REPORT OF THE
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
DIVISION I INFRACTIONS APPEALS COMMITTEE

June 30, 2009

Report No. 289
Alabama State University
Montgomery, Alabama

This report is filed in accordance with NCAA Bylaw 32.11 and is organized as follows:

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I. INTRODUCTION.

The Alabama State University appealed to the NCAA Division I Infractions Appeals Committee specific findings of violations and penalties as determined by the NCAA Division I Committee on Infractions. In this report, the Infractions Appeals Committee addresses the issues raised by Alabama State.

II. BACKGROUND.

The Committee on Infractions issued Infractions Report No. 289 December 10, 2008, in which the committee found violations of NCAA legislation in the football program. On the basis of those findings, the Committee on Infractions determined that this was a major infractions case and imposed penalties accordingly. [December 10, 2008, issue of The NCAA News.]

This case centered on violations of NCAA bylaws governing offer and inducement of prospective student-athletes; recruiting; financial aid; extra benefits; student-athlete eligibility for practice and competition; playing and practice seasons; academic fraud; supplemental fund for coach; failure to monitor by coach; and institutional control.

After the Committee on Infractions issued its report, Alabama State filed a timely notice of appeal December 19, 2008. A written appeal was filed February 4, 2009. The Committee on Infractions filed its response March 9, 2009. Alabama State filed its rebuttal to the Committee on Infractions response March 23, 2009. The case was considered by the Infractions Appeals Committee April 25, 2009 (see Section VII below).

III. VIOLATIONS OF NCAA LEGISLATION AS DETERMINED BY THE COMMITTEE ON INFRACTIONS. [Please note that the cites below are the cites as they appear in the Committee on Infractions report dated December 10, 2008.]


During the 1999-00 to 2002-03 academic years, numerous student-athletes were permitted to practice, compete and receive athletically related financial aid while ineligible. The sports involved include football, men's and women's basketball,
and baseball. These student-athletes were ineligible for a variety of reasons. Specifically:

a. During the 2000-01 and 2001-02 academic years, six student-athletes (four in football, one in men's basketball and one in women's basketball) competed while ineligible due to their failure to designate a program of studies leading toward a specific baccalaureate degree by the beginning of the third year (fifth semester) of enrollment. [Bylaw 14.4.3.1.4 (2001-02 NCAA Division I Manual)]

b. During the 2000-01 to 2002-03 academic years, the erroneous application of the percentage-of-degree requirement legislation (25/50/75) resulted in the ineligible participation of 22 football student-athletes and one baseball student-athlete. [Bylaw 14.4.3.2 (2002-03 NCAA Division I Manual)]

c. During the 2000-01 to 2002-03 academic years, the institution erroneously certified the eligibility of four football student-athletes based on grade-point average miscalculations. The institution certified the student-athletes as eligible when the student-athletes entered their fourth and/or fifth years of collegiate enrollment, even though the student-athletes had not achieved 95 percent of the institution's grade-point average required for graduation. [Bylaw 14.4.3.3]

d. During the 1999-00 to 2002-03 academic years, five student-athletes (two in football, two in men's basketball and one in baseball) participated in organized practice sessions and/or competed despite not being enrolled in a minimum full-time program of studies leading to a baccalaureate or equivalent degree, as defined by the institution. [Bylaws 14.1.6.1 (1999-00 and 2002-03 NCAA Division I Manuals) and 14.1.6.2.2 (2002-03 NCAA Division I Manual)]

e. During the 2000-01 academic year, a football student-athlete who was a nonqualifier out of high school, attended a two-year institution [Cerritos College] and graduated with an associate of arts degree in May 2000 before transferring to Alabama State. He was certified as eligible to receive financial aid, and to participate in practice and compete in games even though he had not completed at least 35 percent of the course requirements for his baccalaureate degree program at the institution. [Bylaws 14.5.4.3 (2000-01 NCAA Division I Manual) and 14.5.4.3.1 (2000-01 NCAA Division I Manual)]
f. During the 2000 fall semester, a football student-athlete who had earned a bachelor's degree from a previous institution and was admitted to Alabama State as a graduate student did not meet the one-time transfer exception since the young man had previously transferred multiple times from four-year institutions. [Bylaw 14.5.5.2.10 (2000-01 NCAA Division I Manual)]

B-2. IMPERMISSIBLE BENEFITS AND INDUCEMENTS. [NCAA Bylaws 13.2.1 (2000-01 and 2001-02 NCAA Division I Manuals), 13.2.2-(h), 14.5.5.2.10(a) and 16.11.2.1 (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]

During the summer of 2000 to the end of the 2001-02 academic year, seven football student-athletes and six prospective football student-athletes received impermissible inducements and extra benefits in the form of lodging and utilities and/or meals at no cost to the young men. Institutional policy prohibits the use of academic or athletics grants-in-aid for off-campus housing. Specifically:

a. During the summer of 2000 through the end of the 2001-02 academic year, five football student-athletes received impermissible inducements and extra benefits in the form of lodging, meals in the institution's cafeteria and utilities (water and electricity) at either a institution-owned, off-campus apartment complex or a institution residence hall at no cost to the young men.

(1) A football student-athlete ("student-athlete 1") graduated from a Football Bowl Subdivision (FBS) institution on August 14, 2000, was awarded a full athletics grant-in-aid to attend Alabama State and was admitted August 23, 2000. He resided at a institution-owned apartment complex and ate meals in the institution's cafeteria during the 2000 preseason football practice and fall semester at no cost to the young man.

