IV. STATE OF THE UNION

Mr. Hunter addressed the ongoing, regular business and affairs of the NBPA and the services it provides for its membership. He updated the players on the 125th Street headquarters, informing them that the building is now fully leased. Mr. Hunter described

the charity efforts of the Union, including its work in Washington, D.C. to distribute nearly \$2 million of food and personal care items to needy families, continued financial support for “Project Contact Africa,” and work with the other players associations to raise money and deliver supplies to Haiti in the aftermath of the earthquake. Mr. Hunter also discussed the continued improvement and expansion of player programs, including the coaching clinic, Sportscaster U program, and NBPA leadership program. Next, he outlined expansions of new media and IT resources, including new NBPA Facebook and Twitter pages. He briefly spoke on player benefits, including the pension plan and 401(k) program.



V. COLLECTIVE BARGAINING



VI. LOCKOUT PANEL

A seven-minute video featuring interviews and news clippings from the 1998-1999 lockout was shown to the player representatives. Mr. Klempner then introduced Ms. Mori Taheripour, faculty member in the Legal Studies and Business Ethics Department at the Wharton School of the University of Pennsylvania, to serve as moderator of a lockout panel. Ms. Klempner then introduced each panelist, Antonio Davis, former President of the NBPA, Carolyn Kaufman, Director, of Prim Capital Corporation, Jim McIlvaine,

former member of the NBPA Executive Committee, and Ken Sunshine, President of Sunshine, Sachs & Associates. Ms. Taheripour began by asking the panelists to describe what the word “lockout” meant to them. The panel discussion centered on a series of fact patterns that described fictional situations of NBA players in the months prior to a lockout. Ms. Taheripour directed questions to the panelists and the player representatives. Topics discussed included individual financial preparation for a lockout, tactics for approaching a teammate who might be unprepared for a lockout, and presentation of a consistent positive image to the public. Several comments from player representatives expanded the conversation to a broader discussion of financial preparedness for retirement or injury. Derek Fisher, NBPA President, informed the player representatives that the NBPA planned to prepare a pamphlet containing a roadmap for lockout preparation and general financial responsibility.

VII. BUDGET AND GROUP LICENSING

Mr. Klempner introduced Ms. Theresa Clark Messer to review the proposed budget with the player representatives. Ms. Messer presented the 2010-2011 revenue and expense budget, as well as projected 2009-2010 results. Ms. Messer and Mr. Hunter added detail on several specific line items, including professional fees, negotiation expenses, and travel and entertainment expenses. Mr. Fisher informed the team representatives that the Executive Committee had approved the budget. After review and discussion,

MOTION was regularly made and duly seconded to approve 2010-2011 budget.

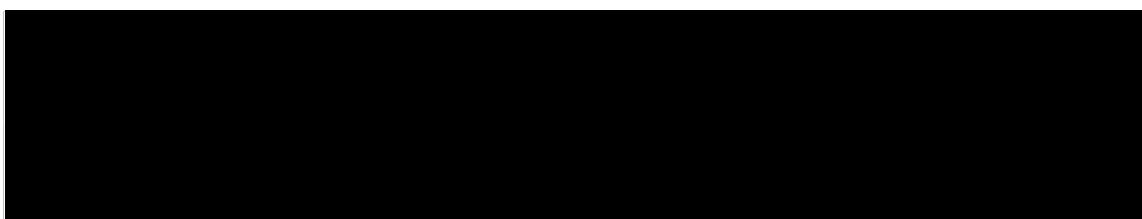
MOTION UNANIMOUSLY ADOPTED

The player representatives were informed the a new group licensing agreement would be negotiated in conjunction with the collective bargaining negotiations.

VIII. NBPA COMMUNICATIONS

Megan Inaba, NBPA Director of Special Events and Sponsorships, discussed the various forms of communication that the NBPA currently operates, including e-mail blasts, the NBPA website, and its new podcasts, Facebook page, and Twitter feed.

IX. MEDIA TALKING POINTS



THIS IS TO CERTIFY that the above minutes were duly approved at the meeting of the Player Representatives held on _____.

NBPA PRESIDENT

NBPA EXECUTIVE DIRECTOR

EXHIBIT 15

Message

From: Wheeless, Steven [SWheeless@████████]
Sent: 11/23/2011 9:10:04 PM
To: G. William Hunter [william.hunter@████████]
CC: Hunter, Alexis [ahunter@████████]; Wheeless, Steven [SWheeless@████████]
Subject: HUNTER EYES ONLY: AMENDMENT RESOLUTION; AMENDED CERTIFICATE; AMENDED BY-LAWS
Attachments: AMENDMENT RESOLUTION.DOC; Amended & Restated Certificate of Incorporation.doc; NBPA Bylaws (2).doc; REDLINE NBPA Constitution_Bylaws.doc

Billy and Alexis Hunter's Eyes Only: Attorney-client communication; privileged and confidential

Alexis: Will you print all this out and hand-deliver a copy for Billy to review? Thanks. Steve

Billy: Here are the documents that need to be executed to conform to: (1) the NBPA's disclaimer, and (2) Delaware corporate law. I have included a red-lined version of the By-laws so you can see what has changed from the original. There is a lot going on here. I am happy to brief you on the phone or in person, but the highlights follow. Let me know when you want to discuss or are ready for me to put the documents in final form for presentation to the Players Reps (and as an FYI to the Executive Committee).

Also, if you are going to circulate these to other law firms for review and comment, I recommend you delete items 1(d) and 1(f) as you probably don't want those issues floating around town (or the Country or the NBA). Indeed, I recommend you do not circulate this email with those items included to your staff given the prior history of leaks to the NBA, etc. NBA just might be interested in those tidbits.

Highlights:

1. When approved by 2/3 of a quorum of the current Player Representatives (Executive Committee will not vote), the Resolution Restructuring the NBPA does several key things. Among other things, it: (a) outlines the reasons for the disclaimer and approves the amendments to the By-laws; (b) approves the necessary amendments to the Certificate of Incorporation; (c) approves transfer of all assets, etc. to the restructured NBPA; (d) ratifies your employment contract as required by the prior By-Laws, which was never done; (e) authorizes the transfer of the "strike" fund to the NBPA's general operating fund; and (f) ratifies all the prior acts by you and the Executive Committee that were likely ultra vires under Delaware law because the Executive Committee was not properly constituted as "Directors" under the original Certificate of Incorporation or Bylaws.

2. The vote on the Resolution is a big deal. Although a written notice or specific advance notice is not required to convene a special meeting of the Player Reps, to avoid second-guessing, we strongly recommend that the NBPA give written notice (by email is fine) with at least five days warning of a special video or telephonic meeting of the Player Reps to consider and potentially vote on the Resolution. You want unanimous approval of this thing. The last thing in the world the NBPA needs right now is to vote on a bare quorum (16 Player Reps) and have a bunch of Player Reps blogging and tweeting about how they were cut out of the loop and oppose the Resolution or some part of it.
3. Best practice would be to: (a) notify the Player Reps via email five (or more) days in advance that the NBPA will be sending them the draft documents for review on a specified date, setting a time the following day for discussion and a potential vote if no issues arise; (b) send the draft documents to the Player Reps via email five (or more) days later (you want to give notice of the meeting, but you don't want those documents floating around for an extended period); (c) conduct a Player Rep session the day after you send the documents at the specified time where you and I brief the Player Reps on the contents; and (d) you call for questions and discussion at the end of the briefing; if you feel good about support, you call for a voice vote by the Player Reps; if you get the voice vote you want, you ask the Player Reps to mark their written ballots (which are attached to the Resolution) and email or fax them in; if you do not like the voice vote result or do not call for a voice vote in the first instance because you don't like what you are hearing, you tell the group that you will consider everyone's input and propose a revised draft that you will circulate in short order; we then end the call and regroup.
4. The Amended and Restated Certificate of Incorporation: (a) transitions the NBPA to a 501(c)(6) professional association; (b) defines the NBPA's governing structure; and (c) incorporates "Alternate Player Representatives" into the governing structure with voting rights defined by the By-Laws.
5. The new By-Laws (a) transitions the NBPA from labor organization to professional association; (b) links the By-Laws to the Certificate of Incorporation; (c) gives the Executive Committee "Director" status; (d) creates a Board of Directors including the Executive Committee, Player Reps, and Alternative Player Reps; (e) defines under what circumstances the Alternate Player Reps can vote (only in the absence of the Primary); (f) defines quorum requirements for the newly defined Board of Directors; (g) removes the ability of an Executive Committee member or appointee-by-you to fill in for an unfilled Player Rep vacancy (can't do that under DE law); (h) requires

written notice of Player Rep meetings to elect Officer/Directors; and (i) provides for video and teleconference meetings.

6. **Important note:** The prior By-Laws did not comply with DE law regarding the role of the "Alternate" or "Assistant" Players Representatives. In sum, there is no such thing as an "alternate" or "assistant" Director under DE law. One is either a Director or not. If one is empowered to vote as a Director under certain circumstances (i.e., absence of the Primary), one is a Director at all times, albeit with limited voting rights. Under DE law, a Director (regardless of voting rights) has a fiduciary duty to be informed of all corporate business so the Director can make informed decisions. What this means is that going-forward, Alternate Player Reps must be invited to and attend all Player Rep meetings and get copied on all Player Rep info, correspondence, reports, and updates. Otherwise, they cannot perform their fiduciary duty and cannot simply "step in" if the Primary Player Rep cannot make a meeting or a vote. ***This change will require some education for the Alternate Player Reps.***

Steven D. Wheeless
Steptoe & Johnson LLP
201 E. Washington Street, Suite 1600
Phoenix, AZ 85004
(602) [REDACTED]
sweeless@[REDACTED]

IMPORTANT: This e-mail is intended only for the use of the individual or entity to which it is addressed. It may contain information that is confidential, ATTORNEY-CLIENT PRIVILEGED, ATTORNEY WORK PRODUCT, or otherwise protected from disclosure under applicable law. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this transmission or its contents is strictly prohibited. If you have received this transmission in error, please notify us by telephoning (602) 257-7705 and deleting the message from your inbox and also from your "trash" or "deleted items" or other equivalent location.

EXHIBIT 16

Message

From: Hunter, Alexis [ahunter@████████]
Sent: 1/4/2012 11:43:24 AM
To: G. William Hunter (william.hunter@████████) [william.hunter@████████]
Subject: NBPA Bylaws and Constitution

BH,

Are you ready for Steptoe to move forward with updating the NBPA Bylaws and Constitution as you and Steve discussed in December? Let me know. Thanks.

Alexis Hunter
Steptoe & Johnson LLP
750 Seventh Avenue
New York, NY 10019
(212) ██████████
ahunter@████████

EXHIBIT 17

Message

From: Theresa Messer [Theresa.Messer@████████]
Sent: 10/29/2008 10:37:47 AM
To: G. William Hunter [/o=National Basketball Players Assoc./ou=Exchange@NBPA_NY/cn=Recipients/cn=SMTP:William.Hunter]
Subject: FW: Vacation Accrual

BH,

Your vacation accrual amounts to \$1,214,753.85 which is equivalent to approximately 137 days. I also attached my original email to you regarding this matter as a reference for your call to the Executive Committee. Please let me know what they agree to.

Thank you,

Theresa

From: Theresa Messer [mailto:Theresa.Messer@████████]
Sent: Tuesday, April 08, 2008 5:47 PM
To: 'William Hunter'
Subject: Vacation Accrual

BH,

As you can see below, your vacation accrual is over \$1,000,000, which represents approximately 124 days. This is a huge unsecured liability on our balance sheet that given your vacation history, will continue to increase at a rate of approximately 3 vacation days or \$26,500 per month. Our auditors, Calibre, have asked in the past what our plans are regarding this subject. They mentioned that it is very unusual to have a vacation accrual so large on a company's financial statements. Normally, vacation accruals are capped at a certain amount. Given the size of this liability, it may be a good idea to request the board to pay you a portion of your accrued vacation (at least half) before our fiscal year ends. Please let me know what you think.

Sincerely,

Theresa

From: Shelia Thompson [mailto:Shelia.Thompson@████████]
Sent: Tuesday, April 08, 2008 11:31 AM
To: Theresa Clark-Messer
Subject: Payroll Accrual - 63008.xls

His vacation accrual through March is 1.095M if he continues through June with zero days used it will increase to 1.172M

EXHIBIT 18

Message

From: Billy Hunter [William.Hunter@██████]
Sent: 10/28/2008 4:05:34 PM
To: Theresa Messer [/o=National Basketball Players
Assoc./ou=Exchange@NBPA_NY/cn=Recipients/cn=SMTP:Theresa.Messer]
Subject: Accumulated Annual leave

Theresa—due to your suggestion and the economic meltdown I have concluded it is prudent to cash out my annual leave. Please tell me the amount of my accumulated leave and its value so I can forward the info to the NBPA Executive Committee.

EXHIBIT 19

Message

From: Billy Hunter [William.Hunter@████████]
Sent: 10/29/2008 6:41:27 PM
To: 'Derek Fisher' [DDLLFF2@████████]; 'afoyle3131@████████' [afoyle3131@████████]; 'mrkeyon5@████████' [mrkeyon5@████████]; 'Dikembem@████████' [Dikembem@████████]; 'Theo Ratliff' [shotblocker@████████]; 'malik.j@████████' [malik.j@████████]; 'E Snow' [Eric@████████]; 'Etan Thomas' [akhenaton_36@████████]; 'pjg823@████████' [pjg823@████████]
Subject: Accrued Vacation Leave

October 29, 2008

TO: President Derek Fisher
1st Vice President Adonal Foyle
Vice President Keyon Dooling
Vice President Dikembe Mutombo
Vice President Theo Ratliff
Vice President Malik Rose
Vice President Eric Snow
Vice President Etan Thomas
Secretary/Treasurer Pat Garrity
FM: G. William Hunter
RE: Accrued Annual Leave

Gentlemen:

Accompanying this letter is a transmission of the email which I received on April 8, 2008 by Theresa Messer, Chief Financial Officer of the NBPA concerning the annual leave I have accrued over the past 12 years. Under the terms of my employment contract with the NBPA I receive 6 weeks vacation leave and 10 sick days leave per annum.

As the email indicates during the past 12 ½ years I have accrued 137 days in paid vacation leave totaling \$1,214,735.85. A brief capsule of the NBPA's history will help to explain how I accrued so much annual leave.

In 1994, the NBA/NBPA Collective Bargaining expired and a one (1) year moratorium was adopted prohibiting a lockout or strike. 1994 was also the year in which the Buck Williams anti-trust lawsuit was filed against the NBA. In April 1995, Charlie Grantham was terminated as NBPA Executive Director for allegedly mismanaging union funds and replaced by Simon Gourdine who had served as General Counsel of the union. In June 1995 Simon Gourdine and President Buck Williams negotiate a new labor agreement with the NBA which was rejected by a majority

of player reps led by Michael Jordan, Patrick Ewing, and Alonzo Mourning. The union membership is split down the middle with both factions fighting for control. In July 1995 a lockout is imposed by the NBA which lasts three months until September. With neither side willing to compromise the Jordan-Ewing faction calls for the decertification of the union.

In September 1995 the players vote on whether to accept the NBA's offer and reject decertification, or reject the NBA's offer and endorse decertification. A majority of players choose to line-up behind Buck Williams and Charles Smith and vote to ratify the NBA's offer. In January 1996, Simon Gourdine was removed as Executive Director of the NBPA and Alexis English appointed as interim director. In February 1996, I was selected as 1 of 3 finalists for the position but when I arrived in San Antonio for my interview I was informed the Executive Committee and Player Reps wanted to conduct a nationwide search. In June 1996, I was selected from a pool of 15 candidates, by a committee of 33 NBA players, to serve as NBPA Executive Director. At the time of my selection I was asked if I would be able to re-unite the players.

The first two years of my tenure were spent traveling around the country meeting NBA players and urging them to become active in the union. In 1998-99 we were embroiled in a 7 months NBA imposed lockout. Due to my responsibilities and activities I have routinely been unable to take vacation leave; so it was agreed early on that I would be allowed to accrue my annual leave. The agreement originated with President Buck Williams and has continued through President's Patrick Ewing, Michael Curry, Antonio Davis, up to the present. Over the past 12 ½ years my duties and responsibilities have expanded along with the growth in size and role of the union making it difficult for me to utilize my leave. I did utilize some leave two years when I underwent knee replacement surgery. I did not realize how much compensation I was due until Theresa brought it to my attention.

During my tenure I realized that my staff is more dedicated and responsible when I am present in the office so I tend not to take leave. On those occasions when I am away from the office I maintain daily contact with the person appointed to supervise the office in my absence. Over the years I have developed a practice of arriving early and leaving late which includes visiting players prior to the start of Knicks and Nets games. Consequently, due to my work habits, dedication to the union and NBA players, and required presence I have accrued a significant amount of leave.

Based on the above, I am requesting that the Executive Committee authorize Theresa Messer to pay me for all and/or a percentage of the 137 days of paid leave I have accrued. I will have Theresa provide each of you with appropriate documentation, as well as schedule a conference call to discuss the matter.

EXHIBIT 20

From: Theresa Messer [Theresa.Messer@████████]
Sent: Thursday, October 30, 2008 2:29 PM
To: 'pjg823@████████'
Cc: 'Derek Fisher'; 'afoyle3131@████████'; 'Keyon Dooling'; 'dikembem@████████'; 'Theo Ratliff'; 'malik.j@████████'; 'Eric Snow'; 'Etan Thomas'; 'William Hunter'
Subject: RE: Mr Hunter's compensation request

According to his contract he can accrue days indefinitely. However, the NBPA vacation accrual policy allows all other employees to accrue only up to 10 days.

From: pjg823@████████ [mailto:pjg823@████████]
Sent: Thursday, October 30, 2008 1:06 PM
To: Theresa Clark-Messer
Cc: Derek Fisher; afoyle3131@████████; Keyon Dooling; dikembem@████████; Theo Ratliff; malik.j@████████; Eric Snow; Etan Thomas; William Hunter
Subject: Re: Mr Hunter's compensation request

Is there any limit stated as to the number of days which an employee can accrue? Is there a point at which accrued days must be used or else expire?

Sent from my BlackBerry® wireless device

From: "Theresa Messer" <Theresa.Messer@████████>
Date: Thu, 30 Oct 2008 12:14:41 -0400
To: 'Patrick Garrity' <pjg823@████████>
CC: 'Derek Fisher' <ddllff2@████████>; <afoyle3131@████████>; <mrkeyon5@████████>; <dikembem@████████>; 'Theo Ratliff' <shotblocker@████████>; <malik.j@████████>; 'Eric Snow' <e13ice@████████>; 'Etan Thomas' <Akhenaton_36@████████>; G. William Hunter <William.Hunter@████████>
Subject: RE: Mr Hunter's compensation request

According to the vacation policy in the NBPA's employee manual, accrued vacation time is paid when an employee terminates his/her employment. This practice is customary for most companies.

Mr. Hunter's contract does not address if he can request his unused vacation time in advance, however Glenn Eyrich of Calibre has recommended that the Executive Committee consider paying him at least a portion due to the size of the liability.

Theresa

From: Patrick Garrity [mailto:pjg823@████████]
Sent: Thursday, October 30, 2008 11:23 AM
To: Theresa Clark-Messer
Cc: Derek Fisher; afoyle3131@████████; mrkeyon5@████████; dikembem@████████; Theo Ratliff; malik.j@████████; Eric Snow; Etan Thomas; William Hunter
Subject: Re: Mr Hunter's compensation request

Theresa

I'm a little confused on the vacation policy in general. Is it customary for union employees to be compensated for vacation time which has been accrued over a long period of time? Is there a company wide policy addressing this? Is there language in his contract which provides for him to request compensation for used vacation time?

Pat

On Thu, Oct 30, 2008 at 11:09 AM, Theresa Messer <Theresa.Messer@████████> wrote:

Hi Pat,

How are you? I hope all is well and you are enjoying your retirement thus far!

According to Paragraph 4 of his employment contract "Mr. Hunter shall accrue seven (7) weeks paid vacation per year which vacation may be carried forward from year to year; provided, however that he shall not take any vacation in excess of five (5) consecutive weeks without prior approval of the Executive Committee.".

The total amount of his vacation accrual is a liability on the NBPA's balance sheet. Yes, we have expensed the increase of the liability each year of his tenure.

Please let me know if you have any additional questions.

Sincerely,

Theresa

From: Patrick Garrity [mailto:pjg823@████████]
Sent: Thursday, October 30, 2008 10:13 AM
To: Theresa Clark-Messer
Cc: Derek Fisher; afoyle3131@████████; mrkeyon5@████████; dikembem@████████; Theo Ratliff; malik.j@████████; Eric Snow; Etan Thomas
Subject: Mr Hunter's compensation request

Theresa

Could you please send me the NBPA's vacation/sick day compensation policy as it relates to Mr Hunter? Also, has the vacation/sick day compensation he is requesting now been expensed over the last 12 years? Thank you.

Pat Garrity

EXHIBIT 21

MINUTES OF THE NBPA EXECUTIVE COMMITTEE ALL STAR BREAK MEETING

HELD AT

SHERATON PHOENIX DOWNTOWN
Phoenix, AZ

FEBRUARY 14, 2009

Committee Members Present:

Derek Fisher, President;
Adonal Foyle, First Vice President;
Keyon Dooling, Vice President;
Dikember Mutumbo, Vice President

Also Present:

G. William Hunter, Executive Director
Gary Hall, General Counsel;
Ron Klempner, Associate Counsel;
Hal Biagas, Deputy Counsel
Theresa Messer, Director of Finance;
Kendalle Freeman, NBPA;
Todd Hunter, Prim Capital
Carolyn Kaufman, Prim Capital

I. Meeting Called to Order

II. Investment Report of Prim Capital, Inc.

Ms. Kaufman of Prim Capital reviewed Prim Capital's written performance report for the period ending December 31, 2008. She discussed the market conditions, distribution of assets by class and results as compared to market benchmarks.

Ms. Kaufman reported that General assets are recovering from a downturn in the market. Reserve assets are beating indices and Merchandising has seen a 7.1% gain since inception of adjustments made in late 2008.

Ms. Kaufman discussed the investment of assets and their compliance with the set investment policy. She stated that in some instances the assets are not in compliance but due to market conditions the Investment Committee approved this in previous discussions.

Ms. Kaufman reported that Prim Capital is in discussion with Paradigm recommending that the investment manager design a product specifically for the NBPA in order to ensure liquidity. As a result, the NBPA's assets would remain available regardless of market conditions.

At the time of this meeting Prim did not recommend any changes in investment strategy.

III. FLORIDA REAL ESTATE INVESTMENT

Ms. Messer reported that this product is in partnership with Doral Arc Investments. The possible return of this investment is 13%.

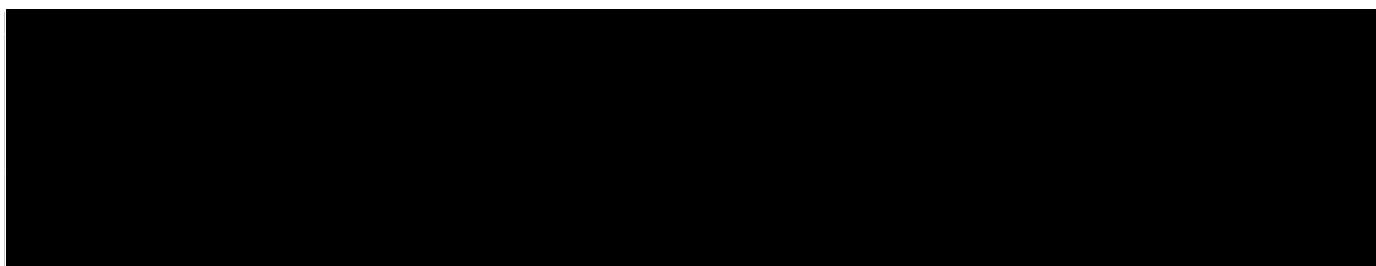
IV. DONATION TO CHARITABLE ORGANIZATIONS

Mr. Hunter reported that the NBPA would be making a contribution to the Hopi Foundation in the amount of \$50,000 out of the NBPA Foundation. Also discussed were the projects on the table in partnership with Feed the Children and Rehabilitate America. The Rehabilitate America contribution is in partnership with the NBA.