(2) A football student-athlete ("student-athlete 2") graduated from a FBS institution on August 14, 2000, and was awarded a full athletics grant-in-aid to attend Alabama State and was admitted August 22, 2000. He resided at a institution-owned apartment complex and ate meals in the institution's cafeteria during the 2000 preseason football practice and fall semester at no cost to the young man.
(3) A football student-athlete ("student-athlete 3") attended a FBS institution and practiced and/or competed on the football team during the 1998-99 and 1999-00 academic years. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted January 10, 2001. He resided at an institution-owned apartment complex from December 2000 to the end of the 2001 spring semester at no cost to him.

(4) A football student-athlete ("student-athlete 4") graduated from a FBS institution on May 21, 2000. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted June 2, 2000. He resided at an institution-owned apartment complex and ate meals in the institution's cafeteria during the 2000 fall semester at no cost to him.

(5) A football student-athlete ("student-athlete 5") graduated from high school May 30, 1999, and was classified as a qualifier prior to attending a two-year institution from 1999-01. He was awarded a partial athletics grant-in-aid of tuition and meals to attend Alabama State and was admitted June 19, 2001. He also resided at the institution-owned apartment complex from August 2001 to April 30, 2002, at no cost to him.

b. During the summer and fall of 2000, three football prospective student-athletes received impermissible inducements in the form of off-campus lodging, utilities and meals.

(1) The first prospective student-athlete ("prospect 1") attended and competed in football for a FBS institution from August 1997 to January 2000. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted January 8, 2001. However, he arrived in Montgomery five months earlier, on August 14, 2000, and resided in an institution residence hall during preseason football practice and the institution-owned, off-campus apartment complex during the fall semester of the 2000-01 academic year at no cost, despite the fact that he was not allowed to enroll for the fall semester of that academic year. He also consumed meals in the institution's cafeteria during the 2000 preseason football practice and fall semester at no cost.
(2) The second prospective student-athlete ("prospect 2") graduated from a two-year institution in August 2000 and on August 23, 2000, was awarded a full athletics grant-in-aid to attend Alabama State. Prospect 2 resided in an off-campus apartment complex from June 2000 to August 6, 2000, with two other prospects; ("prospect 3") and ("prospect 4") at no cost to the young man. He also ate two or three meals daily in the institution's cafeteria with the football team during summer workouts at no cost.

(3) Prospect 3 graduated from a two-year institution and on August 23, 2000, was awarded a full athletics grant-in-aid to attend Alabama State. He arrived in Montgomery in either June or July 2000 to participate in summer workouts and resided at the off-campus apartment complex. He ate three meals daily in the institution's cafeteria from either June or July to on or about August 6 at no cost to the young man.

c. A football student-athlete ("student-athlete 6") graduated with an associate of science degree from a two-year institution during the summer of 2000. He was awarded a full athletics grant-in-aid to attend Alabama State and was admitted June 7, 2001. He received impermissible extra benefits in the form of lodging and utilities when he resided in an off-campus apartment building owned by an alumnus from early June 2001 to the middle of the 2002 spring semester at no cost to the young man.

d. During the summer of 2000 to the end of the 2001-02 academic year, members of the football coaching staff arranged for, and/or members of the housing and residential life staff provided, impermissible inducements and extra benefits in the form of lodging and/or meals to three football prospective student-athletes ("prospects 5, 6 and 7" respectively) and one football student-athlete ("student-athlete 7"), at no cost to the young men.

(1) Football student-athlete 7 did not have an athletics scholarship to attend Alabama State when he enrolled at the institution in mid-January 2001. The former associate head football coach ("former associate head coach") accompanied student-athlete 7 (and his brother) to another student-athlete's dormitory room and arranged for the two brothers to reside in the student-athlete's dormitory room until their housing issues had been resolved. Student-athlete 7 slept on the floor and his brother slept in a bed in the dormitory room for two to three days at no cost to the young men.
Prospect 5 arrived in Montgomery to participate in the football team's summer workouts in June 2000. The director of football operations at the time ("director of football operations") took prospect 5 to a dormitory room assigned to two football student-athletes and told them that prospect 5 was going to sleep on their couch during summer workouts. Prospect 5 slept in the dormitory rooms assigned to the two student-athletes and that of two other student-athletes, until mid-August, at no cost. Prospect 5 also ate three meals daily in the institution's cafeteria at no cost.

Prospect 6 arrived in Montgomery in early June 2002 during the evening and was picked up at the Birmingham airport by one of the institution's football coaches, who drove him to a dormitory on campus. The coach requested, and a dormitory attendant agreed, to allow prospect 6 to reside in a dormitory room from Monday to Friday at no cost to the young man. During the summer school session in 2002, prospect 6 consumed approximately five meals in the institution's cafeteria at no cost.

Prospect 7 arrived in Montgomery in June 2000 on a Saturday evening. The associate head coach paid for the young man to stay two nights at a local hotel. Prospect 7 was permitted to check into a dormitory the following Monday.


During the 1999-00 to 2004-05 academic years, an institutional staff member (or staff members) arranged for fraudulent academic credits for eight football student-athletes. Specifically:

a. During the 1999-00 academic year, an institutional staff member changed a football student-athlete's ("student-athlete 8") incomplete grade to a letter grade in an art course without prior written authorization from the course instructor and institutional administrators.
b. During the 2000-01 academic year, an institutional staff member changed a football student-athlete's ("student-athlete 9") letter grade of "F" to a "B" in a history course without prior written authorization from the course instructor and institutional administrators.

c. During the 2000-01 academic year, an institutional staff member changed a football student-athlete's ("student-athlete 10") letter grade of "F" to "B" in a psychology course without prior written authorization from the course instructor and institutional administrators.

d. During the 2000-01 and 2001-02 academic years, an institutional staff member changed a football student-athlete's ("student-athlete 11") letter grades and an incomplete on numerous occasions in six different courses without prior written authorization from the course instructors and/or institutional administrators.

e. During the 1999-00 and 2004-05 academic years, an institutional staff member changed a football student-athlete's ("student-athlete 12") two letter grades of "F" to "W" (withdrawal) in two courses without prior written authorization from the faculty members and/or institutional administrators.

f. During the fall semester of 1999, a football student-athlete ("student-athlete 13") earned a letter grade of "C" in a biology course. On January 14, 2000, an institutional staff member deleted the original letter grade of "C" when he or she entered a "no grade" in the system and then replaced it with a letter grade of "A" without prior written authorization from the biology course instructor and/or institutional administrators.

g. During the summer of 2001, an institutional staff member changed a football student-athlete's ("student-athlete 15") letter grade earned in the spring of 2001 in a history course on numerous occasions without prior written authorization from the course instructor and/or institutional administrators.

h. During the 1999-00 and 2001-02 academic years, an institutional staff member changed a football student-athlete's ("student-athlete 14") letter grades in a health course and one other course on numerous occasions without prior written authorization from the course instructors and/or institutional administrators.
B-4. VIOLATIONS OF RECRUITING AND FINANCIAL AID LEGISLATION RELATING TO FINANCIAL AID AGREEMENTS. [NCAA Bylaws 13.2.1 (2000-01 and 2002-03 NCAA Division I Manuals) and 15.3.2.3 (2002-03 NCAA Division I Manual)]

During the 1999-00 to 2001-02 academic years, members of the football coaching staff provided 13 football prospective student-athletes with unsigned grant-in-aid agreements. The prospects subsequently arrived on campus and participated in athletically related activities. The football prospective student-athletes received grant-in-aid agreements that were not signed by the director of financial aid prior to the prospects' signatures.

B-5. EXTRA BENEFITS - IMPERMISSIBLE TELEPHONE CALLS. [NCAA Bylaws 16.11.2.1 and 16.11.2.2.2 (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]

During the summer of 2000 to the 2003 fall semester, numerous football student-athletes, including prospect 7 (while a student-athlete), prospect 3 (while a student-athlete) and student-athletes 6 and 7, among others, placed impermissible calls at no cost to the young men by using the institution's long-distance telephone codes.

a. A football student-athlete knew the institution's long-distance telephone code, which he used once or twice a week to call his mother from September 2000 (around the first football contest) to the end of January 2001. The calls each lasted five to 10 minutes.

b. An unknown former assistant football coach gave a football student-athlete the institution's long-distance telephone code, which he used to make numerous telephone calls to his family and friends from the football offices. The football student-athlete used the code to call his parents at least four times a week, and they talked 45 minutes to one hour each time.

c. A football student-athlete gave another football student-athlete the institution's long-distance telephone code, which he used to make numerous calls to his mother and friends from the summer of 2000 to the spring of 2001. The football student-athlete called his mother and friends at least 10 times per week, and they talked for 10 to 15 minutes per call.

d. A football prospective student-athlete provided a football student-athlete with the institution's long-distance telephone code, which he used once or
twice a week (before and after football practice) from the football team locker room to place five-minute telephone calls to family and friends.

e. A football student-athlete obtained the institution's long-distance telephone code during the 1999-00 academic year and used it once or twice a day to call his parents, girlfriend and friends. He also used the telephone in a Residence Hall and the weight room (one time) to make his telephone calls, which lasted from one minute to three hours.

f. A football student-athlete gave another football student-athlete the institution's long-distance telephone code during the 2000 fall semester, and the football student-athlete used the telephone in the players' locker room to make his calls either before or after football practice. He used the code and made 10 to 30 telephone calls, which lasted approximately five minutes, each week to his family and friends.

g. A football student-athlete gave another football student-athlete the institution's long-distance telephone code, which he used to call his mother one to two times per week. They talked from 15 minutes to one hour from April 2001 to the 2003 fall semester. He also used the telephones in the training or conference rooms.

h. A football student-athlete gave another football student-athlete the institution's long-distance telephone code, and he used the code while using the telephones located in the football front office, coaches' offices and training room to call home.

B-7. IMPERMISSIBLE TRANSPORTATION DURING PROSPECTIVE STUDENT-ATHLETES' OFFICIAL VISITS. [NCAA Bylaws 13.5.1 (2002-03 and 2003-04 NCAA Division I Manuals) and 13.7.5.1 (1999-00, 2000-01 and 2003-04 NCAA Division I Manuals)]

During the 1999-00 to 2003-04 academic years, student hosts transported at least 10 football prospective student-athletes from the institution's campus in Montgomery, Alabama, to Tuskegee, Alabama, during official paid visits. The distance between the institution's campus and Tuskegee exceeds the 30-mile distance from campus for entertainment during official paid visits specified by NCAA recruiting legislation.