V. EXECUTIVE COMMITTEE ELECTIONS

Mr. Hunter reported that there are seven open positions on the executive committee. Elections will take place during the Annual Conference in June, 2009. Mr. Hunter stated that current members should begin identifying player suitable. Particularly, those who understand the process and are aware of the time that will be required of them with the start of negotiations approaching.

VI. UPCOMING NEGOTIATIONS



VII. VARIOUS UNION TOPICS

Banished players- Mr. Biagas discussed the issue of teams banishing players. These players being Stephon Marbury, Jamaal Tinsley and Antoine Walker. Mr. Biagas discussed the present negotiations with the New York Knicks vs. Stephon Marbury as well as the Indiana Pacer vs. Jamaal Tinsley.

Competition Committee-Mr. Fisher reported that various topics including the player dress code and scheduling issues were discussed. Mr. Fisher proposed an NBPA blazer and polo shirt be issued to all players to be worn during times when the dress code is enforced. Other issues were scheduling of games and team events during holidays

Player Services- Mr. Hunter announced the appointment of Robyn Hunter as Director of Player Concierge Services. In response to complaints that player requests have not been handled properly and the development of such services by Cigna Healthcare (provider of NBA Player medical and dental benefit) the union's response was to create this position. Ms. Hunter will provide assistance to all players ranging from selection of schools to real estate purchasing.

Player Pension Plan- Ron Klempner reported that a call into NBA counsel Norman Misher has been scheduled to discuss the underfunding of the Plan.

Supplemental Benefit Plan- Mr. Klempner reported that administrative issues have slowed the process of rolling out the new debit card option. POMCO the administrator has promised that it is trying to resolve these issues.

Executive Director Vacation Accrual Pay-Out - The committee as a whole discussed Mr. Hunter's request that the NBPA payout the entire amount of his accrued vacation totaling approximately \$1.3M. This request was made after discussions with NBPA auditors Calibre CPA with their concern being that the liability was becoming too large. As reported by Ms. Messer a payment of \$650,000 was made on 12/31/2008. The committee agreed unanimously that the second payment be made no later than March 1, 2009.

EXHIBIT 22

2014 Attendance Calendar

Absence Codes	
A	Absent
T	Tardy
L	Layoff
LE	Left Early
O	Other

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Self or family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA

Name	Hunter, William
Dept.	Exec Dir
Position	Executive Director
Address	[REDACTED]
Street	[REDACTED]
City	[REDACTED]
State	[REDACTED]
ZIP Code	[REDACTED]
Phone (212)	[REDACTED]

JANUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	A6	4	5	6	7	
8	9	10	11	12	AC	14	
15	16	17	18	19	AD	21	
22	23	24	25	26	27	28	
29	30	31					

FEBRUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			V	2	3	4	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	V	V				

MARCH							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			V	2	3	4	
4	5	6	V	8	9	10	
11	12	13	14	15	16	17	
18	19	20	V	22	23	24	
25	26	27	28	29	30	31	

APRIL							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	V	14	
15	V	17	18	19	V	21	
22	23	24	25	26	V	28	
29	30						

MAY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			V	3	V	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	V	V	V	26	
27	28	29	30	31			

JUNE							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
						1	
3	V	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	

JULY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

AUGUST							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31		

SEPTEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30							

OCTOBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6		
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

NOVEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30		

DECEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

2011 Absentee Calendar

Absence Codes

<input checked="" type="checkbox"/> A	Absent	<input checked="" type="checkbox"/> V	Vacation
<input checked="" type="checkbox"/> T	Tardy	<input checked="" type="checkbox"/> H	Holiday
<input checked="" type="checkbox"/> L	Layoff	<input checked="" type="checkbox"/> P	Partial Hrs. Worked
<input checked="" type="checkbox"/> LE	Left Early		
<input checked="" type="checkbox"/> O	Other		

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Self or family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA
21			

Name	HUNTER, G. WILLIAM
Dept.	EXEC DIR
Position	EXECUTIVE DIRECTOR
Address	[REDACTED]
Street	[REDACTED]
City	[REDACTED]
State	[REDACTED]
ZIP Code	[REDACTED]
Phone	(212) [REDACTED]

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
		1	2	3	4	5	
6	Ab	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	Ab	26	
27	28						

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	V	V	V	V	V	25	
27	28	29	30	31			

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1	2		
3	4	5	6	7	V	9	
10	11	12	13	Ab	Ab	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	V	28	
29	30	31					

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
		1	2	3	4		
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30			

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1	2		
3	4	V	6	7	V	9	
10	V	V	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	V	30	
31							

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
	1	2	3	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
		1	2	3			
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	V	24	
25	26	27	28	29	V	30	

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1			
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30				

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
		1	2	3	4		
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	V	V	V	V	V	

2000 Absentee Calendar

Absence Codes	
A	Absent
T	Tardy
L	Layoff
LE	Left Early
O	Other

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lock of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Self or family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA
21			

Name	HUNTER, GEORGE WILLIAM
Dept.	EXEC. DIR.
Hire Date	7/15/96
Emp. #	
Position	EXECUTIVE DIRECTOR
Address	[REDACTED]
Street	[REDACTED]
City	[REDACTED]
State	[REDACTED]
ZIP Code	[REDACTED]
Phone (212)	[REDACTED]

JANUARY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					2	
3	4	5	6	7	A6	9
10	11	12	13	14	15	16
17	18	A6	V	21	22	25
24	25	26	27	28	A2	30
31						

FEBRUARY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
7	8	9	10	11	12	13
14	15	16	17	18	V	20
21	A2	23	A2	A2		
28						

MARCH						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
7	8	9	10	11	12	13
14	A2		16	17	18	19
21	22	23	24	25	V	27
28	29	A2	A2			

APRIL						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	V	V	24
25	V	27	28	29	30	

MAY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	
2	3	4	5	6	7	8
9	10	V	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JUNE						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	3
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

JULY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

AUGUST						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	3
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	V	21	22	23	24	25
26	27	28	V	V	V	

OCTOBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				V	2	
3	4	5	A2	A2	A2	9
10	11	12	13	14	15	16
17	18	19	V	V	V	23
24	25	V2	V	V	V	30
31						

NOVEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
1	2	3	4	5	6	7
7	8	9	10	11	12	13
14	15	16	17	18	V	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			V	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	V	V	V	V	30	

2009 Absentee Calendar

Absence Codes	
A	Absent
T	Tardy
L	Layoff
LE	Left Early
O	Other

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Self or family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA
21			

Name		Hunter, G. William
Dept.	Executive Dir	Hire Date 7/15/96 Emp. #
Position	Executive Director	
Address	Street	City
		Phone (212) [REDACTED]
	State	ZIP Code

JANUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

FEBRUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	

MARCH							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

APRIL							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4		
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30			

MAY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2		
3	4	5	6	7	8	9	
10	11	12	V	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							

JUNE							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30					

JULY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4		
5	6	7	8	9	10	11	
12	V	14	15	16	17	18	
19	20	21	22	V	24		
26	V	V	V				

AUGUST							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1			
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

SEPTEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	V	4	5		
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	V	V	26	
27	V	V	V				

OCTOBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		V	V		3		
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	V	30	31	

NOVEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	V	21	
22	23	24	25	26	27	28	
29	30						

DECEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	4	5		
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			

2008 Absentee Calendar

Absence Codes	
A	Absent
T	Tardy
L	Layoff
LE	Left Early
O	Other

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Salf or family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA
21			

Name	HUNTER, G. WILLIAM
Dept.	Exec. Dir.
Hire Date	7/15/96
Emp. #	
Position	Executive Director
Address	[REDACTED]
State	
City	
Phone	(212) [REDACTED]
Z.P. Code	

JANUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			

FEBRUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				A2		2	
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29		

MARCH							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	A2	A2	A2	A2	A2	A2	
23	A2		25	26	27	28	29
30	31						

APRIL							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	A6	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30				

MAY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				A2	8	9	10
4	5	6	A2	11	12	13	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

JUNE							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30						

JULY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	NB	4	5	
6	7	8	A6	10	11	12	
13	14	15	16	17	18	19	
20	V	22	23	24	25	26	
27	28	29	30	31			

AUGUST							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
3	4	5	6	7	V	9	
10	11	12	13	V	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							

SEPTEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	V	17	18	19	20	21	
21	V	23	24	25	26	27	
28	29	30	31				

OCTOBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
5	V	7	8	V	V	11	
12	13	V	15	16	V	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31		

NOVEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1		
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30							

DECEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
7	8	9	10	11	12	13	
14	15	A2	A2	V	18	19	
21	22	23	24	25	26	27	
28	29	30	31				

2007 Absentee Calendar

Absentee Codes	
A Absent	V Vacation
T Tardy	H Holiday
L Layoff	P Partial Hrs Worked
LE Left Early	
O Other	

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Self or Family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA
		21	

Name	HUNTER, G. WILLIAM
Dept.	Executive
Hire Date	7/15/96
Emp. #	
Position	Executive Director
Address	[REDACTED]
Street	
City	
State	
ZIP Code	
Phone (212)	[REDACTED]

JANUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	A2	A2	A2	A2	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28				

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	Ab	13	14	15	16	
18	19	20	21	22	23	24	
25	26	27	A2	28	29	30	

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	V	7	
8	V	V	V	12	A-11	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2		
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	V	V	21	
22	V	V	V	V	V	28	
29	30	31					

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4		
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30	H		

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1			
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30							

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	V	5	6	
7	8	9	10	V	V	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4		
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	20		

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	V	V	V	29	
30	31						

2006 Absentee Calendar

Absence Codes

<input type="checkbox"/> A	Absent
<input type="checkbox"/> T	Tardy
<input type="checkbox"/> L	Layoff
<input type="checkbox"/> LE	Left Early
<input type="checkbox"/> O	Other

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Self or family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA
21			

Name	HUNTER, WILLIAM
Dept.	EXECUTIVE
Hire Date	7/15/96
Emp. #	
Position	EXECUTIVE DIRECTOR
Address	[REDACTED]
Street	[REDACTED]
City	[REDACTED]
Phone	(212) [REDACTED]
State	[REDACTED]
ZIP Code	[REDACTED]

JANUARY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	A6				

FEBRUARY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

MARCH						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	V	V	V	V	V	V

APRIL						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
2	V	4	5	6	7	8
9	10	11	12	13	V4	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

MAY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
		1	2	3	4	5
7	A8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

JUNE						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					V	3
4	5	6	7	8	9	10
11	12	13	14	15	V	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

JULY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	
7	8	9	10	11	12	13
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	V					

AUGUST						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
		1	2	V	4	5
6	7	8	9	10	11	12
13	14	V	16	17	V	19
20	A21	A22	A23	A24	A25	26
27	A28	A29	A30	A31		

SEPTEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					A3	2
3	4	A5	A6	A7	A8	9
10	A11	A12	A13	A14	A15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

OCTOBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	V	24	25	26	27	28
29	A30	31				

NOVEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
		1	2	V	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

2005 Absentee Calendar

Absence Codes	
A	Absent
T	Tardy
L	Layoff
LE	Left Early
V	Vacation
H	Holiday
P	Partial Hrs. Worked
O	Other

TIP: Use red ink to denote an unexcused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in Family
2	Sick (Employee)	12	Jury Duty/Court
3	Family Sickness	13	Birthday
4	Accident - Self or family - off site	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	FMLA

Name	HUNTER, WILLIAM
Dept.	
Position	EXECUTIVE DIRECTOR
Address	[REDACTED]
Street	
City	
State	
ZIP Code	
Phone	DW

JANUARY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	A2	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			1	2	3	4
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	A6	24	25	26
27	28					

MARCH						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				2	3	4
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			2	3	A2	
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	
3	4	V	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

AUGUST						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
		2	3	4	5	6
7	8	9	10	11	12	13
14	V	16	V	18	19	20
21	22	23	24	V	V	27
28	V	V	V			

SEPTEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
					V	V
					3	
4	5	6	7	8	9	10
11	V	V	V	V	V	17
18	19	20	21	22	23	24
25	A2	A2	A2	A2	A2	A2

OCTOBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1		
2	A2	A2	A2	A2	A2	8
9	10	11	12	13	14	15
16	A2	A2	A2	A2	A2	21
23	A2	A2	A2	A2	A2	29
30	A2					

NOVEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			A2	A2	A2	5
			8	9	10	11
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER						
Sun	Mon	Tue	Wed	Thur	Fri	Sat
			1	2	3	
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	V	V	V	V	V
27	28	29	30			

2004 Absentee Calendar

Absence Codes

<input type="checkbox"/> A	<input checked="" type="checkbox"/> V	Vacation
<input type="checkbox"/> T	<input checked="" type="checkbox"/> H	Holiday
<input type="checkbox"/> L	<input checked="" type="checkbox"/> P	Partial Hrs Worked
<input type="checkbox"/> LE	<input checked="" type="checkbox"/> O	Other _____

Red number denotes an unexcused absence.
Black number denotes an excused absence.

No. Reason

- | | |
|----|--------------------------------------|
| 1 | Lack of Work |
| 2 | Sick (Employee) |
| 3 | Family Illness |
| 4 | Accident - Self or family - off site |
| 5 | Injury on Job |
| 6 | Personal |
| 7 | Discipline |
| 8 | Leave of Absence |
| 9 | Transportation |
| 10 | Unknown |

No. Reason

- | | |
|----|------------------|
| 11 | Death in Family |
| 12 | Jury Duty/Court |
| 13 | Birthday |
| 14 | Military |
| 15 | Weather |
| 16 | Medical Appt. |
| 17 | Recognition |
| 18 | Floating Holiday |
| 19 | Comp. Time |
| 20 | FMLA |

Name	HUNTER, WILLIAM
Dept.	
Position	EXECUTIVE DIRECTOR
Address	[REDACTED]
State	[REDACTED]
ZIP Code	[REDACTED]
Phone	6214

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29							

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
	1	2	3	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30		

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
					1		
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	Ab	28	29	
30	31						

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	A-C	V	V	V	24	25	26
27	28	29	30				

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
1	2	3	4	5	V	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	V	V	V	V	V	V	
29	V	V					

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
					V	V	4
5	6	7	V	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30			

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1	2		
3	4	5	6	7	8	9	
10	11	12	13	14	V	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
A2	A2	A2	A2	A2	A2	5	6
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30					

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat	TOTAL
				1	2	3	4
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	V	V	V	V	V	V	

2001 Absentee Calendar

Absence Codes

A Absent **V** Vacation

T Tardy **H** Holiday

L Layoff **P** Partial Hrs.

LE Left Early

Red number denotes
an unexcused absence.

Black number denotes
an excused absence.

No. Reason No. Reason

- 1 Lack of Work 10 Unknown
- 2 Sick (Employee) 11 Death in family
- 3 Family sickness 12 Jury Duty/Court
- 4 Accident - Self or 13 Birthday
- family - off site 14 Military
- 5 Injury on Job 15 Weather
- 6 Personal 16 Medical Appt.
- 7 Discipline 17 Recognition
- 8 Leave of Absence 18 Floating Holiday
- 9 Transportation 19

Name <u>HUNTER, WILLIAM</u>	Dept.	Hire Date <u>7/15/96</u>	Emp. #
Position <u>EXECUTIVE DIRECTOR</u>	Address	City _____	
Phone <u>(24)</u>	Zip Code		

JANUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				2	3	4	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31		

FEBRUARY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28		
30	31						

MARCH							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

APRIL							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			

MAY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
4	5	6	7	8	9	10	
11	12	13	14	V	V	17	
18	V	20	21	22	23	24	
25	26	27	28	29	30	31	

JUNE							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30						

JULY							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
V	2	V	4	5			
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			
-							

AUGUST							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
3	4	V	V	7	8	9	
10	11	V	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	V	29	30	
31							

SEPTEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	V	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

OCTOBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
5	6	7	8	9	10	11	
12	13	V	V	V	V	18	
19	V	21	22	23	24	25	
26	27	28	29	30	31		

NOVEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1			
2	V	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30							

DECEMBER							
Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
21	22	23	24	25	26	27	
28	29	30	31				

2002 Absentee Calendar®

Absence Codes

<input checked="" type="checkbox"/> A	Absent	<input checked="" type="checkbox"/> V	Vacation
<input checked="" type="checkbox"/> T	Tardy	<input checked="" type="checkbox"/> H	Holiday
<input checked="" type="checkbox"/> L	Layoff	<input checked="" type="checkbox"/> P	Partial Hrs. Worked

 Red number denotes an unexcused absence.

 Black number denotes an excused absence.

No. Reason

- | | |
|----|--------------------------------------|
| 1 | Lack of Work |
| 2 | Sick (Employee) |
| 3 | Family sickness |
| 4 | Accident - Self or family - off site |
| 5 | Injury on Job |
| 6 | Personal |
| 7 | Discipline |
| 8 | Leave of Absence |
| 9 | Transportation |
| 10 | Unknown |
| 11 | Death in family |
| 12 | Jury duty/Court |
| 13 | Birthday |
| 14 | Military |
| 15 | Weather |
| 16 | Medical Appt. |
| 17 | Recognition |
| 18 | Floating Holiday |
| 19 | Comp. Time |
| 20 | Family Leave |
| 21 | |

No. Reason

Name	HUNTER, C. WILLIAM
Dept.	
Position	EX. DIR
Hire Date	7/15/96
SS #	
Address	
State	
City	
Phone	(210) [REDACTED]
Zip Code	

JANUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
		6	7	8	9	10	12
		13	14	15	16	17	19
		20	21	22	23	24	25
		27	28	29	30	31	

FEBRUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
		3	4	5	6	7	
		10	11	12	13	14	
		17	18	19	20	21	23
		24	25	26	27	28	

MARCH

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
		3	4	5	6	7	9
		10	11	12	13	14	16
		17	18	19	20	21	23
		24	25	26	27	28	30
		31					

APRIL

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	4	5	6	
	7	8	9	10	11	12	13
	14	15	16	17	18	19	20
	21	22	23	24	25	26	27
	28	29	30				

MAY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
		5	6	7	8	9	11
		12	13	14	15	16	18
		19	20	21	22	23	25
		26	27	28	29	30	31

JUNE

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1		
		2	3	4	5	6	8
		9	10	11	12	13	15
		16	17	18	19	20	22
		23	24	25	26	27	29
		30					

JULY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	4	5	6	
	7	8	9	10	11	12	
	14	15	16	17	18	19	20
	21	22	23	24	25	26	27
	28	29	30	31			

AUGUST

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
	4	5	6	7	8	9	
	11	12	13	14	15	16	
	18	19	20	21	22	23	24
	25	26	27	28	29	30	31

SEPTEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30						

OCTOBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
	6	7	8	9	10	11	12
	13	14	15	16	17	18	19
	20	21	22	23	24	25	26
	27	28	29	30	31		

NOVEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2		
	3	4	5	6	7	8	
	10	11	12	13	14	15	16
	17	18	19	20	21	22	23
	24	25	26	27	28	29	30

DECEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30						

2001 Absentee Calendar®

Absence Codes

<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Vacation
<input checked="" type="checkbox"/> Tardy	<input type="checkbox"/> Holiday
<input checked="" type="checkbox"/> Layoff	<input type="checkbox"/> Partial Hrs.
<input checked="" type="checkbox"/> Worked	

Red number denotes
an unexcused absence.

Black number denotes
an excused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in family
2	Sick (Employee)	12	Jury duty/Court
3	Family sickness	13	Birthday
4	Accident - Self or family - out of plan	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	Family Leave
21			

Name	HUNTER, G. WILLIAM
Dept.	Position EX. DIR
Address	City _____
State _____	Phone # 4127
Zip Code _____	
Hire Date	1/15/96
SS #	

JANUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

FEBRUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28				

MARCH

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

APRIL

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30						

MAY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
6	7	8	A-2	A-2	A-2	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			

JUNE

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	

JULY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

AUGUST

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	V	V		

SEPTEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1		
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30							

OCTOBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	V	4	5	6	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

NOVEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
4	5	V	A-2	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30		

DECEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1		
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

2000 Absentee Calendar®

Absence Codes

<input checked="" type="checkbox"/> A	Absent	<input checked="" type="checkbox"/> V	Vacation
<input checked="" type="checkbox"/> T	Tardy	<input checked="" type="checkbox"/> H	Holiday
<input checked="" type="checkbox"/> L	Layoff	<input checked="" type="checkbox"/> P	Partial Hrs
			Worked

Red number denotes an unexcused absence.

Black number denotes an excused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in family
2	Sick (Employee)	12	Jury duty/Court
3	Family sickness	13	Birthday
4	Accident - Self or family - out of plant	14	Military
5	Injury on Job	16	Weather
6	Personal	17	Medical Appt.
7	Discipline	18	Recognition
8	Leave of Absence	19	Floating Holiday
9	Transportation	20	Comp. Time
10	Unknown	21	Family Leave

Name	HUNTER, G. WILLIAM
Dept.	
Address	
Phone	(212) 7/15/96
Hire Date	SS #

JANUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

FEBRUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	12
13	14	15	16	17	18	19	
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27	A-2	29					

MARCH

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31		

APRIL

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
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MAY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

JUNE

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30		

JULY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
						1	
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

AUGUST

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			

SEPTEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30		

OCTOBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

NOVEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
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5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30			

DECEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							

1999 Absentee Calendar®

Absence Codes

<input checked="" type="checkbox"/> A	Absent	<input checked="" type="checkbox"/> V	Vacation
<input checked="" type="checkbox"/> T	Tardy	<input checked="" type="checkbox"/> H	Holiday
<input checked="" type="checkbox"/> L	Layoff	<input checked="" type="checkbox"/> P	Partial Hrs Worked

Red number denotes an unexcused absence.

Black number denotes an excused absence.

No.	Reason	No.	Reason
1	Lack of Work	11	Death in family
2	Sick (Employee)	12	Jury duty/Court
3	Family sickness	13	Birthday
4	Accident - Self or family - out of plant	14	Military
5	Injury on Job	15	Weather
6	Personal	16	Medical Appt.
7	Discipline	17	Recognition
8	Leave of Absence	18	Floating Holiday
9	Transportation	19	Comp. Time
10	Unknown	20	Family Leave
21			

Name	WINTER, G. William	
Dept.	Position	Emp. #
Address	Street	City
Date	To/From	Phone ()
Hire Date	SS #	

JANUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							

FEBRUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	6
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28							

MARCH

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30	31				

APRIL

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30		

MAY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1		
2	3	4	5	6	7	8	
9	10	11	12	13	14		
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
30	31						

JUNE

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30				

JULY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

AUGUST

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

SEPTEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31		

OCTOBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2		
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							

NOVEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30					

DECEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4		
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31		

1998 Absentee Calendar®

Absence Codes

<input checked="" type="checkbox"/> A	Absent	<input type="checkbox"/> P	Partial Hrs. Worked
<input checked="" type="checkbox"/> T	Tardy	<input type="checkbox"/> H	Holiday
<input checked="" type="checkbox"/> V	Vacation	<input type="checkbox"/> L	Layoff

Red number denotes an unexcused absence.

Black number denotes an excused absence.