B-8. IMPERMISSIBLE RECRUITING CONTACTS. [NCAA Bylaws 13.02.3 (2001-02 NCAA Division I Manual) and 13.02.4.3 (NOTE: Bylaws cited with
no designation of Manual year refer to the 2007-08 NCAA Division I Manual]

While traveling to an away contest in the fall of 2001, members of the football coaching staff made impermissible contact with three prospective student-athletes.


During the 2001 spring semester, former assistant coach A provided impermissible inducements in the form of transportation and meals at no cost to two football prospective student-athletes ("prospects 8 and 9" respectively), in addition to family members and a friend of prospect 9.

B-10. RECRUITING VIOLATION – FAILURE TO NOTIFY OF OFFICIAL VISIT LIMITATIONS. [NCAA Bylaw 13.7.1.2.1 (1999-00 and 2001-02 NCAA Division I Manuals)]

During the 1999-00 to 2001-02 academic years, prior to official paid visits, the institution failed to provide written notification to at least 22 football prospective students of the NCAA five-visit limitation.

B-11. RECRUITING VIOLATIONS – EXCESSIVE ENTERTAINMENT MONIES. [NCAA Bylaws 13.02.5.1-(e) (1999-00 NCAA Division I Manual) and 13.7.5.5-(a) (1999-00 NCAA Division I Manual)]

During an official paid visit to the institution on February 4-6, 2000, two football student-athletes received impermissible extra benefits of entertainment money in excess of the amount permitted under NCAA legislation. Specifically:

a. One football student-athlete was a student host for two prospective student-athletes and received $120 in entertainment money (an excess of $30) to entertain the prospects during their official paid visit.

b. Another football student-athlete was a student host for three prospective student-athletes and received $180 in entertainment money (an excess of $60) to entertain the prospects during their official paid visit.

During the weekend of February 2-4, 2001, a former assistant football coach ("former assistant coach B") arranged for cost free lodging and meals to be provided to a prospective student-athlete ("prospect 10") in conjunction with the prospect's unofficial visit to the institution's campus. Former assistant coach B also gave the prospect approximately $30 for mileage. Because this was an unofficial visit by prospect 10, these benefits could not be provided under NCAA legislation. Further, prospect 10's student host provided cash to him and another prospective football student-athlete ("prospect 11") during the visit.


The institution and members of the football coaching staff failed to comply with the NCAA official paid visit limitation legislation when it permitted the campus visits of prospect 1 and a second football prospective student-athlete ("prospect 13") to exceed 48 hours in August 2000 and July 2001, respectively.

Further, during the 2000-01 to 2001-02 academic years, student-athlete 3 (while a prospect) along with prospects 1 and 13 participated with the football team in athletically related activities on one or more occasions prior to being officially admitted to the institution and/or completing one year in residence after the completion of a disciplinary suspension. In addition, prior to his admission to the institution, prospect 13 received impermissible inducements in the form of
medical services, lodging and meals during the 2001 preseason football practice sessions at no cost to the young man. Finally, on November 3, 2001, prospect 13 competed in one contest despite being below the minimum 12-credit-hour requirement for a full-time student at the institution.

B-14. PROVISION OF IMPERMISSIBLE RESTAURANT MEALS. [NCAA Bylaws 13.02.15.1 and 13.7.5.5.2 (2001-02 NCAA Division I Manual) (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]

On December 14, 2001, during an official paid visit to the institution by a football prospective student-athlete ("prospect 14"), a former assistant coach permitted two football student-athletes, who were serving as prospect 6's student hosts, to receive free restaurant meals in violation of NCAA legislation.

B-15. RECEIPT OF SUPPLEMENTAL OUTSIDE INCOME WITHOUT PRIOR APPROVAL. [NCAA Bylaws 11.2.2 (2000-01 and 2003-04 NCAA Division I Manuals) and 11.3.2.1 (1999-00, 2000-01 and 2007-08 NCAA Division I Manuals)]

Between January 2000 and December, 2003, members of the institution's football coaching staff received athletically related supplemental income and benefits from various sources outside the institution without obtaining the requisite annual prior written approval.


During the 1999-00 to 2002-03 academic years, the institution exhibited a lack of institutional control, primarily over its football program. Specifically:

a. During the 1999-00 to 2002-03 academic years, the institution failed to provide adequate NCAA rules-education to coaches, student-athletes, faculty, staff and representatives of the institution's athletics interests. [Constitution 2.1.1, 2.8.1 and 6.01.1]

b. During the 1999-00 to 2002-03 academic years, the institution failed to employ an adequate and consistent procedure for certifying and
monitoring the eligibility of incoming, transfer or continuing student-athletes in that student-athletes were erroneously certified as eligible at times when they were not. As a result of this failure, ineligible student-athletes were improperly permitted to practice and compete, and received athletically related financial aid at the institution, as referenced Findings B-1, B-6 and B-13. [Constitution 2.1.1, 2.8.1 and 6.01.1]

c. During the 1999-00 to 2002-03 academic years, the institution's compliance failures and lack of institutional control were due to a lack of (1) documentation of compliance-related data and (2) compliance education on a department-wide basis. The failure to adequately document compliance-related data in an organized or systematic fashion increased the likelihood for errors to be made in certifying student-athletes' eligibility and monitoring recruiting and practice activities, as referenced in Findings B-1, B-2, B-6 and B-13. [Constitution 2.1.1, 2.8.1 and 6.01.1]

d. During the 1999-00 to 2004-05 academic years, an institutional staff member (or staff members) arranged for fraudulent academic credits for numerous football student-athletes when the young men's original letter grades were changed and/or original incomplete grades were removed without such changes being approved by the relevant faculty members and administrators under institutional policy and procedures, as referenced in Finding B-3. These changes were made to ensure that these student-athletes remained academically eligible and resulted in ineligible participation by these student-athletes.