No. Reason

- 1 Lack of Work
- 2 Sick (Employee)
- 3 Family sickness
- 4 Accident - Self or family - out of plant
- 5 Plant injury
- 6 Personal
- 7 Discipline
- 8 Leave of Absence
- 9 Transportation
- 10 Unknown
- 21

No. Reason

- 11 Death in family
- 12 Jury duty / Court
- 13 Birthday
- 14 Military
- 15 Weather
- 16 Medical Appt.
- 17 Recognition
- 18 Floating Holiday
- 19 Comp. Time
- 20 Family Leave

Name Hunter, G. William

Employee # _____

Social Security # _____

Address _____

Phone () _____

Dept. _____ Hire Date 7/15/96

Position Executive Director

JANUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
				1	2	3	
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

FEBRUARY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	4	5	6	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	

MARCH

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
	1	2	3	A2	A2	A2	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30	31					

APRIL

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30			

MAY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1	2	
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							

JUNE

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30					

JULY

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3	4	
5	6	7	8	9	10	11	
12	13	14	15	16	17	18	
19	20	21	22	23	24	25	
26	27	28	29	30	31		

AUGUST

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
					1		
2	3	4	5	6	7	8	
9	10	11	12	13	14	15	
16	17	18	19	20	21	22	
23	24	25	26	27	28	29	
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SEPTEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	V	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30				

OCTOBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
			1	2	3		
4	5	6	7	8	9	10	
11	12	13	14	15	16	17	
18	19	20	21	22	23	24	
25	26	27	28	29	30	31	

NOVEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
1	2	3	4	5	6	7	
8	9	10	11	12	13	14	
15	16	17	18	19	20	21	
22	23	24	25	26	27	28	
29	30						

DECEMBER

Sun	Mon	Tue	Wed	Thur	Fri	Sat	TOTAL
		1	2	3	4	5	
6	7	8	9	10	11	12	
13	14	15	16	17	18	19	
20	21	22	23	24	25	26	
27	28	29	30	31			

EXHIBIT 23

National Basketball Players Association -NBPA
Hunter's Responses to Vacation Related Emails
Date Range: November 2002-July 2010

Tab	Email Date	Estimated Event Start Date	Estimated Event End Date	Time-off per Absentee Calendar	Event	Hunter's Responses as of 10/27/12 Interview	Change in Vacation status, per Hunter
1	20-Nov-02	27-Nov-02	Not clear		Trip to Oakland		
1	25-Nov-02	27-Nov-02	8-Dec-02				
2	9-Jan-03	21-Dec-02	8-Jan-03	12/23/2002 12/26/2002	Trips to California		
				12/27/2002 12/30/2002			
				12/31/2002			
3	20-May-03	1-Jul-03	7-Jul-03	7/1/2003	Trip to Las Vegas and then to Oakland		
3	18-Jun-03	23-Jun-03	6-Jul-03	7/3/2003			
3	23-Jun-03	24-Jun-03	6-Jul-03				
3	23-Jun-03	24-Jun-03	6-Jul-03				
4	22-Jul-03	29-Jul-03	10-Aug-03	8/5/2003	Vacation in Oakland		
4	23-Jul-03	29-Jul-03	10-Aug-03	8/6/2003			
5	10-Dec-03	10-Nov-03	10-Dec-03				
5	17-Dec-03	1-Dec-03	17-Dec-03				
6	30-Nov-04	18-Dec-04	2-Jan-05	12/27/2004 12/28/2004	Traveling visiting NBA teams		
				12/29/2004			
				12/30/2004			
7	21-Apr-05	21-Apr-05	21-Apr-05				
7	21-Apr-05	21-Apr-05	21-Apr-05				
8	6-Nov-06	8-Nov-06	14-Nov-06				
8	7-Nov-06	8-Nov-06	14-Nov-06				
8	4-Dec-06	N/A	6-Dec-06				
9	22-Dec-06	22-Dec-06	22-Dec-06				
9	27-Dec-06	Not Clear	Not Clear				
9	11-Jan-07	24-Dec-06	8-Jan-07				
10	23-Sep-09	24-Sep-09	3-Oct-09	9/24/2009; 9/25/2009			
10	28-Sep-09	24-Sep-09	3-Oct-09	9/28/2009; 9/29/2009			
10	6-Oct-09	Not Clear	Not Clear	9/30/2009; 10/1/2009			
11	12-Apr-10	10-Jun-10	16-Jun-10	10/2/2009			
11	3-May-10	10-Jun-10	16-Jun-10				
11	7-Jun-10	11-Jun-10	15-Jun-10				

National Basketball Players Association - NBPA
Hunter's Responses to Vacation Related Emails
Date Range: November 2002-July 2010

Tab	Email Date	Estimated Event Start Date	Estimated Event End Date	Time-off per Absentee Calendar	Event	Hunter's Responses as of 10/27/12 Interview	Change in Vacation status, per Hunter
12	7-Jun-10	11-Jun-10	15-Jun-10		House in Maryland	Upon review of emails, confirmed that it must have been a mistake that they did not mark these days as vacation.	Deduct 5 days (6/28-7/2/2010)
12	15-Jun-10	16-Jun-10	16-Jun-10				
12	6-Jul-10	21-Jun-10	25-Jun-10				
12	6-Jul-10	28-Jun-10	2-Jul-10				
Travel I	29-Sep-08	2-Oct-08	15-Oct-08	10/9-10/10 (Thurs-Fri), [10/13=Columbus Day]	Trip to West Coast: Newark to San Francisco, Oakland to LA, return to San Francisco for return flight to Newark	In addition to confirming the flight should have been personal, BH confirmed that he should have taken vacation 10/8 and 10/15.	Deduct 2 days (10/8 and 10/15/08)
Travel I	29-Sep-08	2-Oct-08	9/29/2008				
Travel I	7-Oct-08	7-Oct-08	10/12/2008				
Travel I	7-Oct-08	9-Oct-08	16-Oct-08				
Travel I	7-Oct-08	7-Oct-08	15-Oct-08				
Travel I			14-Oct-08				

Dates for which Billy said he should receive a credit for vacation/sick/personal days recorded incorrectly

	1/8/2010 (Fri)	Date incorrectly recorded as a personal day	Said he met with the Clippers, Warriors, Trailblazers, and Kings over a period of 7 to 8 days	Add 1 personal day (1/8/10)
	2/19/2010 (Fri)	Date incorrectly recorded as a vacation day	On 2/15/10, flew from Dallas to SFO. Said he met with the Basilan Group, a Filipino organization; drove to Stockton to meet with them.	Add 1 day (2/19/10)
	10/6/2010 (Wed)	Date incorrectly recorded as a sick day	This was the night where Billy had to go to the hospital for chest pains. He worked all day, but experienced the pains at night while packing for a trip that he was unable to take.	Add 1 sick day (10/6/10)
	4/8/2011 (Fri)	Date incorrectly recorded as a vacation day	Traveled on 4/7/11 (Thurs) to attend National Bar Association Awards dinner. Should not have taken a vacation day 4/8/11	Add 1 day (4/8/11)
	30-Jan-12	Date incorrectly recorded as a vacation day	Time spent with Don Clay wasn't a personal day	None - date already corrected on calendar

EXHIBIT 24

Message

From: William Hunter [William.Hunter@████████]

Sent: 4/21/2005 7:55:05 AM

To: Megan Inaba [Megan.Inaba@████████]

Hello--do u think it would be appropriate to take off n play a game of golf? To avoid conflict at the office I should limit the group to you, Todd, n me. I am concerned about the conspicuousness of our absence--if you, me, Hal, Ron, n Dan are away. Janice is always sensitive to this issue feeling it alienates others in the office.

Sent from my BlackBerry Wireless Handheld

EXHIBIT 25

Message

From: William Hunter [William.Hunter@████████]

Sent: 4/21/2005 10:53:06 AM

To: Megan Inaba [Megan.Inaba@████████]

Subject: Re:

Say you have a meeting.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Megan Inaba <Megan.Inaba@████████ >

To: William Hunter <William.Hunter@████████ >

Sent: Thu Apr 21 10:52:07 2005

Subject: Re:

Should I say I have meeting or just leave?

Sent from my BlackBerry Wireless Handheld

EXHIBIT 26

From: G. William Hunter [William.Hunter@████████]
Sent: Thursday, January 11, 2007 3:43 PM
To: 'pmcnair@████████'
Subject: RE: Just Checking In

Nook---great hearing from you. I trust your holidays were festive and bountiful and you kicked in the New Year. I spent Christmas and New Year's Eve in Oakland with Janice and Alexis. Robyn, Todd, n Megan were here in NYC. The weather on the west coast not too good so I was sequestered most of the time at home. Did get to see a lot of movies over the holidays and view a lottttt of television. God willing, next Christmas will be spent in Jamaica or some similar spot. Yes, God is good and miraculous--and Jeff is evidence of this fact. I think we also have some strong prayer warriors in the Ville and/or family as evidenced by Daffney, Richie, and now Jeff. We must continue to nurture and promote the connection to Almighty God. As they say, "Jesus is on the prayer line call Him up and tell Him what you want." Unfortunately, not everyone has His number. As the protege of Kenner's and John Holmes he can draw-down on some of their credit. Accordingly, I think Jeff has cleared the dark n roughside of the mountain and the summit is in view. I am sorry you were unable to join Perty, Debbie, and G at the Food Giveaway. We provided about 11,000 families with 85 lbs of food and personal care items. At the last minute, I purchased a trailer load of frozen chickens(6,000) from Perdue which was the icing on the day. It was a sight to see. I may do a small give-away in the Spring in the Ville. Keep your eye on Richie, Daffney, and Jeff. How is your Dad n Rose doing? Take care. BH

-----Original Message-----

From: pmcnair@████████ [mailto:pmcnair@████████]
Sent: Thursday, January 11, 2007 12:04 PM
To: William Hunter
Subject: Just Checking In

Yo Hunt,

Just checking in to see how you and the family are doing in the big apple. I didn't get a chance to talk with you over the holiday and hope you and the family had a good one. I know you have been getting the updates on Jeff and it is truly a blessing what God is doing in the healing process. I got over to see him last week and he is responding fairly well. I know you are and will continue to keep him in prayer. By the way Debbie shared the pictures of your food distribution last month which was an awesome display of love and charity on behalf of the nba players association. Keep up the good work and I will talk with you soon. Keep the Faith!

Nook

EXHIBIT 27

SAM A. ZINGALE, ESQ.

Attorney at Law

700 Rockefeller Building
614 West Superior Avenue
Cleveland, Ohio 44113

(216) [REDACTED]
Facsimile: (216) [REDACTED]
Email: sazingale@[REDACTED]

August 2, 2012

David Brown, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019

Re: NBPA Investigation

Dear Mr. Brown:

With the exception of documents Prim deems privileged, i.e. player information and audits, documents Prim deems outside the scope of the NBPA inquiry, i.e. ISN Bank, and documents and information Prim deems private, i.e. a list of Prim's clients and their fees, and payroll, Prim has provided all documents requested by the Government with copies to your firm. In addition, Prim and its employees have voluntarily agreed and participated in numerous hours of personal interviews. It should be noted that Mr. Lombardo was not very pleased that during Todd Hunter's interview, Todd divulged how much money he made and that a redacted a copy of all Todd's clients was submitted to you.

Accordingly, Prim is satisfied that it has fully cooperated with the NBPA investigation and will not submit additional documents or be subject to additional interviews. As agreed, a copy of any documents provided to the Government will also be provided to your firm.

Very truly yours,

Sam Zingale
Sam A. Zingale

SAZ:tlm

cc: Joseph Lombardo
Amy Gold, Esq.
Yared Alula, Esq.

EXHIBIT 28

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064
TELEPHONE (212) 373-3000

LLOYD K GARRISON (1946-1991)
RANDOLPH E PAUL (1946-1956)
SIMON H RIFKIND (1950-1995)
LOUIS S WEISS (1927-1950)
JOHN F WHARTON (1927-1977)

UNIT 3601, FORTUNE PLAZA OFFICE TOWER A
NO 7 DONG SANHUAU ZHONGLU
CHAO YANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

WRITER'S DIRECT DIAL NUMBER
212 [REDACTED]

WRITER'S DIRECT FACSIMILE
212 [REDACTED]

WRITER'S DIRECT E-MAIL ADDRESS
DBrown@[REDACTED]

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, U K
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
PO BOX 226
TORONTO, ONTARIO M5K 1J8
TELEPHONE (416) 504-0520

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE SUITE 200
POST OFFICE BOX 32
WILMINGTON DE 19899-0032
TELEPHONE (302) 655-4410

MATTHEW W ABBOTT
ALLAN J ARFFA
ROBERT A ATKINS
DAVID J BALL
JOHN B BIGHAMAN
LYNN B BAYARD
DANIEL J BELLIN
CRAIG A BENSON
MICHAEL BENSING
MARK S BERGMAN
BRUCE BIENBOIM
H CHRISTOPHER BOEHNING
ANDREW BOYD
JAMES C BROCHIN
RICHARD J BRONSTEIN
DAVID W BROWN
SUSAN C BURGEL
PATRICK S CAMPBELL
JESSICA S CAREY
THOMAS C CHAN
YVONNE F CHAN
LEWIS R CLAYTON
JAY COHEN
KELVIN CORNISH
CHRISTOPHER J CUMMINGS
CHARLES E DAVIDSON
DONALD R DAVIS
THOMAS V DE BASTIDE III
ARIEL J DECKELBAUM
ANDREW BELISLE EATON
ANDREW FERGUSON
GREGORY A EZRING
LESLIE GORDON FAGEN
MARK FAGEN
ANDREW C FINCH
BRAD J FINKELSTEIN
ROBERTO J FINTZ
PETER E FISH
ROBERT C FLEDER
MARTIN FLUMENBAUM
ANDREW J FOLEY
HAROLD J FRIDUS
MANUEL S FREY
KENNETH A GALLO
MICHAEL GERMAN
PAUL GINSBERG
ADAM M GIVERTZ
ROBERT D GOLDBAUM
NEIL GOODMAN
ERIC S GOLDSTEIN
ERIC GOODISON
CHARLES H GOODE, JR
ANDREW GORDON
UDI GROFMAN
NICHOLAS GROOMBRIDGE
BRUCE A GUERNSEY
GAIL L GUTTMAN
ALAN S HALPERIN
JUSTIN O HAMIL
CLIFFORD HANEMAN
GERARD F HARPER
BRIAN S HERMANN
ROBERT M HIRSH
MICHAEL HIRSHMAN
JOYCE S HUANG
DAVID S HUNTINGTON
MEREDITH J KANE
ROBERTA A KAPLAN

BRAD S KARP
JOHN C KENNEDY
ALAN W KORNBERG
DANIEL J KRAMER
DAVID K LAKHDHIR
STEPHEN LAMB
JOHN E LANG
DANIEL J LEFFELL
XIAOYU GRECH
JEFFREY D MARCELL
MARCO V MASOTTI
EDWIN S MAYNARD
DAVID W MAYO
ELLEN FREDERIC MCCOLM
MARK F MENDELSOHN
TOBY S MYERSON
JOHN E NATHAN
CAROLYN PARADY
JOHN O'NEIL
ALEX YOUNG K OH
BRIAN O'NEILL
KEELEY D PARKER
MARC E PERLMUTTER
MARK F POMERANTZ
VALERIE E PRAGER
CARL L REISNER
WALTER G RICCIARDI
WALTER RIEMAN
RICHARD ROSEN
ANDREW N ROSENBERG
JACQUELINE P RUBIN
RAPHAEL S RUBIN
JEFFREY D SAMFESTIN
JEFFREY B SAMUELS
DALE M SARRA
TERESA M SEMEK
KENNETH M SCHNEIDER
ROBERT B SCHUMER
JAMES H SCHWAB
JOHN P SCOTT
STEPHEN SHIMSHAK
DAVID R SICULAR
MOSES SILVERMAN
STEVEN SIMONE
JOSEPH SIMONS
MARILYN SOBEL
AUDRA M SOLLOWY
TARA M STIRMART
ERIC ALAN STONE
AIDAN SYNNOTT
RONALD F TARNFSKY
MONICA A THURMOND
DANIEL J TOBIN
LIZA M VELAZQUEZ
MARISSA VILLE
LAWRENCE G WEE
THEODORE V WELLS, JR
BETH A WILKINSON
STEPHEN WILLIAMS
LAWRENCE WILKORCHIC
MARK B WLAZLO
JULIA T M WOOD
JOHN E YARETT
KAREN YOSHINO
TONG YU
TRACEY A ZACCONE
T ROBERT ZOCHOWSKI, JR

*NOT ADMITTED TO THE NEW YORK BAR

August 8, 2012

By Email and FedEx

Sam A. Zingale, Esq.
700 Rockefeller Building
614 West Superior Avenue
Cleveland, Ohio 44113

NBPA Investigation

Dear Mr. Zingale:

I write to respond to your letter dated August 2, 2012. As you know, this firm is conducting an investigation for the National Basketball Players Association (NBPA) concerning its leadership, finances and business practices, in light of allegations raised in news articles earlier this year. We are also representing the NBPA in connection with its response to a subpoena for documents from the U.S. Attorney's Office for the Southern District of New York.

Your letter states that Prim believes it has fully cooperated with our investigation and that Prim will not provide any additional documents or agree to any additional interviews. We do not agree with the notion that Prim has given us full cooperation. Despite our repeated requests, we continue to lack information from Prim about a number of subjects that are material to our investigation. Our current outstanding requests for documents can be found in the e-mail message attached as Exhibit 1; nearly all of them have not been satisfied.

Your letter claims that Prim is refusing to provide the materials we have requested because Prim deems them privileged, private or “outside the scope of the NBPA inquiry.” Your letter, however, identifies no privilege that protects any of the requested documents from disclosure. To the extent that Prim has valid concerns about privacy, we have informed you that client names and other personal or sensitive information may be redacted from documents Prim provides to us. Further, the documents we have requested are undoubtedly relevant to the issues the NBPA has retained us to investigate. For example, many of our requests relate to the following subjects:

ISN Bank. One of the news reports that led to our investigation is titled: “NBPA executive director Billy Hunter sought union investment for bank with ties to son.” The article states that this potential investment was fraught with conflicts of interest because Todd Hunter and Carolyn Kaufman served on the board of ISN Bank and received director fees, and because “Prim Capital controlled 200,000 shares of ISN Bank stock.” Accordingly, issues such as the ownership of ISN Bank and the potential transaction between the bank and the NBPA are highly relevant to our inquiry. To date, Prim has not provided any documents to us concerning ISN Bank.

Prim’s Fees. One of the allegations we have been asked to investigate is whether Mr. Hunter has improperly steered NBPA funds to particular vendors to benefit his family members. Therefore, the fees that Prim receives, and Prim’s requests for fee increases, are of importance to our inquiry. We have learned that Prim has received 12b-1 fees in connection with NBPA investments in mutual funds, and that Prim may have received other fees that are derived from its relationship with the NBPA, including fees for referring NBPA members to particular financial institutions. We are particularly interested in any disclosures Prim made concerning such fees to the NBPA or its members. Yet, Prim has provided few documents and little information about such fees, even though Doug Creighton informed us that he could easily prepare a spreadsheet that shows compensation received by Prim as a result of its relationship with and work for the NBPA.

Prim’s Audits. Media reports and publicly-available court documents indicate that questions have been raised about the objectivity of the financial portfolio audits that Prim conducts for NBPA members. Consequently, we have asked to see examples of reports and other materials that Prim provides to players as part of the audit process. So far, we have received none.

We are surprised that Prim has refused to provide any further assistance to our investigation given that Prim previously pledged its full cooperation. In addition, it

appears that the NBPA is a significant client of Prim's, and a valued one. In light of the long-standing relationship between the NBPA and Prim, and the substantial amount of fees that the NBPA has paid to Prim, we believe the NBPA is entitled to information about the subjects described above, as well as other matters we are investigating.

At the conclusion of our investigation, we will provide a report to a special committee of the NBPA. If Prim continues to refuse to cooperate with this inquiry, and does not provide documents and information necessary for us to answer critical questions, our report will reflect those facts, and we may draw negative inferences from them.

In sum, the documents we have requested are necessary for us to review in order to prepare a thorough and accurate report for the NBPA. We urge Prim to reconsider the decision not to provide any additional documents or make any employees available for additional interviews.

Sincerely,



David W. Brown

Enclosure

cc: Yared Alula, Esq.

EXHIBIT 1



Re: Fw: Additional Prim Documents

Amy E Gold  sazingale
Cc David W Brown

08/01/2012 05:12 PM

Sam,

I just wanted to follow up briefly on my email from the other day. As I mentioned, we reached out to employees at the union to determine what audit reports they have in their possession. We have been told that apart from the audit authorization letters that are sent to Prim through Bob Gadson, they do not have any audit materials or any of the actual audit reports prepared by Prim. We would still like to see copies of at least a selection of those reports, so if you could follow up with Joe, Doug and Carolyn on that issue, we'd really appreciate it.

Thanks again for your help.

Amy

Amy E. Gold | Associate
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
(212)  (Direct Phone) | (212)  (Direct Fax)
.com">agold@ | www.paulweiss.com

Amy E Gold Sam, As we discussed yesterday afternoon, ther... 07/31/2012 10:05:46 AM

From: Amy E Gold 
To: sazingale@
Cc: David W Brown, 
Date: 07/31/2012 10:05 AM
Subject: Fw: Additional Prim Documents

Sam,

As we discussed yesterday afternoon, there are certain categories of information or documents that are particularly critical to our review at this point. In addition to the remaining items outlined below, we would like to review the following:

- Documents sufficient to show all compensation received, on an annual basis, by Prim as a result of its relationship with and work for the NBPA (including amounts paid by the NBPA directly and amounts earned indirectly as a result of NBPA investments or Prim's investment advice). It would be particularly helpful if the fees could be summarized by investment and investment manager, and we are happy to review either existing documents or a spreadsheet prepared specifically to set out this information. I believe that Doug indicated that such a report could be prepared easily.
- A summary of NBPA investment returns over time, including information concerning each investment, the amount invested, the amount received and all returns.
- Documents sufficient to show the total amount of Assets Under Management (AUM) by Prim Capital and related entities.
- All documents or communications concerning ISN Bank, including all documents or communications concerning Prim Interstate Holdings. We are specifically interested in

documents listing the shareholders of ISN Bank or discussing who owned shares in the bank and in what amount, documents concerning Todd's service on the Board of ISN, and documents concerning the incorporation or governance of ISN Bank. If the documents concerning ISN bank are too voluminous, or if Joe has questions about their relevance to our investigation, we are happy to review an index of what is available and select the key documents we need from there.

We would appreciate your help in gathering this information from Prim as soon as possible.

In addition, I have reached out to employees at the union to determine what audit reports they have in their possession. If they do not have the information we discussed with Doug and Carolyn last week, or copies of actual audit reports prepared by Prim, I will let you know as soon as possible.

Thanks again for your help and please don't hesitate to call with any questions.

Regards,
Amy

Amy E Gold | Associate
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
(212) [REDACTED] (Direct Phone) | (212) [REDACTED] (Direct Fax)
[agold@\[REDACTED\].com](mailto:agold@[REDACTED].com) | www.paulweiss.com

----- Forwarded by Amy E Gold/PaulWeiss on 07/31/2012 10 03 AM -----

From Amy E Gold [REDACTED]
To ckaufman@[REDACTED] dcreighton@[REDACTED]
Cc sazingale@[REDACTED] David W Brown [REDACTED]
Date 07/28/2012 03 17 PM
Subject Additional Prim Documents

Carolyn, Doug, Sam

Thank you again for taking the time to meet with us on Thursday, our conversations with you were very helpful.

As we discussed, there are a number of additional materials we would like to see. We are hoping that many of these documents should be readily available, but if there are documents that will need to be created or generated specially and will, therefore, take a little longer, please let me know.

Specifically, we would like to review the following:

- A list of all NBA players who have requested audits, broken down by season,
- A list of all NBA players who have received audits, broken down by season,
- Examples of actual spreadsheets or other work product (i.e. management letters) prepared during the audit process to be given back to players (including examples where Prim identified substantial cost savings and examples where Prim identified only small savings, and examples where specific money managers or funds are recommended),
- A list of all NBA players who have been individual clients of Prim Capital and its related entities,
- Documents sufficient to show all compensation received, on an annual basis, by Prim as a result of its relationship with and work for the NBPA (including amounts paid by the NBPA directly and amounts earned indirectly as a result of NBPA investments or Prim's investment advice). It would

- be particularly helpful if the fees could be summarized by investment and investment manager;
- A summary of NBPA investment returns over time, including information concerning each investment, the amount invested, the amount received and all returns;
- Copies of all prospectus and other disclosure forms signed by NBPA employees concerning investments made or managed by Prim;
- Documents sufficient to show the total amount of Assets Under Management (AUM) by Prim Capital and related entities;
- All documents or communications concerning ISN Bank, including all documents or communications concerning Prim Interstate Holdings; and
- A copy of Carolyn's resume.

Sam, we will need to review these documents before we meet with Joe again. Accordingly, depending on how long you think it will take to gather this information, we may need to postpone Wednesday's follow-up interview. Once you have a better sense of when this information will be ready for our review, please let me know and we can discuss how to proceed.