e. During the 1999-00 to 2002-03 academic years, the institution's compliance staff and athletics administration failed to monitor prospective student-athletes' participation in summer workouts and student-athletes' participation in football practices, winter conditioning activities, spring football and competition, which resulted in ineligible prospective student-athletes and/or student-athletes' participation in these activities, as referenced in Findings B-1, B-6 and B-13.

f. During the 2000-01 to 2002-03 academic years, the institution failed to monitor annually the athletically related supplemental income and benefits from sources outside the institution, for the former head coach and the former associate head coach, as referenced in Finding B-15.
The institution's previous two directors of athletics, previous three interim directors of athletics, previous faculty athletics representative, previous certification officer; and previous assistant director of athletics for academic services and director of compliance, all had functions related to eligibility certification. However, the ultimate responsibility for the coordination of the certification of student-athletes' eligibility under NCAA initial- and continuing-eligibility rules was vested in the previous certification officer and the previous assistant director of athletics for academic services/director of compliance. Both these individuals started their positions without NCAA rules-compliance training and did not receive comprehensive initial and follow-up training in NCAA progress-toward-degree legislation. Further, no one at the institution -- including the two previous directors of athletics; the three previous interim directors of athletics or the previous faculty athletics representative - had sufficient NCAA rules-compliance training. Consequently, the institution could not adequately monitor the work of the previous certification officer and the previous assistant director of athletics for academic services/compliance for accuracy. This led to violations referenced in Findings B-1, B-6 and B-13. [Constitution 2.1.1, 2.8.1 and 6.01.1]

During the 2001-02 academic year, institutional employees failed to report known violations of NCAA legislation to the institution, NCAA and/or the conference, as referenced in Findings B-2, B-8, B-9, B-10, B-12, B-13, B-14, and B-15.

During the summer of 2000 and through the end of the 2001-02 academic year, the institution provided impermissible inducements and extra benefits to football prospective student-athletes and student-athletes when they received lodging, utilities and/or meals at no cost to the young men, as referenced in Findings B-2, B-9, B-12, B-13 and B-14.

During the summer of 2000 to the 2003 fall semester, numerous football student-athletes used the institution's long-distance telephone codes to place impermissible calls at no cost to the young men as set forth in Finding B-5.
B-17. FAILURE TO MONITOR BY FORMER HEAD COACH.  [NCAA Constitution 2.8.1 (NOTE: Bylaws cited with no designation of Manual year refer to the 2007-08 NCAA Division I Manual)]

The scope and nature of the violations detailed in Findings B-2, B-4, B-6, B-7, B-8, B-10, B-11, B-13, B-14 and B-15 demonstrates that former head coach failed to monitor his and his staff's activities for NCAA rules compliance and thereby failed to maintain an atmosphere of compliance among his staff and within the intercollegiate football program. Specifically:

a. From the summer of 2000 to the end of the 2001-02 academic year, members of the football coaching staff were involved in the provision of off-campus and on-campus housing and meals to football prospective student-athletes and student-athletes at no cost to the young men, as referenced in Finding B-2.

b. During the 1999-00 to 2002-03 academic year, members of the institution's football coaching staff provided 13 football prospective student-athletes with unsigned athletics grant-in-aid agreements, as referenced in Finding B-4.

c. During the 1999-00 to 2001-02 academic years, two prospective student-athletes and several former ineligible football student-athletes participated in out-of-season athletically related activities conducted by the former strength and conditioning coach. The former strength coach, along with the football coaching staff, also conducted the winter conditioning activities wherein the coaches were assigned different stations during the workouts. At the end of the summer, the strength coach provided recognition and incentive (i.e., T-shirts) to student-athletes for perfect attendance and for reaching certain athletically related achievement during the out-of-season workouts, as referenced in Finding B-6.

d. During the 1999-00 to 2003-04 academic years, members of the football coaching staff failed to monitor the transportation of football prospective student-athletes outside the 30-mile radius from the institution's campus by student hosts, as referenced in Finding B-7.

e. On Friday, November 16, 2001, the former head coach, along with members of his football coaching staff, had impermissible in-person contact with three prospective student-athletes and failed to report said impermissible contact, as referenced in Finding B-8.
f. During August 2000 and July 2001, members of the football coaching staff failed to limit two football prospective student-athletes' official paid visits to 48 hours. Additionally, during the 2000-01 to 2001-02 academic years, members of the football coaching staff permitted (or, at a minimum, failed to implement procedures that prevented) football prospective student-athletes and student-athletes to participate with the football team in athletically related activities prior to being officially admitted to the institution and/or completing one year in residence after the completion of a disciplinary suspension, as referenced in Finding B-13. The former head coach is responsible for assuring that prospects and student-athletes are eligible prior to participation in practice and/or competition.

g. From January 2000 to December 8, 2003, the former head coach and other members of the football coaching staff received athletically related supplemental income and benefits from various sources outside the institution without obtaining the requisite annual prior written approval from the institution's president and, after August 1, 2001, without providing the requisite annual written detailed account to the president, as referenced in Finding B-15.

h. On December 14, 2001, during an official paid visit to the institution by a football prospective student-athlete, a former assistant coach permitted two football student-athletes, who were serving as prospect 14's student hosts, to receive free restaurant meals in violation of NCAA legislation, as referenced in Finding B-14.

i. The former head coach and football coaching staff members were involved in violations of NCAA benefits and recruiting legislation, as referenced in Findings B-6, B-10 and B-11.

j. There were no self-reports of violations referenced in Findings B-2 and B-8 to the institution by the former head coach or members of his staff.

IV. CORRECTIVE ACTION TAKEN AND PENALTIES (PROPOSED OR SELF-IMPOSED) BY THE UNIVERSITY.

Alabama State self-imposed penalties and corrective actions. The corrective actions are contained in Appendix Two of the Committee on Infractions Report No. 289. [Please note that the cites below are the cites as they appear in the Committee on Infractions Report No. 289 dated December 10, 2008.]
1. Alabama State has implemented a "transformation plan" in which it will continue to develop and implement a comprehensive educational program on NCAA legislation, including: (a) mandatory attendance for selected staff at NCAA rules compliance seminars; and (b) testing to instruct the football coaching staff, the faculty athletics representative, student hosts, athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, eligibility, retention, financial aid and recruitment. This process was started during the 2003-04 academic year and the institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.

2. The athletics compliance office is: (a) reviewing recruiting legislation with the football coaching staff; (b) providing a recruiting calendar at the beginning of each academic year to each member of the football coaching staff; and (c) posting dead period reminders in the football coaching staff office. The institution began the implementation of this self-corrective measure during a self-imposed probation period (2003-04 and 2004-05 academic years). The institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.

3. The athletics compliance office has started to make unannounced audits of athletics recruiting methods and procedures. The institution began the implementation of this self-corrective measure during its self-imposed probation period (2003-04 and 2004-05 academic years). The institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.

4. The athletics compliance office developed procedures requiring all coaches to submit a report on their day-to-day activities on all off-campus recruiting trips. The institution began the implementation of this self-corrective measure during the 2003-04 and 2004-05 academic years. The institution will continue the implementation of this measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.

5. The institution shall: (a) hire an additional staff member for the office of student records and registration, who shall serve as the registrar's liaison to the athletics department and chair the athletics eligibility certification team; and (b) conduct a process improvement project concerning the athletics eligibility certification process during the fall 2008 semester that shall designate the registrar's office as the lead department in athletics certification and establish an athletics eligibility certification team. The institution will continue the implementation of this
measure during the 2008-09 and 2009-10 academic years pursuant to the transformation plan.

6. In 2003 Alabama State declined to renew the former head coach's employment agreement.

7. In 2003 Alabama State declined to renew the employment of former assistant coaches A and B. Furthermore, both were disassociated from the institution's athletics programs.

8. In July 2008, the institution removed the illicit grade changes and restored the student-athletes' original grades (i.e., the grades originally submitted by the respective faculty members) documented in Finding B-3.

V. PENALTIES IMPOSED BY THE COMMITTEE ON INFRACTIONS.

The Committee on Infractions imposed additional penalties because of the involvement of the Alabama State University in a number of the violations. The penalty in which Alabama State University was cited was C-1 through C-11 and C-13 through C-16. [Please note that the cites below are the cites as they appear in the Committee on Infractions report dated December 10, 2008.]

For the reasons set forth in Parts A and B of this report, the Committee on Infractions found that this case involved major violations of NCAA legislation. In determining the appropriate penalties to impose, the committee considered the long period of time it took to complete the case and bring it before the committee. The committee was concerned by the large number of violations and the fact that the institution did not have an effective compliance program for a protracted period of time, which was a significant contributing factor in an admitted lack of institutional control. The committee was also troubled by the fact that this case included academic fraud. Because of these concerns, the committee concluded that a lengthy period of probation was warranted. With regard to the former head coach, the committee was aware that, in 1999, he had appeared before the committee for violations associated with an infractions case at an institution where he had previously been employed as the head football coach. Despite his prior experience with an infractions case, the former head coach failed to take the necessary steps to monitor the Alabama State football program in order to ensure that it remained in compliance with NCAA legislation. The committee considered the institution's self-imposed penalties and corrective actions. [Note: The institution's corrective actions are contained in Appendix Two.] The
penalties in this case are as follows. (The institution's self-imposed penalties are so noted. Due to the length of the investigation, most of the self-imposed penalties have been served.)

1. Public reprimand and censure.


3. The institution's football team shall end its 2009 season with the playing of its last regularly scheduled, in-season contest and shall not be eligible to participate in any postseason competition. [Note: The committee formally would have precluded the institution from competing in postseason competition in 2008 but, by the time of issuance of this report, the team already had not qualified for postseason competition in 2008.]

4. The institution limited official paid visits in the football program during the 2003-04 and 2004-05 academic years to 46. [Note: the limit is 56.] (Self-imposed by the institution and adopted by the committee).

5. The institution withheld all football coaches from engaging in recruiting activities for two weeks during the December 1-14, 2003, period. (Self-imposed by the institution and adopted by the committee.)

6. The institution limited the value of financial aid awards (equivalencies) in football to 58.74 during the 2004-05 academic year and 54.11 during the 2005-06 academic year. [Note: The limit for football grants-in-aid at FCS institutions is 63.] (Self-imposed by the institution and adopted by the committee.)