Thanks again for your help and have a great weekend,
Amy

Amy E. Gold | Associate
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agold@ [REDACTED] | www.paulweiss.com

EXHIBIT 29

SAM A. ZINGALE, ESQ.
Attorney at Law

700 Rockefeller Building
614 West Superior Avenue
Cleveland, Ohio 44113

(216) [REDACTED]
Facsimile: (216) [REDACTED]
Email: sazingale@[REDACTED]

August 20, 2012

David Brown, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019

Dear Mr. Brown,

Prior to writing this letter, Prim has consulted with its outside compliance consulting firm, Renaissance Regulatory Services, based in Florida, and its attorneys, like Prim does with everything. Prim has had this consulting firm, which is highly regarded in this industry, on retainer for many years. This consulting firm has been involved with the NBPA account and many other visible clients that Prim has. They are aware of the sensitivity to an account like this.

Renaissance Regulatory Services, along with Carolyn Kaufman, who is also highly regarded in the financial planning and financial services industry nationally, both agreed that there would have been a potential conflict pertaining to ISN Bank had a disclosure not been made that she and Todd Hunter were on the bank's board. It is a fact that Gary Hall and other attorneys and other personnel related to the NBPA were aware of Carolyn's and Todd's involvement with the bank. It is also a fact that Gary Hall set the meetings up for ISN Bank to make their presentation to attorneys that Mr. Hunter had available to him and in-house attorneys, including Gary Hall. Carolyn Kaufman stated in her interview with you that board members are put on the board to do exactly that, to help the companies on whose boards they sit.

Furthermore, Prim controlled 200,000 shares of ISN Bank through a group of investors and friends that Mr. Lombardo had put together. You asked Mr. Lombardo who the investors were, and he refused to tell you. His decision not to tell you was based on Regulation S-P. The SEC came in when Mr. Lombardo gave all the shareholders their money back. Mr. Lombardo wrote a check for one million dollars to pay back all of the investors. The SEC claimed that he guaranteed an investment. After going through an extensive SEC audit, and first proving to the SEC that every shareholder got all of their money back, the SEC still insisted that Mr. Lombardo guaranteed the investment. After numerous phone calls with Prim's attorneys and the SEC , the decision stood that the fact that Mr. Lombardo gave them all their money

back and made them whole did not constitute a guarantee. Therefore, Prim reiterates they will not give you anything further pertaining to ISN Bank or its investors or anything else involving ISN Bank.

You state that Doug Creighton informed you that a spreadsheet could easily be put together regarding Prim's fees in relationship to the work for the NBPA and any outside compensation, including 12b1 fees, could be put together. Doug Creighton has put that information all together, along with other Prim employees, that shows all of Prim's compensation, from the outside vendors, including the 12b1 fees, that the union approved and signed off on, that was submitted to the government, to you, which the NBPA also has and which was gone over by FINRA along with other prominent clients of Prim.

Prior to Todd Hunter's involvement in the team meetings and having face to face contact and conversations with thirty teams and 430 NBA ball players, a contract was agreed to by the union, which was negotiated by Pat Garrity and Ron Klempner, on Prim's existing relationship at Deutsche Bank with Prim's existing clients. Since Todd's involvement with the team meetings, there have been no accounts opened with Deutsche Bank or any other financial institution, and a precedent was set that Prim would not be allowed to take them as advisory clients, which we have abided by. As you will see, one of the documents that was sent to you was signed off on by Pat Garrity and Ron Klempner.

You suggested that FINRA came in here because of the NBPA investigation, which is not true. Prim Securities is a member of FINRA. As a member of FINRA, we are subject to periodic audits. FINRA notified us prior to any of the publicity that was generated by the NBPA that they were scheduling a periodic audit of our firm. We had FINRA in. We have just gone through a FINRA audit, and they had no findings. They looked at a lot of the NBPA stuff as well as our other clients. They asked for all the proper disclosures that were made that were provided to you, the federal government, and the union has signed off on them. There were no findings on the union account or on other prominent accounts that Prim has.

You have in your possession comparables to some of the fees that the union would be charged, and you also stated that you wanted comparables of what other firms quoted. Prim has the same access, if not more, to the same research as the four prominent firms submitted. Prim goes beyond the scope of just advising to the money. They do quarterly, monthly, and weekly reports and conduct weekly calls with the NBPA's Finance Department plus the two Executive Board meetings where Prim puts together all of the investments that they have and what they have made on them, which you also have, the government has, the union has, and FINRA has gone over, not to mention the awareness program that contains meeting with every NBPA team. That costs thousands of dollars in expenses.

From the awareness programs, Prim, along with the NBPA, has put together a comparison and audit program. You have constantly asked for audits that we have done and what we have done in the audit area with the NBPA, and we have constantly told you we would not submit anything where the audits were concerned, based on Regulation S-P. In addition, during Doug Creighton's extensive interview with Deloitte, he thoroughly explained and walked Tamika through an extensive overview on how the NBPA

audit and comparisons were done. Therefore, any information that you would like on the audits, please obtain from the NBPA.

You reference that Prim has not cooperated and did not provide information necessary to critical questions. You also say that you may draw a negative inference from that. Prim will challenge anything that you put in your report that is untrue to the NBPA special committee. If you look at what you have asked for in all of your letters, we have provided you with everything that you have asked for, what was submitted to the government, what the NBPA has, and what FINRA has signed off on. This letter, like all of the correspondence we have had with you, will be sent to the government.

We answered your last question when we showed you how to do two calculations on how Prim saved the union over 7.5 million dollars, with backup of a legal opinion that was obtained, which you currently have.

Very truly yours,



Sam Zingale

Sam Zingale

cc: Joseph Lombardo
Amy Gold
Yared Alula

EXHIBIT 30

Message

From: G. William Hunter [mailto:William.Hunter@████████]
Sent: 8/9/2005 2:41:54 PM
To: 'THunter@████████' [THunter@████████]
Subject: FW: Prim Capital

-----Original Message-----

From: Pat Garrity [mailto:patgarrity@████████]
Sent: Sunday, August 07, 2005 11:27 PM
To: William Hunter
Subject: RE: Prim Capital

Hi Billy.

I just got back from a fishing trip so my apologies for the late response. I spoke with Anthony and Joe in broad terms concerning a compensation based arrangement between Prim and the union but nothing specifically outlining the services which they would render or the compensation which they would receive, although Joe made it clear of his eagerness to expand Prim's business with the union and proposal to be paid in return. I was in agreement with most Prim was offering but I would like to discuss the matter further with Antonio, you and your staff regarding a couple of concerns I have. Perhaps we could set aside some time to do this at Atlantis next week.

Pat

From: G. William Hunter [mailto:William.Hunter@████████]
Sent: Monday, August 01, 2005 1:08 PM
To: Pat Garrity
Subject: Prim Capital

Hey Pat: I received a proposal from Anthony Delfre of Prim Capital concerning the services they will be providing to the NBPA this season. Anthony indicates that he and Joe Lombardo discussed the proposal with you and Michael Curry earlier in the year and that you were in support of it. As you know, for the past several years Prim has not been compensated for any of the services they provide to the NBA players through the union. This proposal actually calls for an expansion of the programs for which they will be compensated annually. In view of previous discussions with Michael I had budgeted \$350,000 for the 2005-06 season to pay Prim for travel, materials, audits of individual player financial portfolios, advice to the NBPA on investments, etc. Pursuant to the Constitution and By-laws I am required to submit contracts in excess of \$30,000 annually to the secretary/treasurer for review and approval. I am available for a discussion.

EXHIBIT 31



NATIONAL BASKETBALL PLAYERS ASSOCIATION

September 21, 2005

Mr. Joe Lombardo
Managing Director
Prim Capital Corporation
BP Tower, Suite 2500
200 Public Square
Cleveland, OH 44114

Re: Letter of Agreement for NBPA Financial Program

Dear Mr. Lombardo:

This letter of Agreement ("Agreement") contains the terms under which Prim Capital Corporation, on behalf of itself and all of its affiliates including, without limitation, Prim Advisors, Inc., Prim Agency, Inc., Prim Real Estate, Prim Securities, Inc. and Prim Financial Services, Inc. (collectively, "Prim"), proposes to assist the National Basketball Players Association ("NBPA") in formulating and providing financial education and related services for the NBPA and NBA players.

I. SERVICES

1. Financial Awareness Program

For the past four years Prim has conducted financial seminars for all thirty NBA teams. Consistent with past practice, Prim will continue to send its representative(s) to team meetings to discuss various topics related to financial services products. Said representative(s) will be available to meet with individual NBA players after each seminar; routinely make follow-up calls to offer advice to individual NBA players who have questions regarding financial issues; and if necessary travel to the players location to meet with the players and/or his representative. When requested, Prim will assist individual NBA players in preparing a written financial plan to lay out appropriate savings, spending and investment strategies to secure each individual player's financial independence.

2. Initial and Ongoing Support for the NBPA 401(k) Plan

Prim shall review the performance of the investments related to the NBPA 401(k) Plan; assist the Chief Financial Officer of the NBPA in evaluating and monitoring investment options; and, where necessary, assist with fund deletions and replacements.

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September 21, 2005

3. Assistance in Restructuring Player Investment Products and Financial Services

At the request of the NBPA, Prim will review financial advisory services and investment products provided to individual NBA players, and will assist said players in addressing financial issues such as misappropriation of funds, inappropriate investment products, and liquidity.

4. Real Estate and Private Equity Analysis

Prim will provide assistance to members of the NBPA in financial, accounting, and legal aspects of restructuring existing real estate and private equity deals; assist NRA players in securing private equity financing and structuring the financial components of real estate transactions; and engage the services of top tier real estate management/development companies to assist NBA players in the analysis and decision making as to the viability of certain projects.

5. "Work-Out" Special Projects

Prim has been involved in assisting players and shall continue to assist with legal problems that have evolved from financial matters. This assistance includes, but is not limited to retaining legal and accounting professionals, at the players expense, and coordinating strategy for asset recovery or other stated goals of the player.

6. Rookie Transition Program

Prim shall develop a special presentation that identifies and addresses financial issues routinely encountered by first year players as they transition to the life of a professional athlete.

7. Financial Services-Vendor Negotiation

Prim will negotiate financial services contracts on behalf of the NBPA and its members including life and disability insurance; costs related to custody of investment assets and fees charged for investment management; and preferential lending services. All contracts shall be monitored on a monthly basis by Prim.

8. Consent Letter Procedure for Services Provided to NBA Players

Notwithstanding any other provision contained in this Agreement, prior to and as a condition precedent to performing any services for any NBA player who may be represented by, or have a business, financial or similar relationship with CSI Capital Management Inc., Leland Faust and/or Taylor & Faust (collectively the "CSI Settlement Parties") Prim shall have obtained the CSI Settlement Parties' confirmation that they have no objection to Prim providing such services to such NBA player by following the consent letter procedure described in this Section I.8. Prim shall complete, execute and send to the CSI Settlement Parties, with a copy to the NBPA, a letter in the form attached hereto as Exhibit A seeking the CSI Settlement Parties' confirmation that they have no objection to Prim providing such services to each such NBA player (each, a "Consent Letter"). If Prim does not receive from the CSI Settlement Parties within 10 days of the date of each Consent Letter a countersigned version of such Consent Letter, then Prim shall inform the NBPA so that the NBPA may assist the NBA player referred to

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September 21, 2005

in such Consent Letter in locating and engaging another service provider and Prim shall not provide services to such NBA player. Prim shall be solely responsible for paying and reimbursing fees, costs and expenses incurred by the NBPA and such NBPA player in connection with these consent letter procedures and in connection with locating and engaging such other service provider as provided in Section V.3(c) below.

II. TERM

1. The term of this Agreement begins on the date this Agreement is executed and ends June 30, 2006. The NBPA shall have the option to extend this Agreement from year to year by serving written notice on Prim by May 31st of each year.

2. Termination of this Agreement under this Section II may be for any reason, as determined in the sole and absolute discretion of the terminating party.

3. This Agreement may be terminated immediately and at any time by the NBPA upon the occurrence of any of the following events: (a) the inability of Anthony Delfre to provide the services on behalf of Prim required under this agreement; (b) Anthony Delfre is no longer employed by Prim; (c) conviction of any of Prim's principals for a felony or misdemeanor involving any financial related crime or crime involving moral turpitude and/or dishonesty (including a plea of guilty, no contest, or nolo contendere); (d) a material breach of this agreement; or (e) conduct by Prim and/or any of Prim's principals that has or may subject Prim, any of Prim's principals, the NBPA, or any NBA player to public disgrace or disrepute.

4. In the event of termination for any reason other than pursuant to Section II.3 herein, all unpaid amounts of the fee accrued and owing as of the termination date as permitted hereunder, shall be paid by the NBPA to Prim within 30 days following termination.

III. COMPENSATION

1. Base Fee. It is understood and agreed that Prim is an independent consultant hired by the NBPA to provide the services described above. In exchange for Prim providing these services, the NBPA shall pay Prim an annual fee of \$350,000. The fee shall be paid in 12 equal monthly installments, with the first payment due upon execution of this Agreement.

2. Expenses. Prim shall be solely responsible for all expenses associated with the performance of its duties hereunder, including, but not limited to, travel, hotels, meals, materials, postage, telephone, etc.

IV. USAGE AND PROPRIETARY RIGHTS

1. The NBPA will have the right to film, tape, or otherwise record any and all education or training programs to be provided under this Agreement, and to utilize such film or recordings in their sole and exclusive discretion, provided the filmed, taped, or otherwise recorded person or persons representing Prim each give their individual permission for such filming, taping, or recording, as provided herein. Prim and Anthony Delfre, its designated representative, hereby consent to such filming, taping, or recording of himself. Any other

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representative, consultant, and/or qualified service provider retained by Prim must first give his/her written consent in order for his, her or their name, likeness or performance to be filmed, taped, or recorded for material use in any media and for any purpose worldwide. Such consent shall not be unreasonably withheld. Prim shall request that its' representatives, consultants, and/or qualified service providers shall be provided and requested to sign a release form.

2. The NBPA will provide a detailed description to Prim of where and how it intends that any such film, tape or recording will be used. Prim shall be entitled to obtain, at their cost, copies of any such film, tape or recording made by the NBPA.

3. Prim agrees that the NBPA will be the sole owner of all rights, title and interest of any kind in and to all plans, evaluations, analyses, presentations, reports, summaries, films, tapes, recordings and any other work product of any kind, in any and all media formats, written or oral, created, provided, delivered or included in any way by Prim as part of or in connection with the services performed by Prim under this Agreement and Prim hereby irrevocably assigns to the NBPA all rights, title and interest in and to the same.

4. No license is granted under this Agreement to Prim to use any trademarks, service marks, copyrights, confidential information or any other proprietary rights or property of the NBPA or of any NBA player or their families without the NBPA's prior written consent.

V. REPRESENTATIONS AND WARRANTIES

Prim represents, warrants, and covenants that:

1. It is fully able to undertake and perform the services contemplated to be provided hereunder, and it is not a party to or bound by any agreement that would conflict in any way with providing such services.

2. Without limiting the foregoing in any way, no agreement between Prim and any other person or entity, including without limitation CSI Capital Management, Inc. ("CSI"), conflicts with or limits in any way Prim's obligations to provide services to the NBPA or to NBA players under this Agreement including but not limited to audit services, business advice or business counsel.

3. In the event that Prim is unable for any reason to provide services, including but not limited to audit services, business advice or business counsel, to the NBPA or to NBA players as contemplated under this Agreement, then (a) Prim shall promptly inform the NBPA of such inability to provide services, (b) Prim shall assist the NBPA in arranging for such services to be provided by a third party that is acceptable to the NBPA, and (c) Prim shall be solely responsible for and shall promptly pay or, as the case may be, shall promptly reimburse the NBPA or such NBA player for, all fees, costs and expenses charged by such other service provider or incurred by the NBPA or such NBA player in locating and engaging such other service provider.

4. Prim and its employees, consultants and services providers have all current broker/dealer and/or investment advisor registrations necessary for services to be performed by

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Prim under this Agreement that are subject to applicable broker/dealer registration and/or investment advisor registration requirements.

VI. DISCLOSURE OF POTENTIAL CONFLICTS

In order to avoid any actual or perceived conflict of interest due to the services provided by Prim under the terms of this Agreement, Prim shall fully disclose to the NBPA and NBA players any and all business relationships, agreements, or arrangements with third parties (individuals or entities), pursuant to which Prim derives a monetary, economic, or other tangible benefit from said third parties for its referral of NBA players. Prim shall provide the NBPA with copies of all written Agreements describing its relationship with third party(s) from whom Prim may derive some tangible benefit as result of this Agreement. The information required to be disclosed by Prim under this Section VI. shall include, without limitation, such information as Prim is required to disclose under applicable law and regulations including, but not limited to, the Investment Advisers Act of 1940, as amended.

VII. CONFIDENTIALITY

1. Prim agrees that any information that Prim or any of Prim's employees, consultants, or service providers receive from or on behalf of the NBPA or from or on behalf of any NBA player or their family members regarding NBA players or their family members or regarding the NBPA shall be considered Confidential Information under this Agreement. Confidential Information shall not include information that has already been publicly disclosed, or that is authorized for public disclosure by the player, so long as the information was not made public by Prim or any of its employees or service providers.

2. Prim and its employees, consultants, and service providers shall be prohibited from disclosing Confidential Information to any third party, including, without limitation, NBA teams, NBA players, and representatives of NBA players, unless authorized in writing by the NBA player.

3. Prim shall be responsible for obtaining a Confidentiality and Non Disclosure Agreement from any person or entity selected to provide services in connection with the services provided hereunder.

VIII. LIABILITY AND INDEMNITY

1. Prim agrees to indemnify and hold harmless the NBPA and each of its respective past, present, and future affiliates, agents, employees, successors, designees, assigns, officers, directors, trustees, attorneys, members, heirs, executors, administrators, and representatives, from and against any and all claims arising from or relating to the performance of the services set forth herein, and/or any claim arising from or related to that certain Settlement Agreement and Mutual General Release dated July 11, 2003 to which Prim and the CSI Settlement Parties are parties (the "CSI Settlement Agreement"), including, without limitation, any judgments, costs, and settlements (including attorney's fees). Each party hereto shall notify the other party hereto immediately of any such claim in writing upon receipt of a notice of or demand with respect to such claim (and, in no event later than five (5) days from receipt thereof). The NBPA agrees to

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September 21, 2005

use reasonable efforts to defend such claim, and shall not admit liability with respect to or settle such claim without the prior written consent of Prim, not to be unreasonably withheld.

2. Prim will obtain and maintain liability insurance in an amount not less than \$5 million providing protection for the NBPA against any claim arising from or relating to the performance of the services set forth herein, including without limitation any claim arising from or related to the CSI Settlement Agreement. Such insurance shall be carried by an insurer with a rating by A.M. Best & Co. of A-7 or other rating satisfactory to the NBPA. Such insurance policy shall also provide that the NBPA receive written notice within thirty (30) days prior to the effective date of cancellation, non-renewal, or any other material change in coverage. In the event that Prim has failed to deliver to the NBPA a certificate of such insurance evidencing satisfactory coverage within 30 days of Prim execution of this Agreement (or fails to maintain such insurance in accordance with this Section VIII.2), the NBPA shall have no obligation to Prim under Section VIII.1 above and the NBPA shall have the right to terminate this agreement at any time.

IX. MISCELLANEOUS

1. Binding Agreement. This is a contract for personal services by Prim and shall not be assigned by Prim. Except as provided above, this agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns.

2. Waiver. The waiver by the NBPA of a breach of any provision of this agreement by Prim shall not operate or be construed as a waiver of any subsequent breach by Prim.

3. Entire Agreement. This agreement contains the entire agreement of the parties with respect to the subject matter hereof. It may not be changed orally, but only by an amendment in writing signed by the parties hereto. All prior agreements or understandings between Prim and the NBPA, including without limitation any prior agreement or understanding concerning Prim's engagement by the NBPA, are hereby canceled and superseded by this agreement.

4. Independent Contractor. Nothing in this agreement shall create or be deemed to create an employer-employee or similar relationship between Prim and the NBPA. The parties hereto agree that Prim shall act as an independent contractor hereunder, and nothing in this Agreement shall be construed as constituting Prim as an agent, representative, or employee of the NBPA.

5. Severability. The Invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of the remainder of this agreement.

6. Headings. The headings contained in this agreement are for convenience only and shall not be deemed a part of this agreement in construing or interpreting the provisions hereof.

7. Governing Law and Arbitrability. This agreement shall be governed by and construed under the laws of the State of New York. Any dispute arising between the parties or relating to this Agreement shall be decided by a single arbitrator appointed jointly by the parties,

NBPA Financial Program Letter of Agreement
September 21, 2005

or absent agreement on this designation, by a single arbitrator who shall be appointed by the American Arbitration Association. The award shall be final and non-appealable and judgment upon any award may be entered and enforced in any court of competent jurisdiction.

8. Notice. Any notice or other formal communication given under this Agreement shall be sufficient if given in writing and delivered, either personally, or by certified or overnight mail, return receipt requested, to the party at its address set forth below or to a new address specified by notice given as provided in this section.

9. Fax Signature. This agreement shall be valid and binding if executed by the parties by fax, in such case, the parties shall thereafter execute this Agreement in duplicate original. This Agreement shall become effective upon its execution by both parties.

If the above accurately set forth our agreement, please indicate your acceptance of the terms by executing the Agreement in the indicated signature line below.

Prim Capital Corporation

Joseph A. Lombardo
By: Joseph Lombardo
Managing Director

9/21/05
Date

National Basketball Players Association

G. William Hunter
By: G. William Hunter
Executive Director

9-21-05
Date

National Basketball Players Association

Patrick Garrity
By: Patrick Garrity
Secretary/Treasurer

Date

EXHIBIT 32



NATIONAL BASKETBALL PLAYERS ASSOCIATION

February 24, 2011

Mr. Joseph A. Lombardo
Managing Director
Prim Capital Corporation
6500 Rockside Road
Suite 370
Independence OH 44131

Re: Letter of Agreement for NBPA Financial Program

Dear Mr. Lombardo:

This letter of Agreement ("Agreement") contains the terms under which Prim Capital Corporation, on behalf of itself and all of its affiliates including, without limitation, Prim Advisors, Inc., Prim Agency, Inc, Prim Securities, Inc. (collectively, "Prim"), proposes to assist the National Basketball Players Association ("NBPA") in formulating and providing financial education and related services for the NBPA and NBA players.

I. SERVICES

1. Financial Awareness Program

For the past several years Prim has conducted financial seminars for all thirty NBA teams. Consistent with past practice, Prim will continue to send its representative(s) to team meetings to discuss various topics related to financial services products. Said representative(s) will be available to meet with individual NBA players after each seminar; routinely make follow up calls to offer advice to individual NBA players who have questions regarding financial issues; and if necessary travel to the players location to meet with the players and/or his representative. When requested, Prim will assist individual NBA players in preparing a written financial plan to lay out appropriate savings, spending, and investment strategies to secure each individual player's financial independence.

2. Initial and Ongoing Support for the NBPA 401(k) Plan

Prim shall review the performance of the investments related to the NBPA 401(k) Plan; assist the Chief Financial Officer of the NBPA in evaluating and monitoring investment options; and, where necessary, assist with fund deletions and replacements.

3. Assistance in Restructuring Player Investment Products and Financial Services

At the request of the NBPA, Prim will review financial advisory services and investment products provided to individual NBA players, and will assist said players in addressing financial issues such as misappropriation of funds, inappropriate investment products, and liquidity.

4. Real Estate and Private Equity Analysis

Prim will provide assistance to members of the NBPA in financial, accounting, and legal aspects of restructuring existing real estate and private equity deals; assist NRA players in securing private equity financing and structuring the financial components of real estate transactions; and engage the services of top-tier real estate management/development companies to assist NBA players in the analysis and decision making as to the viability of certain projects.

5. "Work-Out" Special Projects

Prim has been involved in assisting players and shall continue to assist with legal problems that have evolved from financial matters. This assistance includes, but is not limited to, retaining legal and accounting professionals at the player's expense, and coordinating strategy for asset recovery or other stated goals of the player.

6. Rookie Transition Program

Prim shall develop a special presentation that identifies and addresses financial issues routinely encountered by first-year players as they transition to the life of a professional athlete.

7. Financial Services-Vendor Negotiation

Prim will negotiate financial services contracts on behalf of the NBPA and its members including life and disability insurance; costs related to custody of investment assets and fees charged for investment management; and preferential lending services. All contracts shall be monitored on a monthly basis by Prim.

8. Consent Letter Procedure for Services Provided to NBA Players

Notwithstanding any other provision contained in this Agreement, prior to and as a condition precedent to performing any services for any NBA player who may be represented by, or have a business, financial or similar relationship with CSI Capital Management Inc., Leland Faust and/or Taylor & Faust (collectively the "CSI Settlement Parties") Prim shall have obtained the CSI Settlement Parties' confirmation that they have no objection to Prim providing such services to such NBA player by following the consent letter procedure described in this Section 1.8. Prim shall complete, execute and send to the CSI Settlement Parties, with a copy to the NBPA, a letter in the form attached hereto as Exhibit A seeking the CSI Settlement Parties' confirmation that they have no objection to Prim providing such services to each such NBA player (each, a "Consent Letter"). If Prim does not receive from the CSI Settlement Parties within 10 days of the date of each Consent Letter a countersigned version of such Consent Letter, then Prim shall inform the NBPA so that the

NBPA may assist the NBA player referred to in such Consent Letter in locating and engaging another service provider and Prim shall not provide services to such NBA player. Prim shall be solely responsible for paying and reimbursing fees, costs and expenses incurred by the NBPA and such NBPA player in connection with these consent letter procedures and in connection with locating and engaging such other service provider as provided in Section V.3(c) below.

II. TERM

1. The term of this agreement shall be five years from the date of execution.
2. This agreement cannot be cancelled or revoked while in effect for any reason by the NBPA.

III. COMPENSATION

1. **Base Fee** – It is understood and agreed that Prim is an independent consultant hired by the NBPA to provide the services described above. In exchange for Prim's services, the NBPA shall pay Prim an annual fee of \$602,000 (six hundred two thousand dollars and no cents). Payments shall be paid in twelve equal installments of \$50,166.67 (fifty thousand one hundred sixty-six dollars and sixty-seven cents). Payments will be made in advance for services to be rendered. The first payment shall be due upon execution of this agreement. Subsequent payments will begin thirty days thereafter and continue on the same day each month throughout this contract is fulfilled.

2. **Increases** – Compensation may be increased during the term of this contract through negotiation of the parties. Any increase in compensation must be agreed to by the NBPA.

3. **Expenses** – Prim shall be solely responsible for all expenses associated with the performance of its duties hereunder including, but not limited to, travel, hotels, meals, materials, postage, telephone, etc.

IV. USAGE AND PROPRIETARY RIGHTS

1. The NBPA will have the right to film, tape, or otherwise record any and all education or training programs to be provided under this Agreement, and to utilize such film or recordings in their sole and exclusive discretion, provided the filmed, taped, or otherwise recorded person or persons representing Prim each give their individual permission for such filming, taping, or recording, as provided herein. Prim and Carolyn Kaufman, its designated representative, hereby consent to such filming, taping, or recording of himself. Any other representative, consultant, and/or qualified service provider retained by Prim must first give his/her written consent in order for his, her or their name, likeness or performance to be filmed, taped, or

recorded for material use in any media and for any purpose worldwide. Such consent shall not be unreasonably withheld. Prim shall request that its representatives, consultants, and/or qualified service providers shall be provided and requested to sign a release form.

2. The NBPA will provide a detailed description to Prim of where and how it intends that any such film, tape or recording will be used. Prim shall be entitled to obtain, at their cost, copies of any such film, tape or recording made by the NBPA.

3. Prim agrees that the NBPA will be the sole owner of all rights, title and interest of any kind in and to all plans, evaluations, analyses, presentations, reports, summaries, films, tapes, recordings and any other work product of any kind, in any and all media formats, written or oral, created, provided, delivered or included in any way by Prim as part of or in connection with the services performed by Prim under this Agreement and Prim hereby irrevocably assigns to the NBPA all rights, title and interest in and to the same.

4. No license is granted under this Agreement to Prim to use any trademarks, service marks, copyrights, confidential information or any other proprietary rights or property of the NBPA or of any NBA player or their families without the NBPA's prior written consent.

V. REPRESENTATIONS AND WARRANTIES

Prim represents, warrants, and covenants that:

1. It is fully able to undertake and perform the services contemplated to be provided hereunder, and it is not a party to or bound by any agreement that would conflict in any way with providing such services.

2. Without limiting the foregoing in any way, no agreement between Prim and any other person or entity, including without limitation CSI Capital Management, Inc. ("CSI"), conflicts with or limits in any way Prim's obligations to provide services to the NBPA or to NBA players under this Agreement including but not limited to audit services, business advice or business counsel.

3. In the event Prim is unable for any reason to provide services, including but not limited to, audit services, business advice, or business counsel, to the NBPA or the NBA players as contemplated under this Agreement, then Prim shall a) promptly inform the NBPA of such inability to provide services and b) shall assist the NBPA in arranging for such services to be provided by a third party.

4. Prim and its employees, consultants and services providers have current broker/dealer and/or investment advisor registrations necessary for services to be performed by Prim under this Agreement that are subject to applicable broker/dealer registration and/or investment advisor registration requirements.

VI. DISCLOSURE OF POTENTIAL CONFLICTS

In order to avoid any actual or perceived conflict of interest due to the services provided by Prim under the terms of this Agreement, Prim shall fully disclose to the NBPA and NBA players any and all business relationships, agreements, or arrangements with third parties (individuals or entities), pursuant to which Prim derives a monetary, economic, or other tangible benefit from said third parties for its referral of NBA players. Prim shall provide the NBPA with copies of all written Agreements describing its relationship with third party(s) from whom Prim may derive some tangible benefit as result of this Agreement. The information required to be disclosed by Prim under this Section VI. shall include, without limitation, such information as Prim is required to disclose under applicable law and regulations including, but not limited to, the Investment Advisers Act of 1940, as amended.

VII. CONFIDENTIALITY

1. Prim agrees that any information that Prim or any of Prim's employees, consultants, or service providers receive, from or on behalf of the NBPA, or from or on behalf of any NBA player or their family members regarding NBA players or their family members or regarding the NBPA shall be considered Confidential Information under this Agreement. Confidential Information shall not include information that has already been publicly disclosed, or that is authorized for public disclosure by the player, so long as the information was not made public by Prim or any of its employees or service providers.

2. Prim and its employees, consultants, and service providers shall be prohibited from disclosing Confidential Information to any third party, including, without limitation, NBA teams, NBA players, and representatives of NBA players, unless authorized in writing by the NBA player.

3. Prim shall be responsible for obtaining a Confidentiality and Non Disclosure Agreement from any person or entity selected to provide services in connection with the services provided hereunder.

VIII. LIABILITY AND INDEMNITY

1. Prim agrees to indemnify and hold harmless the NBPA and each of its respective past, present, and future affiliates, agents, employees, successors, designees, assigns, officers, directors, trustees, attorneys, members, heirs, executors, administrators, and representatives, from and against any and all claims arising from or relating to the performance of the services set forth herein, and/or any claim arising from or related to that certain Settlement Agreement and Mutual General Release dated July 11, 2003 to which Prim and the CSI Settlement Parties are parties (the "CSI Settlement Agreement"), including, without limitation, any judgments, costs, and settlements (including attorney's fees). Each party hereto shall notify the other party hereto immediately of any such claim

in writing upon receipt of a notice of or demand with respect to such claim (and, in no event later than five (5) days from receipt thereof). The NBPA agrees to use reasonable efforts to defend such claim, and shall not admit liability with respect to or settle such claim without the prior written consent of Prim, not to be unreasonably withheld.

2. Prim will obtain and maintain liability insurance in an amount not less than \$1.0 million (one million and no cents).

IX. MISCELLANEOUS

1. **Binding Agreement.** This is a contract for personal services by Prim and shall not be assigned by Prim. Except as provided above, this agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns.

2. **Waiver.** The waiver by the NBPA of a breach of any provision of this agreement by Prim shall not operate or be construed as a waiver of any subsequent breach by Prim.

3. **Entire Agreement.** This agreement contains the entire agreement of the parties with respect to the subject matter hereof. It may not be changed orally, but only by an amendment in writing signed by the parties hereto. All prior agreements or understandings between Prim and the NBPA, including without limitation any prior agreement or understanding concerning Prim's engagement by the NBPA, are hereby canceled and superseded by this agreement.

4. **Independent Contractor.** Nothing in this agreement shall create or be deemed to create an employer-employee or similar relationship between Prim and the NBPA. The parties hereto agree that Prim shall act as an independent contractor hereunder, and nothing in this Agreement shall be construed as constituting Prim as an agent, representative, or employee of the NBPA.

5. **Severability.** The Invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of the remainder of this agreement.

6. **Headings.** The headings contained in this agreement are for convenience only and shall not be deemed a part of this agreement in construing or interpreting the provisions hereof.

7. **Governing Law and Arbitrability.** This agreement shall be governed by and construed under the laws of the State of New York. Any dispute arising between the parties or relating to this Agreement shall be decided by a single arbitrator appointed jointly by the parties, or absent agreement on this designation, by a single arbitrator who shall be appointed by the American Arbitration Association. The award shall be final and non-appealable and judgment upon any award may be entered and enforced in any court of competent jurisdiction.

8. **Notice.** Any notice or other formal communication given under this Agreement shall be sufficient if given in writing and delivered, either personally, or by certified or overnight mail, return receipt requested, to the party at its address set forth below or to a new address specified by notice given as provided in this section.

NBPA Financial Program Letter of Agreement
February 24, 2011

9. **Fax Signature.** This agreement shall be valid and binding if executed by the parties by fax, in such case, the parties shall thereafter execute this Agreement in duplicate original. This Agreement shall become effective upon its execution by both parties.

If the above accurately sets forth our agreement, please indicate your acceptance of the terms by executing the Agreement in the indicated signature line below.

Prim Capital Corporation

JOSEPH A. LOMBARDO 3/2/11

By: Joseph A. Lombardo
Managing Director

Date

National Basketball Players Association (NBPA)

Gary Hall

3/2/11

By: Gary Hall
General Counsel

Date

National Basketball Players Association (NBPA)

Purvis Short

3/8/11

By: Purvis Short
Director of Player Programs

Date

EXHIBIT 33

Writer's Direct Dial:
5776

October ___, 2002

***PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT***

BY TELECOPY AND FEDERAL EXPRESS

Joe Lombardo
Prim Advisors, Inc.
200 Public Square
Cleveland, Ohio 44114

**Re: Retention of Prim Advisors, Inc. by the Board of Trustees
of the National Basketball Players' Association 401(k)
Pension Plan**

Dear Joe:

We understand that Prim Advisors, Inc. ("PAI") has an existing relationship with the National Basketball Players' Association (the "Union"). Specifically, PAI provides portfolio monitoring services for a fee to the Union with regard to Union-owned assets. Further, Prim Capital Corp. ("Prim"), the parent company of PAI, recently employed Todd Hunter, the son of William Hunter, the Union's Executive Director.

We also understand that the Board of Trustees (the "Board") of the National Basketball Players' Association 401(k) Pension Plan (the "Plan") is considering retaining PAI to perform investment portfolio management services. You've indicated that the Plan is a collectively-bargained Taft-Hartley plan and the Board is comprised of six Trustees, three of whom are appointed by the National Basketball Association, and three of whom are appointed by the Union. Of the Union-appointed Trustees (the "Union Trustees"), one is a player representative, and the other two are employees of the Union.

In light of the prior relationship between the Union and PAI, you have asked us to advise you whether PAI would violate the Employee Retirement Income

Security Act of 1974, as amended (“ERISA”), if the Trustees engage PAI to provide investment advisory services to the Plan.

DISCUSSION

The Plan is regulated by ERISA. In pertinent part, ERISA imposes a set of duties on those who are deemed to act as fiduciaries for ERISA-regulated pension plans. ERISA Section 404(a) imposes an overarching fiduciary duty of loyalty. Within this umbrella duty of loyalty, ERISA delineates specific transactions in which fiduciaries may not engage (“prohibited transactions”). Specifically, ERISA Section 406(a) prohibits fiduciaries from engaging in transactions with “parties in interest,” as that term is defined in ERISA Section 3(14). In addition, ERISA Section 406(b)(1) prohibits fiduciaries from acting in their own interest or for their own account. For these purposes, a “party in interest” includes an entity that provides services to a pension plan. ERISA fiduciaries who breach their duties are potentially liable, among other things, to disgorge profits and remedy losses that result from the breach. If a “party in interest” (such as a provider of services) engages in a prohibited transaction under Section 406(a) it is potentially liable, among other things, for excise taxes under the Internal Revenue Code. Moreover, the U.S. Supreme Court has indicated that even if a person is not a “party in interest” to a pension plan, if such person knowingly participates in an ERISA fiduciary’s prohibited transaction it may be subject to liability. *See Harris Trust v. Salomon Brothers*, 530 U.S. 238 (2000). ^{1/}

PAI will not be bound by the ERISA fiduciary rules at the time the Board decides to retain it. This is because at the time of its retention PAI would not be a fiduciary to the Plan. Nor would PAI, at the time of retention, be a party-in-interest to the Plan, for until it is retained it will have no relationship with the Plan. If the Board were to choose to retain PAI as an investment advisor, once it accepts that appointment and begins to perform investment advisory services it will certainly become a “party in interest” to the Plan. It also will likely become a fiduciary to the Plan, depending upon the scope of the services PAI provides. *See*

^{1/} As mentioned above, an entity that performs services to a pension plan is a “party in interest,” and ERISA section 406(a) prohibits pension plans for engaging in transactions with a party interest. Technically, therefore, any time a pension plan engages an entity to provide services and plays for those services on a regular basis, it is engaging in a prohibited transaction. But of course, the law recognizes that ERISA fiduciaries must be permitted the ability to engage competent persons to provide services necessary for prudent operation of a pension plan. Thus, ERISA Section 408(b)(2) provides that ERISA Section 406 shall not apply to contracts for necessary benefit plan services, as long as only reasonable compensation is paid for those services. But this exception to the prohibited transaction rules does not apply to a non-fiduciary party in interest if its retention constitutes a violation of the fiduciary self-dealing rules of section 406(b). If a pension plan fiduciary engages in self-dealing in hiring a person to provide services to a pension plan, the person hired is potentially liable under ERISA even if the services are necessary and the compensation received is reasonable.

U.S. Department of Labor Regulations 2510.3-21, 29 C.F.R. § 2510.3-21(c) (person will be a fiduciary if he renders advice, or makes recommendations, as to the advisability of pension plan investments or property, on a regular basis and pursuant to a written agreement and fee). Nonetheless, we do not believe that the mere retention of PAI by the Board to provide investment advisory services to the Plan would result in PAI breaching any fiduciary duty under ERISA. In addition we do not believe that the mere retention of PAI would be a prohibited transaction under ERISA section 406(a), as long as the compensation received by PAI is reasonable.^{2/}

As indicated above, however, even if PAI is not a fiduciary or party in interest to the Plan at the time it is retained, if PAI is deemed to have actively participated in a Trustee's fiduciary breach of the self-dealing rules of section 406(b) it could potentially be held liable for such an ERISA violation. Thus, we must also ask whether the retention of PAI will necessarily give rise to a self-dealing violation of ERISA Section 406(b). In this regard, we do not believe that the mere fact that PAI employs Mr. Hunter's son, or that is already has an advisory relationship with the Union, would cause the Board or any of its members to necessarily breach their fiduciary duty of loyalty or engage in self-dealing under ERISA. You have advised that Mr. Hunter is not a Trustee. As a result, the Trustees' collective decision to engage PAI will not directly or obviously benefit the interests of individual Trustees or their own account, so ERISA's fiduciary rules will not necessarily be breached.

Nonetheless, two of the Union Trustees in effect wear "two hats." They serve as Trustees of the Plan but they also are employed by the Union, where Mr. Hunter serves as Executive Director. Consequently, these two individuals, in their roles as Union employees, either report directly or indirectly to Mr. Hunter. That consequence does raise the prospect that there could be an indirect conflict of interest between the personal interests of those two individuals and their fiduciary obligations under ERISA as it relates to the retention of PAI. You have advised that PAI does not know whether these two Union Trustees, in turn, know that PAI either employs Mr. Hunter's son or performs advisory services for the Union. Moreover, the mere fact that Mr. Hunter's son is employed by PAI does not necessarily mean either that Mr. Hunter himself would have an interest in the retention of PAI by the Plan, or that those two Union Trustees would perceive that Mr. Hunter's interests would be served by the retention. Nonetheless, courts have repeatedly held that the prohibition on an ERISA fiduciary acting in its own interest is to be construed very broadly, and that if a fiduciary engages in a transaction in order to benefit the non-financial interests of third parties, such conduct might be considered a violation of ERISA section 406(b). *See, e.g., New*

^{2/} We have not analyzed the compensation arrangement contemplated between PAI and the Plan, and assume that it would be structured in a manner that is proper under ERISA.

York State Teamsters Council Health and Hospital Fund v. Estate of DePerno, 816 F. Supp 138, 147 (N.D.N.Y. 1993); *Leigh v. Engle*, 727 F.2d 113, 127 (7th Cir. 1984); *Sandoval v. Simmons*, 622 F. Supp 1174, 1213 (C.D. II. 1985).

Thus, although we do not believe that PAI would have liability under ERISA in connection with a decision by the Board to retain PAI to provide advisory services, we recommend that PAI fully disclose the full Board its current relationship with the Union and its retention of Mr. Hunter's son, and that it do so prior to a formal decision by the Board to retain PAI. The full disclosure of the relationship should eliminate any suggestion that PAI was not forthcoming to the Board in the retention process, or enabled or aided a particular Trustee to elevate his or her own interests or interests of third parties above those of the Plan.^{3/}

In this regard, we have attached a draft letter that Hogan & Hartson would provide to the Board on PAI's behalf. If you have any questions with regard to the opinions expressed in this letter or the form of the draft letter attached, please call me at 202-[REDACTED]

Sincerely,

Evan Miller

Enclosures

^{3/} You also should be aware that ERISA Section 405(a)(1) provides that one fiduciary may be liable for the fiduciary breach of a section fiduciary if the first knowingly participates in or conceals an act by the second fiduciary that results in a breach. Once retained by the Plan, PAI may become a fiduciary by virtue of the investment advisory services it provides. Full disclosure to the full Board prior to retention should eliminate a contention that PAI, after becoming a fiduciary, continued to conceal information relevant to whether any Union Trustees elevated third party interests over those of the Plan in choosing to retain PAI.

October ___, 2002

Mr. _____
Chairman,
Board of Trustees
National Basketball Players Association
401(k) Pension Plan
[Address]
[Address]

RE: Retention of Prim Capital

Dear Mr. _____:

This law firm represents Prim Advisors, Inc. ("PAI"), and we understand that the Board of Trustees of the National Basketball Players Association 401(k) Pension Plan ("Plan") is considering retaining PAI to perform an investment portfolio analysis of the Plan.

In that regard, we wish to advise you that PAI currently has a relationship with the National Basketball Players' Association ("Union"). PAI serves as a portfolio monitoring agent for the Union's assets, and it receives a fee from the Union for such services.

In addition, Prim Capital Corporation, the parent company of Prim Advisors, Inc., employs Todd Hunter as a [ADD TITLE.] Todd is the son of William Hunter, who is the Executive Director of the Union. Please be aware, however, that PAI does not intend that Mr. Hunter will perform any services in connection with the Plan if the Trustees were to retain PAI.

If you have any questions concerning the disclosures set forth in this letter, or if you have any other questions concerning PAI or Prim Capital

Corporation, please feel free to contact me, or Joseph Lombardo, Prim Capital's President, at 216-[REDACTED].

Sincerely,

Evan Miller

EXHIBIT 34

Subject: Re:
Date: Wed, 3 Jun 2009 15:52:59 -0700
From: Todd Hunter <thunter@████████>
To: "William.Hunter@████████" <William.Hunter@████████>
Status: read

Sounds great. I don't feel it was such a big deal. Just how Theresa presented the solution. Sounds good. I just didn't understand why my name always comes up. I work hard for Theresa and so prim. Whatever the raise is, I just didn't understand that..

T Hunter

From: Billy Hunter <William.Hunter@████████>

To: Todd Hunter

Sent: Wed Jun 03 15:44:48 2009

Subject: RE:

Todd- assumed it had all been worked out with Theresa and Purvis. You may recall me asking Joe if the matter had been resolved. He responded that Carolyn and Theresa had resolved the matter. While returning to the ofc from therapy, I rec'd an email from Theresa stating that Joe was upset with her decision concerning the requested fee increase. When I arrived here Theresa was anxious to discuss the matter. She stated that Prim was seeking a \$9000 per month increase in fee and she had offered \$5000 per month. I then spoke with Purvis who said he fully supported Prim's request. I have not spoken with Robert Gadson. I have decided to convene a meeting of concerned persons to resolve the matter. Purvis will participate in the meeting via phone. It is a forum for Prim to demonstrate why the proposed increase is justified. I believe that Carolyn Kaufman should be the spokesperson for Prim. I will have Suzanne call Carolyn/Joe to schedule the meeting.

From: Todd Hunter [mailto:thunter@████████]

Sent: Wednesday, June 03, 2009 4:57 PM

To: billy.hunter@████████

Subject:

They had a conversation about the raise after Carolyn presented to Theresa the second report.

There was some questions from Theresa about what I do for her, Gadson, Purvis and the union.

But we have put a comprehensive report with numerical back up I will have the full report that was presented. I will go over it with you and then it is what it is.

Call you later tonight.

.

T Hunter

DISCLAIMER

1. Statement of Confidentiality - This email contains privileged and confidential information. It is intended only for the recipient(s) listed above. Any unauthorized distribution or copying of this email is

prohibited. If you received this email in error, please notify us immediately by reply email and delete it from your files. Thank you.

2. Warning - Computer viruses can be transmitted via email. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damages caused by any virus transmitted by this email. Email transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of email transmission.

3. Prim Capital Corporation is comprised of several operating units, some of which are regulated by various federal and state regulatory bodies. Prim Advisors, Incorporated is registered as an investment advisor with the U.S. Securities and Exchange Commission (SEC). Prim Securities, Incorporated is registered as a broker/dealer in investment securities with The Financial Industry Regulatory Authority (FINRA). Securities are offered by registered representatives through Prim Securities, Inc., member FINRA/SIPC.

4. Please do not use email for orders to buy or sell a particular security.

DISCLAIMER

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4. Please do not use email for orders to buy or sell a particular security.

EXHIBIT 35

Message

From: alexisahunter@ [REDACTED] [alexisahunter@ [REDACTED]]
Sent: 12/8/2010 4:08:40 PM
To: william.hunter@ [REDACTED]
Subject: Resume
Attachments: A.Hunter Resume.docx

Dad,

Attached is my resume. Let me know if you have problems opening the attachment. I've been at Howrey for a little over 3 years. I was with the U.S Atty's Office for 4 years and the DA's office for 3 years.

I was admitted to the NY Bar in Feb. 2001 and the Cali bar in April 2007. I'm also admitted to practice before the Ninth Circuit Court of Appeals.

Thanks for your help.

--Alexis

ALEXIS HUNTER

SENIOR COUNSEL

Highly qualified attorney with extensive experience in civil and criminal case management; apply comprehensive legal proficiency to meet the needs of large corporate clients and individuals. Regarded for the ability to drive processes, lead teams, and build consensus; work well under pressure to manage and meet multiple project deadlines. Strong research and legal writing, negotiation, and process management competencies that produce favorable outcomes. Demonstrated ability to develop high-impact strategies and manage diverse cases.

Additional strengths include:

- | | |
|--|--|
| <ul style="list-style-type: none">✓ Legal Research & Document Drafting✓ Strategy Development & Execution✓ Interpersonal Communication✓ Investigative Techniques | <ul style="list-style-type: none">✓ Client Advisory & Litigation Management✓ Interdisciplinary Team Collaboration✓ General Civil & Criminal Law✓ Team Leadership & Training |
|--|--|

PROFESSIONAL EXPERIENCE

HOWREY LLP, New York, NY

2007-Present

Litigation Associate

Contribute to a team that manages global litigation matters. Supervise junior associates and paralegals; interface with opposing counsel, courts, clients, and litigation teams to manage caseload of commercial and white-collar criminal matters, including breach of contract, trademark infringement, fraud, options trading, accountant liability, and bribery. Draft motions and case documents, perform discovery, and conduct depositions. Appear in court for conferences and hearings.