7. The institution limited to 80 the total number of counters in the football program during the 2004-05 and 2005-06 academic years. [Note: The limit for total counters at FCS institutions is 85.] (Self-imposed by the institution and adopted by the committee.)

8. The institution limited the initial counters in the football program during the 2004-05 and 2005-06 academic years to no more than 20. [Note: The
limit for initial counters at FCS institutions is 30.] (Self-imposed by the institution and adopted by the committee.)

9. Due to competition by ineligible student-athletes, the institution forfeited all regular season football contests in the 2000 season and 2001 season. Further, the institution forfeited the 2001 SWAC championship. (Self-imposed by the institution and adopted by the committee. However, consistent with committee policy, the committee treats all contests won by the institution during the 2000 and 2001 seasons as "vacated" rather than "forfeited.")

10. In association with the vacation of all football contests won by the institution in 2000 and 2001, including the SWAC championship in 2001, the institution's records regarding football, as well as the individual records of the ineligible student-athletes shall be vacated. Further, the record of the former head coach, will be reconfigured to reflect the vacated wins and so recorded in all publications in which football records for the affected seasons are reported, including, but not limited to, media guides, recruiting material, electronic media and institutional and NCAA archives. Any public reference to these vacated contests, including the 2001 SWAC football championship, shall be removed from athletics department stationery, banners displayed in public areas and any other forum in which they may appear.

Finally, to ensure that all institutional and student-athlete vacations, statistics and records are accurately reflected in official NCAA publication and archives, the sports information director (or other designee as assigned by the director of athletics) must contact the NCAA director of statistics, to identify the specific student-athlete(s) and contest(s) impacted by the penalties. In addition, the institution must provide the NCAA statistics department a written report, detailing those discussions with the director of statistics. This document will be maintained in the permanent files of the statistics department. This written report must be delivered to the NCAA statistics department no later than 90 days following the initial Committee on Infractions release or, if the vacation penalty is appealed, the final adjudication of the appeals process, whichever is later.

11. Due to the academic fraud in this case, and pursuant to Bylaw 19.5.2.7, the NCAA president shall forward a copy of this report to the appropriate regional accrediting agency.
13. The above-listed penalties are independent of and supplemental to any action that has been or may be taken by the Committee on Academic Performance through its assessment of contemporaneous, historical, or other penalties.

14. The institution shall initiate a review of its athletics compliance program by a competent, external agency as soon as one can be scheduled. The background and qualifications of the reviewer shall be provided to the committee and the institution shall comply with all recommendations made by the reviewer in a timely fashion. The results of this external review shall be included in the institution's 2009 annual compliance report. If the institution needs assistance or guidance in scheduling the review or finding a qualified reviewer, it should contact the SWAC office or NCAA Membership Services.

15. During the period of probation, the institution shall:

   a. Continue to develop and implement a comprehensive educational program on NCAA legislation, including seminars and testing, to instruct the coaches, the faculty athletics representative, all athletics department personnel and all institution staff members with responsibility for the certification of student-athletes for admission, retention, financial aid or competition;

   b. Submit a preliminary report to the office of the Committees on Infractions by February 1, 2008, setting forth a schedule for establishing this compliance and educational program; and

   c. File with the office of the Committees on Infractions annual compliance reports showing the progress made with this program by September 15 of each year during the five-year probationary period. Particular emphasis should be placed on monitoring of prospective student-athletes who arrive on-campus prior to initial full-time enrollment, grade-changing procedures and an effective program of rules education. The reports must also include documentation of the institution's compliance with the penalties adopted and imposed by the committee.

16. At the conclusion of the probationary period, the institution's president shall provide a letter to the committee affirming that the institution's
current athletics policies and practices conform to all requirements of
NCAA regulations.

VI. ISSUES RAISED ON APPEAL.

In its written appeal, Alabama State asserted that the penalty C-2 imposed by the
Committee on Infractions was excessive such that it constitutes an abuse of discretion.
(Bylaws 32.10.4 and 32.10.4.1)

VII. APPELLATE PROCEDURE.

In considering the Alabama State appeal, the Infractions Appeals Committee reviewed
the notice of appeal; the transcript of the institution’s August 8, 2008, hearing before the
Committee on Infractions and the submissions by Alabama State and the Committee of
Infractions referred to in Section II of this report. Additionally, the Infractions Appeals
Committee granted Alabama State’s request to add the contents of the December 10,
2008, press conference to the record on appeal.

The hearing on the appeal was held by the Infractions Appeals Committee April 25,
2009, in Tucson, Arizona. Alabama State was present and was represented by its
attorneys, president, athletics director, and chief operating officer/executive vice-
president. The Committee on Infractions was represented by the appeal coordinators for
the Committee on Infractions, former chair of the Committee on Infractions and the
director of the Infractions Committees. Also present were the executive vice president of
membership and student-athlete affairs, vice president of enforcement, director of
enforcement, assistant director of enforcement and assistant general counsel of the
NCAA. The chair of the NCAA Division II Infractions Appeals Subcommittee attended
as an observer. The hearing was conducted in accordance with procedures adopted by
the committee pursuant to NCAA legislation.