Select Accomplishments:

- **Drafted summary judgment motion** in a \$20 million employment discrimination case that resulted in dismissal for a national retail client.
- **Prepared a complex foreign tax statute memorandum** and the legal argument section of an arbitration brief that led to a favorable liability judgment and approval to proceed to damages phase of breach of contract case.
- **Negotiated settlement with the district attorney** to resolve a prolonged criminal forfeiture case. Charges against individual clients dismissed and corporations pled to reduced charges from original indictment, avoiding a civil forfeiture action with millions of dollars at stake.
- **Created a 60-page outline summarizing key evidence** in kickback scheme; prepared client for pre-indictment conference with the attorney general, resulting in no criminal charges against client.
- **Managed litigation** of a multi-defendant, multi-million dollar international trademark infringement and counterfeiting case involving pharmaceuticals.
- **Managed third-party subpoena compliance** related to client's accounting work related to sales, marketing, and promotion of certain drugs by a global pharmaceutical company. Work involved review and production of documents involving FCPA issues.
- **Obtained \$25,000 lump sum and monthly payments for life** for a Vietnam veteran who was denied an increase in disability benefits; argued and won administrative appeal based on claim of total unemployability.
- **Generated \$400,000 in new business** from a labor union.

UNITED STATES ATTORNEY'S OFFICE, San Francisco, CA

2003-2007

Assistant United States Attorney, Criminal Division

Managed and prosecuted cases from inception to disposition on matters related to gun possession, immigration, bank robbery, postal theft, and credit card and housing fraud. Supervised federal and state law enforcement agents and oversaw complex long-term multi-agency narcotics and money laundering investigations; presented evidence to the grand jury. Drafted charging instruments, search warrants, wiretap affidavits, and motions and briefs. Appeared in

court for status and settlement conferences, hearings, and trials. Interfaced with defense lawyers, court, probation officers, agents, and officers.

~ Continued ~

Assistant United States Attorney, Criminal Division, UNITED STATES ATTORNEY'S OFFICE, *Continued*

Select Accomplishments:

- **Led a multi-agency wiretap investigation of heroin traffickers** that resulted in the arrest of 23 people on federal conspiracy and drug distribution charges.
- **Prevailed on an extradition petition** of U.S. citizen wanted for murder in France.
- **Tried a wiretap case with a five-year fugitive defendant;** received a letter of commendation from a DEA supervisor for the successful prosecution of an aged case.
- **Served as second-chair in a trial prosecuting owners of a chemical supply company** for supporting the manufacture of methamphetamine. Prevailed at trial against owners on multiple charges.

NEW YORK COUNTY DISTRICT ATTORNEY'S OFFICE, New York, NY

2000-2003

Assistant District Attorney, Office of Special Narcotics Prosecutor

Selected to join the Office of the Special Narcotics Prosecutor; oversaw narcotics investigations and handled prosecutions. Managed police officers investigative activities for grand jury cases. Drafted charging instruments and search warrants and responded to pre-trial motions. Appeared in court for conferences, hearings, and trials. Negotiated case dispositions and resolutions with defense attorneys.

Select Accomplishments:

- **Jointly managed long-term narcotics trafficking investigations** in multiple New York City neighborhoods; arrested and prosecuted over 100 individuals and reduced crime rate in drug-focused neighborhoods.
- **Appointed to A-1 felony panel;** managed large-quantity narcotics cases that carried potential life sentences.
- **Wrote search warrants** that led to significant drug seizures, including 21 kilograms of cocaine and 10 pounds of heroin from two separate individuals.

INTERNSHIPS

Summer Associate, COZEN O'CONNOR, New York, NY

2000

Law Clerk, COZEN O'CONNOR, New York, NY

1999

Legal Intern, U.S. ATTORNEY'S OFFICE CIVIL DIVISION, EASTERN DISTRICT OF NEW YORK

1999

Judicial Summer Intern, THE HONORABLE REENA RAGGI, U.S. DISTRICT COURT, E.D.N.Y.

1998

EDUCATION & PROFESSIONAL CREDENTIALS

JD - FORDHAM UNIVERSITY SCHOOL OF LAW, New York, NY (2000)

BA in Environmental Studies, *with honors* -BROWN UNIVERSITY, Providence, RI (1996)

Bar Admissions: States of New York and California | Southern District of New York | Eastern District of New York | Ninth Circuit Court of Appeals

Training: Depositions, leadership, developing business, becoming a trusted advisor, Howrey, Tyson's Corner, VA | Evidence, grand jury practice, trial advocacy, professional responsibility, and wiretap investigations, DOJ, National Advocacy Center, South Carolina

Affiliations: National Bar Association | Blue Nile Rites of Passage Program

Computer Skills: Microsoft Office Suite | Word Perfect | Adobe | Concordance | IDT

Publications:

Alexis Hunter and Yuri Mulkilka, *Best Practices for General Counsel in the Post-Enron and Sarbanes-Oxley Era*, ABA, In-House Litigator, Journal of the Committee on Corporate Counsel, Vol. 22, No. 2, Winter 2008

Alexis Hunter: Thoughts Lead to Action, Girls & Young Women Leading The Way: 20 True Stories About Leadership, by Frances A. Karnes, Ph.D. and Suzanne M. Bean, Ph.D., 1993

EXHIBIT 36

Message

From: Billy Hunter [William.Hunter@████████]
Sent: 2/4/2009 9:09:19 PM
To: 'pjg823@████████[pjg823@████████]
Subject: RE: Serious concerns

Dear Pat: I am perplexed and a bit dismayed by your recent inquiries and statements of concern. As you know I have always conducted myself with the Association's business as my foremost concern. Although you had ample opportunity over the past eight years to voice any concerns you did not do so. Now that you have retired you seem to be manufacturing issues. I am not inclined to respond to your fishing expedition. I wish you good luck and continued success in your future endeavors.

From: Pat Garrity [mailto:pjg823@████████]
Sent: Wednesday, February 04, 2009 11:00 AM
To: William Hunter
Subject: Serious concerns

Billy-

I am preparing a letter to you voicing some serious concerns which I have relating to how you have been conducting union business. In the interest of fairness I have a couple of questions which I'd like to give you the opportunity to answer.

1. Was the bank you were working on as a potential investment by the nbpa through the summer of 2008 Interstate Net Bank of Cherry Hills, NJ?
2. If yes, when did you become aware that your son Todd was a member of the board of directors of Interstate Net Bank. Records indicate that he has been a director there since at least April 30 2008.
3. When did you become aware that Carolyn Kaufman the investment consultant for the nbpa, was also a member of the board of directors for Interstate Net Bank?
4. Did you ever disclose to members of the nbpa executive committee the inherent conflict of interest that existed?

Pat Garrity
Sent from my BlackBerry® wireless device

EXHIBIT 37

ISN BANK INVESTMENT OPPORTUNITY

For

THE NBA PLAYER'S ASSOCIATION

DECEMBER 11, 2007

WHO IS *ISN BANK*?

ISN Bank is a full service commercial banking institution located in Cherry Hill NJ. The Bank was founded in June of 2001 and initially capitalized with \$7MM at approximately \$4.00 a share. Subsequent capital raises in 2002 and 2003 raised another \$14MM at \$5.00 a share and \$7.00 a share, respectively.

ISN Bank is a privately held institution owned by its approximate 320 shareholders with approximately 4,100,000 shares outstanding. The Bank's stock does not actively trade and the Bank's book value is presently at \$2.87 a share.

The Bank presently has \$194MM in assets, with a loan portfolio of \$140MM

ISN BANK BOARD OF DIRECTORS

Brad Ingerman, Chairman of the Board
President and CEO, The Ingerman Group

Jeffrey Gottlieb, Vice Chairman
Vice President and CFO, Resin Tech

Benjamin Friedman
President and CEO, ISN BANK

Carolyn Kaufman
Partner and Director, Prim Capital

Todd Hunter
Principal and Wealth Advisor, Prim Capital

Steven Swartz
CPA and Managing Partner, Gocial Gerstein LLC

David Richter
President and COO, Hill International

The Board of Directors of ISN Bank represent a leading group of individuals from the South Jersey and Philadelphia areas who hold positions in a variety of professions and businesses that play an integral part in the local community.

THE BANK'S NEED FOR CAPITAL

ISN Bank was largely built on lending to the construction and speculative housing markets. At one point in time, the Bank's assets stood at approximately \$250MM with a large percentage of those assets concentrated in the speculative construction category.

In all frankness, the Bank's loan portfolio has not stood the test of time. In addition to very significant reduction in the portfolio (from \$250MM to \$140MM in loans), the Bank has been plagued by very high levels of delinquent loans. The Bank has a highly inordinate amount of loans that are classified as either substandard or doubtful. At this point in time, there are 54 loans classified as substandard or doubtful totaling \$26MM.

One critical measure used in the analysis of any Bank is the percentage of adversely classified loans measured against tier one capital plus the Bank's loan loss reserve. ISN Bank's adversely classified loans as a percentage of tier one capital plus the loan loss reserve are at approximately 130%. The Bank's primary regulators, that being the FDIC and New Jersey Department of Banking and Insurance, are requiring that ISN Bank reduce that percentage down to no greater than 25%.

In addition to providing regulatory problems and intervention, the high number of delinquent loans at this point is driving multiple problems at ISN Bank. Chief among these issues are a YTD loss of \$7.2MM. The loss has resulted in a serious erosion of the Bank's capital position. The Bank is down to \$11.7MM in capital with a tier one capital ratio of 6.06%. To understand the severity of this issue one has to understand that the regulators will shortly require a minimum tier one capital ratio of 7.5 %.

To understand the method by which the troubled portfolio is driving losses at the Bank it is important to understand the methodology of the Bank's loan loss reserve. Each loan originated by the Bank results in the Bank funding a reserve, generally in the amount equal to one percent of the loan balance. As loans show an indication of deterioration the reserve is augmented to protect the Bank against what is now perceived as a loan that is more likely to result in a loss to the Bank. Therefore a million dollar loan that appeared strong when originated will have a reserve of \$10,000. If the loan shows signs of weakness at some point during its life at that bank, then the bank may decide to increase that reserve to 20% or \$200K. Depending on the likelihood of an anticipated loss and its amount, the reserve can be further adjusted upward or downward. The funding of the reserve, when necessary, represents a direct hit to the Bank's earnings. The Bank's loan loss reserve presently stands at 5% of total loans while industry standards would normally call for a 1% to 1.5% reserve for a healthy loan portfolio.

In addition to increases to the loan loss reserve, the problem loan portfolio has also resulted in direct losses to the Bank in the form of bad loans being resolved with recoveries totaling less than the face amount of the loan. This can be in the form of loans whose recovery is so doubtful thereby requiring the Bank to write them off. Other instances of losses occur when the liquidation of collateral results in a recovery that totals less than the total amount due.

The Bank's losses are also directly attributable to the reduction in the size of the loan portfolio. When the Bank was funding a large volume of construction loans, it was relatively easy to utilize a network of loan brokers to procure small builders and developers looking for funding in order to participate in a very aggressive growth oriented real estate market. In 2006, the Bank originated almost \$60MM in these types of loans. The Bank obviously no longer engages in that type of lending nor is that market available even if the Bank wanted to make those loans. To give some idea of the drop off in originations, the Bank originated/purchased approximately \$10MM in new loans in all of 2007, versus runoff of approximately \$50MM.

In addition to significant losses and erosion of capital, the Bank's loan issues have also resulted in the FDIC issuing a proposed Cease and Desist Order aimed at halting what our regulators term unsafe and unsound banking practices. While the Senior Management of ISN Bank is still in the process of negotiating with the FDIC as to the final contents of the Order, there is no question that certain components of the Order will be all but impossible to comply with absent a significant infusion of capital.

First and foremost is the requirement that the Bank operate with no less than a 7.5% tier one capital level. At present the Bank is at 6.06% so the Bank is already potentially out of compliance. The \$7MM investment by the NBA Player's Association would assist the Bank in operating at a satisfactory tier one capital level.

The other component of the proposed Order requires that the Bank reduce its adversely classified loans so that they total less than 25% of tier one capital plus the loan loss reserve. THE BANK'S PLAN TO ACCOMPLISH THIS GOAL REQUIRES THE SALE OF APPROXIMATELY \$24MM OF ADVERSELY CLASSIFIED LOANS. IN TAKING THIS STEP, THE BANK WILL UNDOUBTLY INCUR A SUBSTANTIAL LOSS. The Senior Management team believes the majority of the loss will be covered by the loan loss reserve attributed to the loans being sold. There will however, be a loss beyond that covered by the reserve. The capital supplied by the NBA Player's Association will largely be utilized to absorb that loss and allow the Bank to comply with its minimum capital requirement.

WHAT DOES THE NBA PLAYER'S ASSOCIATION GET IN RETURN?

If Senior Management and the Board of Directors are correct in its assessment, then the NBA Player's Association investment is the key component of the ISN Bank turnaround. The NBA Player's Association capital is crucial to cleaning up the Bank's balance sheet by way of vastly reducing problem loans. This reduction of problem assets sets into motion a process whereby the Bank can return to profitability, reduce regulatory intervention, and increase not only its book value but more dynamically increase the multiples by which the Bank would likely sell or trade.

The NBA Player's Association would, by way of its investment, own 33% of the institution thereby becoming its largest shareholder. In return for the investment, the Bank's Board of Directors would also facilitate a Voting Trust. This trust would provide the Player's Association with sufficient votes to effectively control the Bank.

In having control of a bank with a very significant ownership position the Player's Association has the potential to leverage their investment to a very high level. IT IS THE BELIEF OF THE BOARD OF DIRECTORS AND THE SENIOR MANAGEMENT TEAM THAT THE SYNERGY CREATED BY THE ROLE OF THE NBA PLAYER'S ASSOCIATION AS ISN BANK'S LARGEST SHAREHOLDER WOULD RESULT IN A SIGNIFICANT VALUE, BEYOND THE DOLLAR AMOUNT OF THE INVESTMENT. Obviously the involvement of the NBA Player's Association provides a built in clientele of young, wealthy, and well known customers. This is an excellent base for lending, deposit services, financial services and provides for the possibility of affinity type banking whereby the Bank issues credit card, stored value cards, and other similar services either on its own or with high profile affinity groups.

Due to ISN Bank's current condition, it will be some time before the Bank becomes profitable even given the proposed investment. Likewise, it will take an extended period of time before there is significant upward movement of the Bank's stock price. It is however important to understand the concept of franchise value and its effect on a bank's value. Franchise value of a banking institution is not as tangible as the dollar amount of its earnings or its book value. Franchise value is the component of a bank that, in a large measure, justifies the multiples of earnings that banks often trade at or are purchased at. Often the factors that comprise this type of value consist of core deposits or core relationships. These are customers who will stay with an institution and are not necessarily dependant on a favorable rate or a specific deal. Another component of franchise value is a physical presence of either branches or business delivery systems. This factor provides a market presence that gives an intangible value that may exceed earnings or book value. In short, franchise value is often represented by components of a bank that purchasers will pay a premium for because it would be exceedingly difficult to create itself. The substantial ownership of a bank by the NBA Player's Association is obviously a situation that a potential acquirer cannot replicate without purchasing the entity or substantially investing in the entity at a premium price.

It is quite common for banks to trade at multiples of 1.5 tangible book value to 3 times book value depending on the individual situation. In its present condition, ISN Bank could not justify that type of multiple. By virtue of this investment however, the Bank moves to a very different strategic position. First, it assists in the resolution of its credit problems thereby improving its balance sheet significantly. Secondly, it receives a potential client base to reinvigorate its lending and business development prospects. Thirdly, it gets a substantial dose of potential franchise value by virtue of the NBA Player's Association's involvement and ownership. The primary beneficiaries of these strategic improvements are of course the NBA Player's Association who would become the largest shareholder and the shareholder whose ownership in the institution came at the most favorable price.

The question may arise as to why the NBA Player's Association would take the admittedly risky step of this investment instead of starting a de novo institution of its own. This investment provides the following advantages over starting a new venture.

First, the cost here is \$7MM to control an operating institution and enjoy a very substantial percentage of ownership. This operation is staffed, has an operating charter, physical operation, core operating systems and technology. In short, any business initiative of the investment group can be commenced in the immediate future.

In order to start its own bank, The NBA Player's Association is looking at an 18 month process in which to secure its initial capitalization, obtain regulatory approval, open its doors and begin to take deposits and make loans.

In terms of costs, the Association is realistically looking at a minimal capital level of \$15MM to \$20MM to open its own bank. In all likelihood, a de novo bank would incur substantial losses in the first 2 to 3 years. The Bank would need to acquire physical space, core systems, staffing, and it would probably be 3 to 5 years before the bank could generate the type of interest income presently being generated at ISN Bank.

RISKS AND ASSUMPTIONS

This is not an investment opportunity without substantial risk. ISN Bank is an institution that will shortly be under a Cease and Desist Order issued by the FDIC. This investment assumes that the capital provided will enable the Bank to comply with the Order and to greatly reduce adversely classified loans. If the Bank is not able to reduce those loans in the anticipated method previously discussed, there could be further regulatory intervention. In addition, the Bank's fiscal success and viability, absent regulatory concerns, depends on the successful resolution of the problem credits.

Although the problem portfolio has been the crux of much of the investment analysis, the viability of the Bank is also dependant on the status of the approximate \$100MM of loans presently graded pass and the \$18MM of loans on the Bank's watch list. In the event that these loans deteriorate beyond anticipated levels, the Bank would once again suffer significant losses, regulatory scrutiny, and the potential need for additional capital.

The success of ISN Bank is also dependant on the ability to generate new loans and to fund them with sufficient and cost effective deposits. As previously stated, the Bank's origination of loans in 2007 was fairly stagnant. The Bank must meet the assumed level of loan production in order to halt further reduction in the loan portfolio which would thereby further reduce interest income.

This investment opportunity is also dependant on regulatory approval by both the FDIC and NJDOBI.

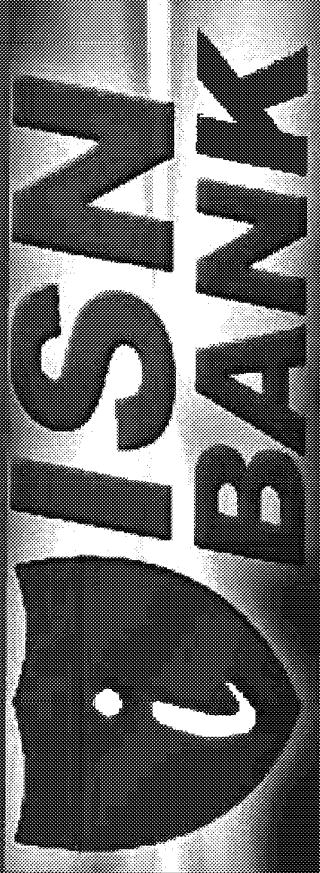
NEXT STEPS

In order to proceed, several steps have to take place. If there is a significant interest on the part of the NBA Player's Association, the Bank will prepare a formal prospectus with the offering of 2.3MM shares of ISN BANK stock at \$3.00 dollars per share.

The Bank would expect The Player's Association to commence due diligence through an agent of their choosing. Simultaneously it would make sense for both parties to meet with both regulatory parties in order to discuss the approval process, the Cease and Desist Order, and a timeline for the transaction.

This presentation and memorandum is for discussion purposes only and is not to be construed as a formal offering or as a binding document. We at ISN Bank look forward to continuing this discussion.

EXHIBIT 38



National Basketball
Players Association (NBPA)

ISN BANK Opportunity
December 11, 2007



Who is ISN BANK?

ISN Bank is a full service commercial banking institution headquartered in Camden County, NJ with its main office located in Cherry Hill, NJ. ISN Bank offers a wide variety of Financial Products and Business Development Services. The Bank opened for business as New Jersey's first State Chartered Commercial Internet-Based Bank in May 2001. The Bank presently operates with \$194,000,000 in assets.

ISN Bank Board Of Directors

BRAD INGERMAN (Chairman of the Board)
President and CEO of The Ingerman Group

JEFFREY GOTTLIEB (Vice Chairman of the Board)
Vice President and CFO of Resin Tech

BENJAMIN FRIEDMAN
President and CEO of ISN Bank

CAROLYN KAUFMAN
Partner & Director of Prim Capital

TODD HUNTER
Principal & Wealth Advisor of Prim Capital

STEVEN SWARTZ
CPA & Managing Partner of Gocial Gerstein, LLC

DAVID RICHTER
President & COO of Hill International

Governing Agencies

**Federal Deposit Insurance Corporation
(FDIC)**

Headquarters located in Manhattan, New York

**New Jersey Department of Banking and
Insurance
(NJ DOBI)**

Headquarters located in Trenton, New Jersey

The Bank's Need for Capital...

- Currently operating with a high level of delinquent loans which are generating both losses as well as regulatory intervention.
- 54 loans classified as "Substandard or Doubtful" total \$26 million.
- The Bank's Adversely Classified Loans are 130% of capital.
- Proposed Regulatory Enforcement Action: "Cease & Desist" Order
 - Reduction of Substandard and Doubtful loans to 25% of Tier 1 Capital plus loan loss reserve.
 - Operate above a 7.5% Tier 1 Capital Level.
 - Reduce overall delinquencies to 5% of total loans presently at 12%.
- Facing a projected YTD loss of \$7.5MM (driven by poor loan performance). Capital depleted from \$17MM in December 2006 to \$11.7MM in November 2007.
- Loan Loss Reserve is 5% of total loans vs. Peer Group which averages 1% to 2%.

Projections...

Tier 1 Capital	11,884,000				
Capital Infusion, net	7,000,000				
ALL	7,259,000				
Tier 1 Capital plus ALL	26,143,000				
		O/S Balance			
		23,632,000			
		5,392,800			
		30%			
		29,024,800			
		(6,535,750)			
		22,489,050			
Substandard Loans					
Speculate that X% of Special Mention will migrate to Substandard.					
Projected Substandard Balance					
Less 25% regulatory max					
Credits to be sold, written-off, etc (within 180 days)	77%				
Speculate selling at a price of:					
Proceeds	50%	55%	60%	65%	70%
Estimated Discount	11,244,525	12,368,978	13,493,430	14,617,883	15,742,335
Reserve on hand to absorb discount	(4,364,029)	(4,364,029)	(4,364,029)	(4,364,029)	(4,364,029)
Loss on sale (i.e. - impact to Capital)	6,880,496	5,756,043	4,631,581	3,507,138	2,382,686

ISN Bank Assets

November 30, 2007

Cash	\$3,501,949
Fed Funds Sold	3,738,000
Investments	42,737,865
Total Loans	137,277,938
Allowance For Loan Loss	(7,259,474)
Total Earning Assets	179,996,277
All other Assets	14,227,228
Total Assets	\$194,223,505

ISN Bank Equity

November 30, 2007

Stock	\$20,395,925
Equity Gain/ <Loss>	(184,415)
Retained Earnings	(1,248,644)
Profit/ <Loss>	(7,263,549)
Total Equity	11,669,317
Total Liabilities & Equity	\$194,223,505

What NBPA Gets In Return...

- The investment in the Bank will be utilized to clean up the Bank's balance sheet and allow the Bank to conform to the Regulatory "Cease and Desist" Order. The Bank will sell its adversely classified assets. The sale will likely generate a loss, the assumption is that most of the loss will be absorbed by the loan loss reserve. \$7MM in capital allows the Bank to maintain its 7.5% Tier 1 capital ratio proposed and continue to originate assets.
- NBPA receives a controlling interest.
- Physical Presence, IT Infrastructure, Staffing, Management Team.
- Instant franchise value by virtue of the NBA Brand.
- Built in customer base of NBA players.
 - Originate Loans
 - Deposit Fees
 - Financial Services

Projections Sourced from NBPA

Average Loan Balance	Yr 2008	Yr 2009	Yr 2010	Yr 2011	Yr 2012
	10,000,000	15,000,000	15,000,000	15,000,000	15,000,000
New Loan Allocation:					
C&I	25%	2,500,000	3,750,000	3,750,000	3,750,000
CRI	25%	2,500,000	3,750,000	3,750,000	3,750,000
Consumer	50%	5,000,000	7,500,000	7,500,000	7,500,000
	10,000,000	15,000,000	15,000,000	15,000,000	15,000,000
New Deposit Allocation:					
C&G	25%	500,000	500,000	500,000	500,000
S&V	25%	500,000	500,000	500,000	500,000
M&A	50%	1,000,000	1,000,000	1,000,000	1,000,000
	2,000,000	3,000,000	3,000,000	3,000,000	3,000,000
# of Loans/Year	25	38	38	38	38
Each loan officer can handle _____ loans/month?		3	3	3	3
Additional Personnel:					
# of loan officers needed	1	1	1	1	1
Lender writer for every 3 L.O.	-	-	-	-	-
Marketing Costs	180,000	220,000	220,000	220,000	250,000
Web content design & Personnel	50,000	30,000	30,000	33,000	33,000
	200,000	220,000	220,000	222,000	242,000

It is the Belief Of...

*The Board of Directors and
The Senior Management Team that:*

**"The synergy created by the role of
the NBPA as ISN Bank's largest
shareholder would result in a
significant value, beyond the dollar
amount of the investment."**

Risk and Assumptions...

- Market conditions may not allow the Bank to meet its loan origination target levels.
- Loans currently rated "Pass" may deteriorate causing additional loan losses or erosion of capital.
- Capital infusion allows resolution of problem loans via sales of the portfolio – this leads to Cease and Desist Compliance. Risk exists should problem loans be sold at less than anticipated prices.
- The sale of the problem loans is accomplished while still maintaining required 7.5% Tier One Capital Level.
- Capital level remains sufficient to allow origination of new loans.
- Regulatory enforcement "Cease and Desist" Order lifted.
- Bank to convert State Charter to National Charter (OCC).
- Regulatory approval of transaction.

Next Steps...:

In order to proceed, several steps have to take place. If there is a significant interest on the part of the NBPA, the Bank will prepare a formal prospectus with the offering of 2.3MM shares of ISN BANK stock at \$3.00 dollars per share.

The Bank would expect the NBPA to commence due diligence through an agent of their choosing. Simultaneously, it would make sense for both parties to meet with both regulatory parties in order to discuss the approval process, the Cease and Desist Order, and a timeline for the transaction.

This presentation and memorandum is for discussion purposes only and is not to be construed as a formal offering or as a binding document. We at ISN Bank look forward to continuing this discussion.

EXHIBIT 39

Message

From: Billy Hunter [William.Hunter@████████]
Sent: 4/1/2008 9:48:16 PM
To: 'Derek Fisher' [DDLLFF2@████████]; 'afoyle3131@████████'; 'pjc823@████████'; [pjg823@████████]; 'PJ Brown' [longfella42@████████]; 'dikembeM@████████'; [dikembeM@████████]; 'shotblocker@████████'; [shotblocker@████████]; 'malik.j@████████'; [malik.j@████████]; 'E Snow' [esnow@████████]; 'Etan Thomas' [akhenaton_36@████████]
Subject: ISN Bank

April 1, 2008

TO: President Derek Fisher
1st Vice President Adonal Foyle
Vice President P.J. Brown
Vice President Dikembe Mutombo
Vice President Theo Ratliff
Vice President Malik Rose
Vice President Eric Snow
Vice President Etan Thomas
Secretary/Treasurer Pat Garrity

FROM: G. William Hunter

RE: InterState Net Bank & Playoff Pool

Gentlemen:

During our last Executive Committee meeting in New Orleans, I briefed you on the due diligence audit we commissioned on the InterState Net Bank. The audit, conducted by independent consultants the Secura Group LLC, is a necessary prerequisite to a discussion and consideration as to whether the NBPA should participate in the purchase of ISN. I should note, that the due diligence audit conducted by the Secura Group supplements the cursory analysis performed by attorney Roger Klein, a specialist in merger/acquisitions with the Howrey Law Firm. Mr. Klein had earlier concluded that the investment was risky, but he recommended that we have a more thorough review done by an expert consulting firm like Secura.

I had hoped to present the analysis, conclusion, and recommendation of Secura much sooner, but unfortunately, the completed audit report and recommendation did not arrive until last week. When it finally arrived, it became obvious that there wouldn't be much left to talk about, but I wanted to close the loop with you on this particular proposed transaction.

As a reminder, the Bank, located in Cherry Hill, New Jersey, is a community bank with a local and internet clientele. It is licensed by the State of New Jersey and authorized by law to engage in business in other states. It has existed for approximately seven years and at

its peak had deposits totaling in excess of \$190 million. Due to poor management and a series of bad loans, exacerbated by the sub-prime mortgage lending crisis, the FDIC ordered the Bank to "cease and desist" operations. The FDIC order presented the Bank with three options: it could close its doors, seek an infusion of capital to meet its capital reserve requirements, or merge with another bank. The Chairman of the Bank elected to contact me to determine if the NBPA was interested in assuming control of the bank.

After consulting each of you, I retained Secura to conduct a limited scope credit due diligence review of the Bank. The review included an assessment of the Bank's commercial lending policies, documentation, and portfolio metrics. In addition, Secura conducted interviews with individuals responsible for credit risk management, including the Chief Executive Officer and Chief Credit Officer and the Vice President for Portfolio Analysis.

Secura did not issue a positive report. It advises that, "*based on the limited scope evaluation of credit risk at ISN, investment in this institution is not advised. Risk is poorly quantified. The portfolio is unsatisfactory. The ALLL need is unquantifiable in any meaningful sense. Trends are negative. Credit risk managers and loan officers lack the experience to effectuate a successful turnaround.*" Dan Krabil of Secura advised that "*if the NBPA invested in or acquired the Bank, it would need to devote substantial effort to complying with the FDIC Order and dealing with regulatory problems generally, rather than building a profitable banking franchise.*" It would require an infusion of \$7-\$12 million in capital due to the number of outstanding loans which are likely to default.

The Secura firm, which has an outstanding reputation, was recommended by the FDIC and it would be foolhardy to dismiss its recommendation. Therefore, I recommend that we not pursue the purchase of the ISN Bank. However, this does not mean there is not a bank that would be suitable for our start up purposes and I shall continue to discuss and explore the possibilities of the Association eventually starting a bank.

On a separate note, I have attached the recent proposed allocation of playoff pool monies. Under our 2005 CBA, we negotiated for the playoff pool monies to increase beginning this year from \$10 million to \$11 million. This proposal keeps the same proportion for distribution of the money as we have used in the past. If you have any desire to make any adjustments to this formula, please let me know.

Best regards,

G.W.H.

EXHIBIT 40

National Basketball Players Association - NBPA
 Airfare which includes San Francisco or Oakland
 Date Range: February 2007 - April 2012¹

Group ²	Credit Card Date ³	Ticket Date ⁴	Departure Date ⁵	Departure Day of Week	Ticket #	Airline	Adj Amt (after partial refunds) ⁶	Identified as Personal on statements	From	To	Additional Leg	Additional Leg	Changed to personal based on interview	
A	26-Apr-07	25-Apr-07	27-Apr-07	Friday	57037256716	Continental	\$1,398.80		Newark	San Francisco	Newark			
*	B	23-Aug-07	22-Aug-07	23-Aug-07	Thursday	57069542570	Continental	\$756.40		Oakland	San Francisco	Los Angeles		
B	25-Aug-07	24-Aug-07	25-Aug-07	Saturday	5262331476908	Southwest	\$134.40		Los Angeles	Las Vegas	Las Vegas			
B	26-Aug-07	25-Aug-07	25-Aug-07	Saturday	5262331577956	Southwest	\$138.40		US Airways	San Francisco	San Francisco		\$539.90	
B	27-Aug-07	26-Aug-07	26-Aug-07	Sunday	377069542604	US Airways	\$539.90		US Airways	Newark	Newark			
B	21-Aug-07	20-Aug-07	27-Aug-07	Monday	167069542536	United	\$674.40		United	San Francisco	Peking, China	San Francisco	JFK	
C	1-Sep-07	31-Aug-07	8-Sep-07	Saturday	167069542674	United	\$9,662.36		JFK	San Francisco	San Francisco	JFK		
D	7-Nov-07	6-Nov-07	6-Nov-07	Saturday	57086324122	Continental	\$656.40		Newark	Los Angeles	Los Angeles			
D	7-Nov-07	6-Nov-07	11-Nov-07	Sunday	562345267530	Southwest	\$134.40		Los Angeles	Los Angeles	Los Angeles			
D	10-Nov-07	9-Nov-07	11-Nov-07	Sunday	17086324157	American	\$1,357.40		Delta	San Francisco	San Francisco	JFK		
D	7-Nov-07	6-Nov-07	16-Nov-07	Friday	67086324123	Delta	\$97.40		Delta	Los Angeles	Los Angeles			
E	16-Apr-08	15-Apr-08	17-Apr-08	Thursday	67128249833	Delta	\$97.50		Delta	Los Angeles	Los Angeles			
E	20-Apr-08	19-Apr-08	19-Apr-08	Saturday	5262378281567	Southwest	\$303.00		Southwest	San Francisco	San Francisco	JFK		
E	22-Apr-08	21-Apr-08	22-Apr-08	Tuesday	67128249942	Delta	\$97.50		Delta	Los Angeles	Los Angeles		\$303.00	
F	8-May-08	7-May-08	13-May-08	Tuesday	67340717944	Delta	\$1,886.00		LaGuardia Int'l	New Orleans	San Francisco	JFK		
F	8-May-08	7-May-08	14-May-08	Wednesday	17340717945	American	\$1,051.00		American	Dallas/Ft Worth	Los Angeles			
F	13-May-08	12-May-08	14-May-08	Wednesday	5262303425838	Southwest	\$136.50		Southwest	Oakland	Los Angeles			
G	9-Jun-08	8-Jun-08	10-Jun-08	Thursday	5262310808722	American	\$84.50		American	Los Angeles	Los Angeles			
G	13-Jun-08	12-Jun-08	12-Jun-08	Thursday	5262310808722	Southwest	\$151.50		Southwest	Los Angeles	Los Angeles			
G	14-Jun-08	13-Jun-08	14-Jun-08	Saturday	57352573359	Continental	\$829.50		Continental	San Francisco	San Francisco	JFK		
H	16-Aug-08	15-Aug-08	15-Aug-08	Friday	127465652383	Southwest	\$10,656.40		Southwest	Newark	Newark			
H	26-Aug-08	25-Aug-08	28-Aug-08	Thursday	573565652498	Continental	\$809.50		Continental	SFO	Tokyo-Narita, Japan	Peking, China	SFO	
-	7-Oct-08	6-Oct-08	8-Oct-08	Wednesday	167374827993	United	\$977.50		United	San Francisco	Tokyo-Narita, Japan	Peking, China		
-	8-Oct-08	7-Oct-08	9-Oct-08	Thursday	5268310541618	Southwest	\$154.50		Southwest	Los Angeles	Los Angeles			
-	30-Aug-08	29-Aug-08	6-Dec-08	Saturday	57370377295	Continental	\$1,619.00		Continental	San Francisco	Los Angeles			
J	4-Dec-08	3-Dec-08	6-Dec-08	Saturday	67388422234	Delta	\$1,114.20		Delta	Los Angeles	Los Angeles			
J	8-Dec-08	7-Dec-08	8-Dec-08	Monday	5268315836406	Southwest	\$517.00		Southwest	San Francisco	Phoenix	Phoenix		
J	13-Dec-08	12-Dec-08	13-Dec-08	Saturday	5268765326249	Southwest	\$159.50		Southwest	Oakland	Los Angeles	Los Angeles		
J	3-Dec-08	2-Dec-08	14-Dec-08	Sunday	57383422211	Continental	\$809.50		Continental	Los Angeles	Newark	Newark		
K	30-Jan-09	29-Jan-09	6-Feb-09	Friday	57398469184	Continental	\$809.60		Continental	San Francisco	Phoenix	Phoenix		
K	30-Jan-09	29-Jan-09	10-Feb-09	Tuesday	526877066685	Southwest	\$258.60		Southwest	Oakland	Phoenix	Phoenix		
K	16-Feb-09	15-Feb-09	16-Feb-09	Monday	57403396162	Continental	\$659.60		Continental	JFK	San Francisco	San Francisco		
L	13-Jun-09	12-Jun-09	17-Jun-09	Wednesday	67082179103	Delta	\$819.60		Delta	Oakland	Oakland			
L	17-Jun-09	16-Jun-09	22-Jun-09	Monday	526236269165	Southwest	\$204.60		Southwest	Las Vegas	Las Vegas			
L	20-Jun-09	19-Jun-09	26-Jun-09	Friday	570821791912	Continental	\$684.60		Continental	San Francisco	San Francisco	San Francisco		
M	22-Sep-09	21-Sep-09	24-Sep-09	Saturday	16770337138	United	\$784.60		United	Newark	Newark	Newark		
M	3-Oct-09	2-Oct-09	3-Oct-09	Monday	167709105509	American	\$1,586.20		American	NW Arkansas	Dallas/Ft Worth	Dallas/Ft Worth		
N	28-Oct-09	27-Oct-09	28-Oct-09	Wednesday	17714602774	Alaska Airlines	\$702.60		Alaska Airlines	Newark	Newark	Newark		
N	31-Oct-09	30-Oct-09	31-Oct-09	Saturday	167714602808	United	\$812.60		United	Portland, OR	Portland, OR	Portland, OR		
O	29-Dec-09	28-Dec-09	2-Jan-10	Saturday	6772398453	Delta	\$709.60		Delta	Oakland	Oakland	Oakland		
O	2-Jan-10	1-Jan-10	2-Jan-10	Saturday	1773984486	American	\$729.70		American	Los Angeles	Los Angeles	Los Angeles		
O	5-Jan-10	4-Jan-10	4-Jan-10	Monday	526217367156	Southwest	\$168.80		Southwest	Oakland	Oakland	Oakland		
O	29-Dec-09	28-Dec-09	5-Jan-10	Tuesday	5262172738853	Southwest	\$168.60		Southwest	Los Angeles	Los Angeles	Los Angeles		
O	28-Dec-09	27-Dec-09	6-Jan-10	Wednesday	2777398444	Alaska Airlines	\$366.60		Alaska Airlines	Oakland	Oakland	Oakland		
O	6-Jan-10	5-Jan-10	6-Jan-10	Wednesday	5262174001867	Southwest	\$219.70		Southwest	Portland, OR	Portland, OR	Portland, OR		
O	5-Jan-10	4-Jan-10	8-Jan-10	Friday	5262173682650	Southwest	\$219.70		Southwest	San Francisco	San Francisco	San Francisco		
O	14-Jan-10	8-Jan-10	10-Jan-10	Sunday	677227887307	Delta	\$150.10		Delta	JFK	JFK	JFK		
P	11-Dec-09	10-Dec-09	9-Feb-10	Tuesday	5773984269	Continental	\$933.60		Continental	Newark	Newark	Newark		
P	6-Feb-10	5-Feb-10	15-Feb-10	Monday	1773452926	American	\$822.70		American	Dallas/Ft Worth	Dallas/Ft Worth	Dallas/Ft Worth		
P	7-Feb-10	6-Feb-10	21-Feb-10	Sunday	57733452935	Continental	\$1,009.70		Continental	San Francisco	San Francisco	San Francisco		
Q	14-May-10	13-May-10	19-May-10	Wednesday	57889750265	US Airways	\$1,044.70		US Airways	Newark	Newark	Newark		
Q	15-May-10	14-May-10	20-May-10	Thursday	37789750273	Continental	\$961.70		Continental	Oakland	Oakland	Oakland		
Q	21-May-10	20-May-10	24-May-10	Monday	57889750403	Continental	\$760.70		Continental	Phoenix	Phoenix	Phoenix		

National Basketball Players Association - NBPA
 Airfare which includes San Francisco or Oakland
 Date Range: February 2007 - April 2012¹

Group ²	Credit Card Date ³	Ticket Date ⁴	Departure Date ⁵	Departure Day of Week	Ticket #	Airline	Adj Amt (after partial refund) ⁶	Identified as Personal on statements	From	To	Additional Leg	Additional Leg	Changed to personal based on interview
*	R	16-Jul-10	15-Jul-10	23-Jul-10	Friday	67905493272	Delta	\$1,265.40	JFK	Las Vegas	JFK	JFK	
	R	29-Jul-10	22-Jul-10	23-Jul-10	Saturday	67905493371	Delta	\$828.00	JFK	Las Vegas		JFK	
	R	24-Jul-10	23-Jul-10	24-Jul-10	Sunday	5262114613609	Southwest	\$217.70	\$217.70	San Francisco	Las Vegas	San Francisco	
*	R	24-Jul-10	23-Jul-10	25-Jul-10	Wednesday	62114526557	Delta	\$611.00	\$1,679.40	Newark	Las Vegas	San Francisco	Newark
S	25-Aug-10	24-Aug-10	24-Aug-10	25-Aug-10	Wednesday	57909606734	Continental	\$176.70	\$176.70	Las Vegas	Los Angeles	Los Angeles	
S	25-Aug-10	24-Aug-10	25-Aug-10	26-Aug-10	Thursday	5262121033499	Southwest	\$171.70	\$171.70	Los Angeles	Los Angeles	Oakland	
S	26-Aug-10	25-Aug-10	26-Aug-10	26-Dec-10	Sunday	5262121202166	Southwest	\$1,475.22	\$1,475.22	Delta	Phoenix	Los Angeles	
T	15-Dec-10	14-Dec-10	26-Dec-10	26-Dec-10	Tuesday	67942376522	Delta	\$176.70	\$176.70	Oakland	Los Angeles	Phoenix	Los Angeles
T	29-Dec-10	28-Dec-10	4-Jan-11	4-Jan-11	Thursday	5262145074018	Southwest	\$381.40	\$381.40	Los Angeles	Phoenix	Los Angeles	
T	31-Dec-10	30-Dec-10	6-Jan-11	6-Jan-11	Friday	526214541561	Southwest	\$1,705.70	\$1,705.70	JFK	San Francisco	Los Angeles	
U	12-Feb-11	11-Feb-11	11-Feb-11	11-Feb-11	Sunday	67954437100	Delta	\$180.70	\$180.70	Oakland	Los Angeles	Newark	
U	12-Feb-11	11-Feb-11	11-Feb-11	15-Feb-11	Tuesday	5262154709026	Southwest	\$964.70	\$964.70	Los Angeles	Los Angeles	Newark	
U	3-Feb-11	2-Feb-11	2-Feb-11	21-Feb-11	Monday	17947601235	American	\$2,419.40	\$2,419.40	Continental	Phoenix	Los Angeles	Newark
V	31-Mar-11	30-Mar-11	7-Apr-11	7-Apr-11	Thursday	57966625620	Continental	\$2,419.40	\$2,419.40	JFK	Los Angeles	Las Vegas	Las Vegas
W	9-Aug-11	8-Aug-11	15-Aug-11	15-Aug-11	Monday	686710533201	Delta	\$2,508.20	\$2,508.20	Los Angeles	Las Vegas	JFK	
W	9-Aug-11	8-Aug-11	16-Aug-11	16-Aug-11	Tuesday	5262192490336	Southwest	\$205.70	\$205.70	San Francisco	Las Vegas	Las Vegas	
W	25-Aug-11	17-Aug-11	18-Aug-11	18-Aug-11	Wednesday	686710532060	Delta	\$996.20	\$996.20	Los Angeles	Las Vegas	JFK	
X	10-Oct-11	9-Oct-11	10-Oct-11	10-Oct-11	Monday	587146650462	Continental	\$2,439.40	\$2,439.40	Newark	Los Angeles	Newark	Newark
X	13-Oct-11	12-Oct-11	13-Oct-11	13-Oct-11	Tuesday	587146650650	Continental	\$2,459.40	\$2,459.40	Los Angeles	Los Angeles	San Francisco	Newark
X	13-Oct-11	12-Oct-11	14-Oct-11	14-Oct-11	Wednesday	526205817375	Southwest	\$201.70	\$201.70	Los Angeles	Los Angeles	Oakland	Newark
*	Y	27-Jan-12	26-Jan-12	27-Jan-12	Friday	98487380190765	Virgin America	\$1,799.80	\$1,799.80	JFK	Los Angeles	San Francisco	Newark
*	Y	28-Jan-12	27-Jan-12	27-Jan-12	Friday	1275316497	American	\$177.80	\$177.80	Los Angeles	San Francisco	San Francisco	Newark
*	Y	25-Jan-12	24-Jan-12	28-Jan-12	Saturday	587380190515	Continental	\$1,264.80	\$1,264.80	Newark	Los Angeles	San Francisco	Newark
Y	2-Feb-12	1-Feb-12	2-Feb-12	2-Feb-12	Thursday	1687380191475	United	\$1,264.80	\$1,264.80	San Francisco	Orlando	LaGuardia Int'l	Orlando
Z	20-Jan-12	19-Jan-12	21-Feb-12	21-Feb-12	Tuesday	68722144083	Delta	\$603.80	\$603.80	Orlando	Orlando	LaGuardia Int'l	Orlando
Z	27-Feb-12	26-Feb-12	27-Feb-12	27-Feb-12	Wednesday	98487439618890	Virgin America	\$1,652.80	\$1,652.80	San Francisco	Orlando	LaGuardia Int'l	Orlando
Z	2-Mar-12	1-Mar-12	3-Mar-12	3-Mar-12	Saturday	570400060171	Continental	\$1,269.80	\$1,269.80	San Francisco	Orlando	LaGuardia Int'l	Orlando
						Total Spend on SFO-JFK related trips	\$883.10						\$ 3,852.50

Notes:

¹Date range is based on American Express statements received for B. Hunter's corporate credit card. The statement ending date of 1/29/07 (January) did not contain any flights and therefore this analysis begins with February 2007.

²Group letter assigned to one or more flights indicating that the flights appear to have taken place within the same trip.

³Credit Card date corresponds to the date on the American Express statement.

⁴Ticket date corresponds to the transaction date that appears on the American Express statement within the details of the transaction.

⁵Departure date based on Bob Ricardo's records which includes his various database printouts of flights taken by B. Hunter. Southwest Airlines receipts, and itineraries. Italicics represent ticket date equals departure date.

⁶Adjusted Amount (after partial refunds) represents the final cost of the flight after adjustments such as partial refunds for flights not taken.

* = Flights previously identified as personal on credit card statements.

EXHIBIT 41

LAW OFFICE OF THOMAS R. ASHLEY
ROBERT TREAT CENTER
50 PARK PLACE, SUITE 1400
NEWARK, NEW JERSEY 07102
TEL: (973) [REDACTED]
FAX: (973) [REDACTED]

November 16, 2012

Via Facsimile No: 212-[REDACTED] & e-mail

Amy E. Gold, Esq.

Paul, Weiss, Rifkind, Wharton & Garrison, LLP
1285 Avenue of the Americas
New York, New York 10019-6064

RE: NBPA Investigation

Dear Ms. Gold:

Pursuant to your request we have reviewed the two (2) spreadsheets dated November 5, 2012 pertaining to Mr. Hunter's trips to San Francisco/Oakland and his vacation days.

Due to the passage of time it is difficult for our client to determine if all the trips were for business or personal purposes. Mr. Hunter's best recollection is that the trips to San Francisco were generally business related and in those instances when they were personal he directed Outbound Travel to charge the expense to his personal credit card.

We have explained specific instances where it has been demonstrated that there was a legitimate business purpose for the trips to San Francisco. Nevertheless, the passage of time has made it impossible for us to state with certainty that every trip was business related. Hence, without conceding that any trips were personal, we are constrained at this time not to object to Deloitte's position that the legs of the trips to the Bay Area identified in Groups B, E and I, at the costs so indicated, may have been personal. In those instances where the contested trips were deemed personal, my client generally directed Outbound Travel to charge the expense to his personal credit card. Thus, we reserve the right to provide you with further information that demonstrates that the trips to San Francisco were in fact business related.