VIII. INFRACTIONS APPEALS COMMITTEE’S RESOLUTION OF THE ISSUES
RAISED ON APPEAL.

This case involved academic fraud, ineligible competition, recruiting violations and lack
of institutional control. These are very serious violations, as the institution recognized
and acknowledged. Nevertheless, the institution argued on appeal that the Committee on
Infractions’ imposition of a five-year probation was “excessive such that it constitutes an
abuse of discretion” within the meaning of Bylaw 32.10.4.1. It alleged two errors in the
imposition of this penalty: that the Committee on Infractions: (1) considered as an
aggravating factor “the long period of time it took to complete the case and bring it before the committee” (Committee on Infractions Report Page No. 33); and (2) failed to consider the two-year probation that the institution imposed on itself in July 2003.

The abuse-of-discretion standard of Bylaw 32.10.4.1 was adopted by the NCAA in 2008, and the Committee on Infractions and the institution fully briefed the issue in this case. Based on that briefing, as well as this committee’s thorough legal analysis of the issue based on judicial case law, we conclude that an abuse of discretion in the imposition of a penalty occurs if the penalty: (1) was not based on a correct legal standard or was based on a misapprehension of the underlying substantive legal principles; (2) was based on a clearly erroneous factual finding; (3) failed to consider and weigh material factors; (4) was based on a clear error of judgment, such that the imposition was arbitrary, capricious, or irrational; or (5) was based in significant part on one or more irrelevant or improper factors. Applying this analysis to this case, we conclude that imposition of the five-year probation constituted an abuse of discretion.

The Committee on Infractions identified as an aggravating factor the length of time taken to complete the case and bring it to hearing, noting “in particular that for more than two and one-half years, from September 2005 to February 2008, there appeared to be little or no activity in completing the case.” (Committee on Infractions Report Page No. 1) The record does not support this conclusion. In fact, substantial activity occurred during this time:

1. The institution conducted approximately 100 recorded interviews of 90 persons in Alabama and other states;

2. The institution collected, reviewed and analyzed over 50,000 documents;

3. The institution provided the NCAA enforcement staff with responses to multiple requests for information; and

4. The institution completed eligibility certification and academic fraud audits (including a review of all grade changes) of all student-athletes enrolled between 1999-00 and 2003-04. (Committee on Infractions Hearing transcript Page Nos. 74, 86 and 392; Alabama State written appeal Page No. 19).

Because the institution was engaged in an extensive investigation during the period identified by the Committee on Infractions, actively working with the NCAA enforcement staff, aggravating the penalty due to the length of time involved in investigating the case and the perception of inactivity during that period was based on an erroneous factual determination.
In addition, while the Committee on Infractions’ decision mentioned that it “considered the institution’s self-imposed penalties and corrective actions” (Committee on Infractions Report at 33), it did not directly address the substance or effect of those self-imposed penalties, and in particular, the institution’s two-year probation, which began July 2003. This probation was both public and substantial. It was announced at a public press conference and included the following:

1. Developing and implementing a comprehensive educational program on NCAA legislation, including mandatory attendance for selected staff at NCAA rules compliance seminars and testing for the football coaching staff, the faculty athletics representative, athletics department personnel, student-athlete hosts and all university staff with responsibility for certification of student-athletes for admission, eligibility, retention, financial aid and recruitment.

2. Implementing additional compliance reviews, audits and rules education programs.

3. Review of recruiting legislation with the football coaching staff, providing a recruiting calendar each academic year to the football coaching staff and posting dead period reminders in the football coaching staff office.

4. Implementing unannounced audits of athletics recruiting methods and procedures.

5. Developing procedures requiring coaches to submit reports of daily activities on off-campus recruiting trips.

6. Disassociating a representative of its athletics interests for a one-year period. Identifying and monitoring athletics representatives and providing them with educational material regarding applicable legislation, including legislation on extra benefits.

7. Not renewing the employment of the head football coach and two assistant football coaches.

8. Removing the former athletics compliance officer from his position.

9. Removing the former athletics certification officer from his position.

10. Limiting the number of initial counters in football and the total number of counters during the 2004-05 and 2005-06 academic years.
11. Limiting the financial aid awards in football during the 2004-05 and 2005-06 academic years. (Alabama State written appeal at Tab No. 8).
The Infractions Appeals Committee recognizes that self-imposed probation does not carry with it the public force of probation imposed by the NCAA through a Committee on Infractions decision. In addition, the substantive provisions of self-imposed probation will vary, and there is no inherent process by which an institution’s compliance with its terms can be verified or monitored by an external entity. However, in this case, there was widespread public knowledge of the self-imposed probation, its substantive elements were substantial, and the institution reported the status of its compliance with those elements to the NCAA through the enforcement staff and to the Southwestern Athletic Conference. Thus, the self-imposed probation in this case carried with it the same operative elements and substantive deterrent effects as probation imposed by the NCAA, including its availability for use against the institution in recruiting by other institutions. The impact of this self-imposed probation was a material factor that the Committee on Infractions did not appropriately consider and weigh; its failure to do so constitutes an abuse of discretion within the meaning of the test set forth above. This is not to suggest that the Committee on Infractions is obliged to accord every institution credit for self-imposed probation. The specifics, objectives and impacts of self-imposed probation can vary widely from case to case and the Committee on Infractions can properly give probation and other self-imposed penalties the weight they deserve as it formulates its penalties from case to case.

IX. CONCLUSION.

We find that the five-year probation imposed by the Committee on Infractions -- the longest period of probation that has been imposed in any Committee on Infractions case, including cases involving repeat, and double-repeat violators -- constituted an abuse of discretion. It is hereby reduced to a three-year period, ending December 9, 2011.¹

¹Bylaws 19.5.2.1 (a) and 19.5.2.2(b).