Notwithstanding Mr. Hunter's testimony to the contrary, upon further reflection, Mr. Hunter's best recollection is that he travelled home early to prepare for the February 14, 2009, Executive Committee meeting. Thus, we object to the Group K trip being considered personal.

Having had the opportunity to further review e-mails that were omitted from the binders that were provided to us prior to Mr. Hunter's testimony, we are of the opinion that October 15, 2008, should not be charged as vacation time. There are various indications in the e-mails pertaining to Mr. Hunter's return date to New York. We submit, however, that the most instructive email is that of October 7, 2008 at 9:29 p.m., wherein he advises NBPA office staff that he will be travelling from October 7-14 and that Gary Hall would be in charge of the office during his absence. The clear import of the email is that he was going to return to the office on October 15. This is the final word on the subject. Further indicative of our position is the fact

that on October 15, 2008, Outbound Travel charged a \$25.00 re-issue fee which evinces a change in itinerary. It is our position that the original return date may have been October 15, 2008 but that it was changed to October 14, 2008.

With respect to the vacation days from June 28, 2010 through July 2, 2010, Suzanne Oldham was out on maternity leave during this time. We submit that the vacation days were provided to the temporary employee but that there was an oversight on the temp's part in failing to properly record the days as vacation time. We must emphasize that there was no lack of integrity on Mr. Hunter's part. In support of this position reference is made to Kendalle Freeman's e-mail of July 1, 2010 wherein she tells Mr. Hunter to "[e]njoy the rest of your vacation." This certainly signifies that Mr. Hunter had advised his staff that he would be out of the office on vacation.

We assume that the trips and vacation days designated in the charts dated November 5, 2012, are the only contested items. It would be blatantly unfair for any additional trips or vacation days to be considered, without the specific trips and dates being identified and the records provided to allow my client an opportunity to respond in writing.

Additionally, whenever Mr. Hunter travelled to San Francisco for business-related purposes throughout his 16 year tenure as Executive Director, he always stayed at his home rather than at a hotel. He was entitled to charge hotel and food expenses to the Players Association. He chose not to charge hotel and food expenses in an effort to curtail unnecessary expenses.

We ask that when you consider the overall loss to the Players Association, my client is entitled to a credit for all hotel and food expenses which he could have legitimately charged to the Players Association over the past 16 years.

Finally, Mr. Hunter never charged the Players Association for business calls made from his home phone. Further, while at least 10 Players Association employees cell phone bills are paid by the Player's Association, until recently, Mr. Hunter never sought reimbursement for business related cell phone calls. We likewise ask that this factor be considered when calculating the overall loss.

Amy E. Gold, Esq.
November 16, 2012
Page | 3

We thank you for your time and attention. Should you need to discuss this matter, please do not hesitate to contact us.

Very truly yours,


THOMAS R. ASHLEY, ESQ.


RANDY P. DAVENPORT, ESQ.

RPD/vat

cc: Tamika Tremaglio, (via e-mail: ttremaglio@ [REDACTED])
David Brown, (via e-mail: DBrown@ [REDACTED])

EXHIBIT 42

Message

From: G. William Hunter [William.Hunter@████████]
Sent: 2/26/2007 7:21:08 PM
To: 'william.wang@████████' [william.wang@████████]
CC: 'mc88888@████████' [mc88888@████████]
Subject: PROPOSAL FOR CITIC GUOAN/MILLARD CHIANG

Mr. Yan
CITIC Guoan, Inc.
C% William Wang

Dear William:

Set forth hereinafter is a preliminary outline regarding how the NBPA, in conjunction with CITIC Guoan and Millard Chiang, may develop the African-American Cultural Program for dissemination throughout the People's Republic of China.

As you know, the National Basketball Players Association ("Association") has for 50 years served as the duly recognized and official representative of the 450 professional basketball players who belong to the National Basketball Association ("NBA"). While our principal duties are those of a sports-labor-union the economic success and visibility of our player/members has enabled the Association to take advantage of a myriad of opportunities. For example, we have formed meaningful and beneficial relationships with powerful individuals and entities in sports, entertainment, and fashion which have resulted in several successful projects. Our intent is to utilize the Association's relationships to develop and ensure the success of the China-African-American Cultural Program.

ENTERTAINMENT

During the 2007 Grammy Music Awards Celebration which were televised to over 200 countries it was announced that "there are varieties of music, but the *only* music that sells worldwide is black American music."

De Passe Entertainment, Inc.

We are fortunate to have a relationship with two of the most powerful African-Americans in the U.S. entertainment industry. I am referring to Suzanne De Passe and Al Haymon.

Perhaps, second only to Oprah Winfrey, Suzanne De Passe ranks as one of the most prominent and important African-American women working in television. In 1967, Ms. De Passe joined Motown Records the largest black owned music company in the U.S. In 1981, she was appointed president of the company, and over the years was involved in virtually every facet of the company's expanding empire. At Motown, she helped produce television specials such as

TCB and G.I.T. on Broadway, both starring Diana Ross & the Supremes and The Temptations. She was principally responsible for signing, coaching, and developing Motown's most popular act of the 1970's The Jackson 5.

In 1973, Ms. De Passe was nominated for an Academy Award for co-writing the screenplay "Lady Sings the Blues" (1972) starring Diana Ross as singer Billie Holliday.

In 1998, Ms. De Passe purchased Motown Productions and renamed it De Passe Entertainment. The company has since produced such television shows and feature films as Class Act; Sister Sister; Smart Guy; and It's Showtime at the Apollo. She also produced several television miniseries including Lonesome Dove, Buffalo Girls, Streets of Laredo and Dead Man's Walk. She won Emmy Awards for producing Motown 25 and Motown Returns to the Apollo specials which won for Outstanding Variety, Music or Comedy Program. In addition, she received Emmy nominations for Lonesome Dove, Buffalo Girls, The Jacksons: An American Dream, The Temptations, and the crime miniseries Small Sacrifices.

Al Haymon Productions

For the past 25 years, Al Haymon has flourished in the music and television industries as the pre-eminent African-American promoter of theatrical productions and musical concerts. Mr. Haymon who grew-up in Cleveland, Ohio, is a graduate of Harvard University and Harvard Business School. He began his career as a concert promoter while attending undergraduate school at Harvard University, Boston, Massachusetts and eventually became the largest black concert promoter in U.S. history. During his career he has promoted every major African-American singer/entertainer including James Brown, Jimi Hendrix, Michael Jackson, Stevie Wonder, Prince, Beyonce, JayZ, Mariah Carey, Patti La Belle, Teddy Pendergrass, Marvin Gaye, Ray Charles, Diana Ross & the Supremes, P. Diddy, Tupac, Biggie Smalls, Alicia Keys, Missy Elliott, Nelly, Usher, etc.

After succeeding in music and television, in 2000, Mr. Haymon got involved in the sweet science of boxing and became the manager, advisor, and/or consultant to several of the world's top fighters. His superstar clients include Floyd Mayweather Jr., Jermain Taylor, and Antonio Tarver. He has also managed former welterweight champion Vernon Forrest, former cruiser weight champion Vassiliy Jirov, and heavyweight champion Lamon Brewster. In 2005 and 2006, Mr. Haymon received the Al Buck Award for Manager of the Year.

On May 2, 2007, welterweight champion Floyd Mayweather, Jr. will put his title on the line in a bout against Oscar de la Hoya. The fight which will be held in Las Vegas, Nevada is expected to be the highest grossing match in the history of boxing. ESPN is predicting there will be in excess of 1 million households viewing the fight on pay-for-view.

I am confident that with the assistance of Suzanne de Passe and/or Al Haymon CITIC Guoan, Millard Chiang and the Association can produce an extravaganza of live performers including Beyonce, JayZ, etc, during the 2008 Olympic Games.

SPORTS

RUCKER STREET BASKETBALL ENTERTAINER'S BASKETBALL CLASSIC

When I consider the current state of basketball in China I believe that Street Basketball which is extremely popular in the US is a natural fit. As you know, basketball is one of the most popular participatory sports in the US, and the most popular sport in *urban America*. Every major city and town in the US has a street basketball and/or recreational basketball league where the best local talent can be found. In fact, a young male or female's first introduction to basketball generally occurs on a neighborhood court. This is where the neophyte player comes to learn the game and to hone skills which are then showcased on the local school team, university, recreational/street ball league, and if good enough in the NBA.

What is presently referred to as street basketball had its genesis over 50 years ago when it was known as "recreational league basketball" because it was generally administered by the local parks and recreational departments. Irrespective of its name—it served as the research and development laboratory for creativity, style, and the major innovations commonly demonstrated in professional basketball such as the crossover dribble, the slam dunk, the behind the back dribble, and the alley-oop pass. Over the past 10 years the popularity of street basketball has soared to unimaginable heights and now attracts crowds of 10,000-12,000 paying fans at many games.

The popularity of street basketball convinced "AND 1", a major basketball shoe manufacturer, to sponsor the "AND 1 Street Ball Tour" which traveled to thirty (30) major U.S. cities to compete against local street ball teams. Currently there are three (3) players on NBA rosters whose careers started in the Rucker Street Basketball League.

You should know that there is a Street Basketball Association with leagues in Philadelphia, Baltimore, Boston, Newark, New York, Norfolk, Atlanta, Charlotte, Columbia, and Washington, DC. Because our office is located in New York City, the mecca of street basketball, I have been consulting with the director of the New York affiliate or Rucker League which is based in Harlem. Retired NBA superstars Julius Irving aka Dr. J, Tiny Archibald, Earl "The Pearl" Monroe, and Clyde Frazier all played in the Rucker League during the summer. Many current players including Kobe Bryant, Lebron James, Ron Artest, Rafer Alston, J.R. Smith, Steve Francis, etc., travel to Harlem during the summer to play in the Rucker League.

Depending upon CITIC Guoan's wishes—I proposed that we form a team of 10-15 street basketball players and have them tour and compete against local teams in Beijing, Guangzhou, Shanghai, etc., for approximately 15 days during the summer. We will bring a film crew to memorialize the trip, games, and cultural exchanges.

Something for CITIC to consider, after the initial basketball tour, is each year thereafter we will bring a team to China and plan to host the Great Wall International Street Basketball Tournament. With the government's permission we would conduct the tournament in Tiananmen Square. In addition, we would provide instruction on how to create a street

basketball league in every major city in China. The games could be widely promoted, marketed, and televised throughout the country. A natural outgrowth of this venture will be the marketing and sale of clothing apparel, foot wear, fashions and other gear associated with street ball.

Finally, we would invite the most talented young basketball players to the NBPA TOP 100 HIGH SCHOOL BASKETBALL CAMP. Our camp is rated No. 1 in the U.S. and is held annually at the University of Virginia. We invite America's 100 best and brightest young basketball players between the ages of 14-18 to the camp. After Mr. Yan and you have visited the camp I am confident that CITIC will want to establish a similar camp in China.

PRIDE

Our plan is to include PRIDE, Inc., a promoter of mixed martial arts competitions into our sports presentation. While I can only speculate as to the popularity of mixed martial arts in China, I am able to report that it is one of the fastest growing spectator sports among males 18-34 years old in the USA. I have consulted with the owners of PRIDE and they are anxious to bring their program to China. Our association with Al Haymon and PRIDE should enable us to corner the boxing and mixed martial arts Asian markets.

FASHION

SEAN JEAN OR PHAT PHARM

It should be noted, that with the exception of street basketball everyone identified in this proposal got there start in music and entertainment. In the area of fashion, Shaun Coombs aka Puff Daddy aka P. Diddy is the founder of Bad Boy Records which achieved great success in hip hop and/or rap recordings. While continuing to engage in the record business P. Diddy has expanded into urban fashion under the name Sean Jean. Sean Jean has proved quite successful with reported sales totaling approximately \$400 million last year.

Russell Simmons the founder of Def Jam Records experienced similar success with the sale of hip hop recordings. While Simmons and Coombs are contemporaries, Simmons was the first to venture into the clothing business creating Phat Pharm. Phat Pharm has recorded sales of approximately \$300 million per year.

For your information, the Association has a working relationship with P. Diddy and Sean Jean, and I am confident we can develop a urban clothing line that will be highly marketable in China.

SOUL FOOD

If our intent is to introduce African-American culture into China, it is only appropriate that we establish a chain of soul food restaurants. Having visited China several times I know that Chinese people like many of the same foods consumed by African-Americans. The key

difference is one of preparation. Therefore, during your next visit to the U.S., I invite Mr. Yan and you to dine with me at one of the more popular soul food restaurants in New York City.

Conclusion

Based on the above I hope that we can draft a Memorandum of Understanding which will serve as the basis and charter for the partnership between CITIC Guoan, Millard Chiang, and the NBPA. To expedite things I will be sending Gary Hall, General Counsel of the NBPA to Beijing on March 12, 2007 for the purpose of meeting with Mr. Yan and other senior executives of CITIC Guoan. During his visit I request that Mr. Hall be allowed to visit the Bird's Nest Stadium, CITIC'S Headquarters, the CITIC Guoan Media Center, and any other sports and entertainment related facilities which you consider appropriate to our venture.

If it is not feasible for Mr. Hall to meet with Mr. Yan and other senior management, please advise me immediately.

I look forward to our meeting in New York City.

Respectfully,

G. William Hunte

EXHIBIT 43

Message

From: Billy Hunter [William.Hunter@████████]
Sent: 9/10/2009 9:08:40 PM
To: 'Jote X Kassa' [jote.x.kassa@████████]
Subject: RE: Update

I am at a crossroad on which group to partner with on the project. Yesterday, I spent the entire day reviewing a proposal from a nationally chartered community bank. The owners of the bank are anxious to make a deal with us. They want to grow the bank and know we have the cash to make the deal work. I have been slow to pull the trigger because the more I learn about banking the less I seem to know. I need to spend more time familiarizing myself with the cost(s) associated with the daily administration of a bank, since there are many nuances that cause me concern. The group which I dealt with for 6 months is waiting for me to make a decision. They are scheduled to receive their national charter to operate around December 2009 and are planning to start operation in January 2010. My situation is compounded by the expense of doing business. Since I know so little about the business and cannot devote my day to learning about it—I must rely on others for advice and instruction at significant cost. Over the past two months, I have spent nearly \$100K in legal fees on one deal and am no where near the finish line. Maybe this weekend I can spend a few moments with you explaining my dilemma. I have a meeting scheduled with my Executive Board on September 22nd and must be prepared to present them with a plan. Best regards, Billy

From: Jote X Kassa [mailto:jote.x.kassa@████████]
Sent: Thursday, September 10, 2009 3:33 PM
To: William Hunter
Subject: Update

Hi Billy -

Any news on your bank project?

Regards,

Jote

Jote Kassa, Vice President, JPMorgan Private Bank, Off: (212) ████████ Fax: (917) ████████ mail: jote.x.kassa@████████ RS Circular 230 Disclosure:
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EXHIBIT 44

Message

From: G. William Hunter [william.hunter@████████]
Sent: 3/15/2012 5:26:17 PM
To: d17man30@████████
Subject: Player Rep

Hi David I hope things are fine with you. I will be meeting with the Pacers tomorrow to distribute the Group Licensing checks and I want you to serve as the Player Rep for your team.

Sent from my iPhone

EXHIBIT 45

Message

From: G. William Hunter [william.hunter@████████]

Sent: 2/19/2011 10:29:13 AM

To: p24mvp@████████

Subject: Election

Hi Paul--pls come to the Player Rep meeting for 5 mins to show your face so that I can get you elected to the 1st VP position. The mtg starts at 9:00 AM. You do not have to stay for the mtg. I need the players to know you were present but had to leave--then I will get you ELECTED. We are on the 3rd floor of the JW Marriott in Plaza 3. Or give me a call. I NEED THIS FAVOR.

Billy H

EXHIBIT 46

BY-LAWS
OF
The National Basketball Players Association Foundation
(A New York Not-For-Profit Corporation)

ARTICLE I

Members

1. Membership. The corporation shall have no members.

ARTICLE II

Board of Directors

1. Functions and Definitions. The corporation shall be managed by a governing board, which is herein referred to as the "Board of Directors," "Board" or "directors". The use of the phrase "entire Board" herein refers to the total number of directors which the corporation would have if there were no vacancies.

2. Qualifications and Number. Each director shall be at least 18 years of age. A director need not be a citizen of the United States or a resident of the State of New York. The initial Board of Directors shall consist of three (3) persons. Thereafter, the number of directors constituting the entire Board shall be at least three, and, except for the first Board of Directors, such number may be fixed from time to time by action of the directors, or, if the number is not so fixed, the number shall be three (3). The number of directors may be increased or decreased by action of the directors, provided that any action of the directors to effect such increase or decrease shall require the vote of a majority of the entire Board. No decrease shall shorten the term of any incumbent director.

3. Election, Term of Office and Classification. The first Board of Directors shall consist of those persons named as the initial directors in the Certificate of Incorporation and shall hold office until the first annual meeting of the Board of

Directors and until their successors have been elected and qualified. Thereafter, directors, who shall be elected at annual meetings of the Board of Directors by a plurality of the votes cast, and directors who are elected in the interim to fill vacancies and newly created directorships, shall hold office until the next annual meeting of the Board of Directors and until their successors have been elected and qualified or until their death, resignation or removal. In the interim between annual meetings of directors or special meetings of directors called for the election of directors, newly created directorships and any vacancies in the Board of Directors, including vacancies resulting from the removal of directors for cause, may be filled by the vote of the remaining directors then in office, although less than a quorum.

4. Meetings.

(a) Time. Meetings may be held at such time as the Board shall fix, except that the first meeting of a newly elected Board shall be held as soon after its election as the directors may conveniently assemble.

(b) Place. Meetings shall be held at such place within or without the State of New York as shall be fixed by the Board.

(c) Call. No call shall be required for regular meetings for which the time and place have been fixed. Special meetings may be called by or at the direction of the Chairman or a Co-Chairman of the Board, or a majority of the directors in office.

(d) Notice or Actual or Constructive Waiver. No notice shall be required for regular meetings for which the time and place have been fixed. Written, oral or any other mode of notice of the time and place shall be given for special meetings in sufficient time for the convenient assembly of the directors thereat unless the lapse of such time has been waived. The notice of any meeting need not specify the purpose of the meeting. Any requirements of furnishing a notice shall be waived by any director who signs a waiver of notice before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director.

(e) Quorum and Action. Except as hereinafter provided, a majority of the entire Board shall constitute a quorum. A majority of the directors present, whether or not a quorum is present, may adjourn a meeting to another time and place. Except as otherwise provided by the Not-For-Profit Corporation Law and except as

herein otherwise provided, the act of the Board shall be the act, at a meeting duly assembled, by vote of a majority of the directors present at the time of the vote, a quorum being present at such time. Any one or more members of the Board or any committee thereof may participate in a meeting of the Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

(f) Chairman and Secretary of the Meeting. Meetings of the Board shall be presided over by the Chairman of the Board, or by one of the Co-Chairmen, if there shall be more than one, in which case the responsibility to act as presiding officer shall alternate from meeting to meeting, or, if none of the foregoing is in office and present and acting, by a chairman to be chosen by the Board. The Secretary, if any, shall act as secretary of each meeting of the Board. In the absence of the Secretary, the Chairman shall appoint a secretary of the meeting.

5. Committees. The Board of Directors, by resolution adopted by a majority of the entire Board of Directors, may designate from their number three or more directors to constitute an Executive Committee and other standing committees, each of which, to the extent provided in the resolution designating it, shall have the authority of the Board of Directors with the exception of any authority the delegation of which is prohibited by Section 712 of the Not-For-Profit Corporation Law. Additionally, the Board of Directors may provide for special committees of the Board, which shall have such powers as the Board may lawfully delegate. Members of such special committees may be appointed by the Board, or by the Chairman of the Board or by a Co-Chairman of the Board, if any, when so authorized by the Board. The Board also may provide for committees of the corporation, which committees shall be appointed or elected by the Board. Such committees shall have the power to recommend action to the Board but shall not have the power to take any corporate action.

6. Removal of Directors. Any or all of the directors may be removed for cause by the Board of Directors.

7. Resignations. Any director may resign at any time by giving written notice to the Chairman or one or more Co-Chairmen of the Board, the Secretary, if any, or the Board of Directors. The resignation shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

8. Action Without a Meeting. Any action required or permitted to be taken by the Board of Directors or by any committee thereof may be taken without a meeting if all members of the Board of Directors or of any such committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the Board of Directors of any such committee shall be filed with the minutes of the proceedings of the Board of Directors or of any such committee.

ARTICLE III

Officers

1. Election, Term of Office and Functions. The initial officers shall include a President, a Vice-President, and an Executive Director. Thereafter, the directors may elect or appoint a Chairman or Co-Chairman of the Board, a Secretary, a Treasurer, a Secretary-Treasurer, and such other officers and assistant officers as they may determine. Any two or more offices may be held by the same person except the offices of Chairman or Co-Chairman of the Board and Secretary.

Unless otherwise provided in the resolution of election or appointment, each officer shall hold office until the next annual election of officers and until such officer's successor has been elected and qualified or until such officer's death, resignation or removal.

The officers of the corporation shall each have such powers and duties as are set forth herein and as generally pertain to their respective offices and such powers and duties as from time to time may be conferred upon them by the directors.

(a) The Chairman and each Co-Chairman of the Board, if any, shall be a member of the Board of Directors, and shall preside over all meetings of the Board. In addition, the Chairman and each Co-Chairman shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

(b) The Chairman or Co-Chairmen of the Board shall be the chief executive officer(s) of the corporation, shall have general management and superintendence of the business and affairs of the corporation, shall be responsible to the Board of Directors in the performance of the Chairman or Co-Chairmen's duties,

and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

(c) The Secretary, if any, shall attend all meetings of the Board of Directors and record all the proceedings of such meetings in a book to be kept for that purpose, shall give or cause to be given notice of all special meetings of the Board of Directors, shall have custody of the corporate seal of the corporation with authority to affix the same to any instrument or document requiring it, and, when so affixed, it may be attested by his signature, and may sign, on behalf of the corporation, contracts and other instruments which have been authorized by the Board of Directors.

(d) The Treasurer, if any, shall have general supervision over the care and custody of the funds and securities of the corporation, shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the corporation, shall deposit or cause to be deposited all funds and securities of the corporation in the name and to the credit of the corporation in such depositories as may be designated by the directors, shall disburse the funds of the corporation as may be ordered by the Board of Directors and shall present periodic financial statements to the Board of Directors at its regular meetings.

2. Removal. The Board of Directors may remove any officer, for cause or without cause, at any time.

3. Resignations. Any officer may resign at any time by giving written notice to the Chairman or one or more Co-Chairmen of the Board, the Secretary, if any, or the Board of Directors. The resignation shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4. Vacancies. A vacancy in any office arising from any cause shall be filled for the unexpired portion of the term in the manner prescribed in these By-laws for the election of officers.

ARTICLE IV

Books and Records

The corporation shall keep at the office of the corporation within the State of New York correct and complete books and records of account and shall keep minutes of the proceedings of the Board of Directors and/or any committee which the directors may appoint, and a list or record containing the names and addresses of all directors. Any of the foregoing books, minutes, or lists or records may be in written form or in any other form capable of being converted into written form within a reasonable time.

ARTICLE V

Corporate Seal

The corporate seal, if any, shall be in such form as the Board of Directors shall prescribe.

ARTICLE VI

Fiscal Year

The fiscal year of the corporation shall be fixed and shall be subject to change by resolution of the Board of Directors.

ARTICLE VII

Indemnification and Insurance

1. Except as otherwise directed by the Board of Directors, any director or officer made a party to an action or proceeding, whether civil or criminal, by reason of the fact that he is or was a director or officer of the corporation shall be indemnified by the corporation to the full extent permitted by law.

2. The corporation shall obtain such insurance as the Board of Directors shall from time to time determine to protect the corporation against losses caused by the fraudulent or dishonest acts of any director, officer or employee, to reimburse the corporation for any obligation incurred pursuant to the first paragraph of this Article, and to indemnify directors and officers under circumstances permitted by law.

ARTICLE VIII

Amendments

The Board of Directors, by vote of the majority of the directors present at a meeting duly assembled, a quorum being present at the time of such vote, may amend or repeal the By-laws and may adopt new By-laws.