NCAA's improper conduct leaves Haith waiting

7 hours ago • By Stu Durando sdurando@post-dispatch.com 314-340-8232

Mizzou basketball coach Frank Haith will have to wait a little longer to find out if he faces sanctions from the NCAA, because the governing body of college sports has its own problem to solve.

President Mark Emmert announced Wednesday that NCAA investigators engaged in improper conduct during their probe of the University of Miami, for which Haith used to work.

The issue is serious enough that Emmert hired a law firm to investigate how enforcement staff members came to work with a criminal defense attorney for Nevin Shapiro to improperly obtain information.

Shapiro is the former Miami booster who is at the center of the Miami investigation. He alleged, among other things, that Haith had knowledge of an improper payment made to a recruit.

Emmert said he expected the investigation of the NCAA’s conduct to last one or two weeks, at which time a notice of allegations will be released in the Miami case, which started nearly two years ago.

“This is completely contrary to our policies and procedures, and for me it is deeply disturbing,” Emmert said, adding “I’m deeply disappointed, frustrated, even angry.”

A report this week by cbssports.com indicated that Haith is facing charges of unethical conduct and failure to promote an atmosphere of compliance.

Commenting on media reports of possible allegations against Haith and others, Emmert called them “supposition and, in some cases, speculation.”

Haith has said repeatedly in the past week that he is looking forward to the impending resolution of the matter. His attorney said the cbssports.com report was premature.

Now the results of the Miami investigation are in limbo and possibly tainted. It is unclear if any information gained improperly involved Haith.
"I'm acutely aware of the problems this poses for some who are under a cloud, and obviously there's a lot of speculation in the media for what this means for all involved," Emmert said. "The single most important issue of fairness is that we make sure any allegations are brought forward on good, sound information gathered through appropriate means."

Haith's attorney, Michael L. Buckner, warned Tuesday that circumstances in an NCAA investigation can change quickly based on late information, something he discovered in the past.

The incidents that prompted the NCAA's admission occurred more than a year ago but only recently came to Emmert's attention. The problem began when former members of the enforcement staff worked with Shapiro's defense attorney to obtain information through a bankruptcy proceeding not involving the NCAA.

"This is obviously a shocking affair," Emmert said. "We have to get an answer to how this individual working with Shapiro engaged in activities on our behalf. It's stunning that this has transpired."

Emmert said that of the overwhelming amount of information gathered in the case, only a small portion was obtained through inappropriate methods. Whatever the portion, it is evidence that can no longer be used in forming allegations.

University of Miami president Donna Shalala released a pointed statement in response.

"I am frustrated, disappointed and concerned by President Emmert's announcement today that the integrity of the investigation may have been compromised by the NCAA staff," she wrote. "As we have done since the beginning, we will continue to work with the NCAA and now with their outside investigator hoping for a swift resolution of the investigation and our case."

Emmert said NCAA staff members have been in contact with individuals involved in the Miami case to tell them that "there were issues with some of the evidence" and that the notice of allegations will be delayed.

Asked if the revelation of improper conduct could lead to a "mistrial," he said it was too early to know. He said once the details of the NCAA's missteps are known, he expects allegations in the Miami case to be revealed.

"I don't know whether it helps or hurts any of these cases, and it's not any of my concern," Emmert said. "Mine is that policy, procedures and behavior at the national office are consistent with our values and whether good information or no information, it has to be information gathered appropriately."

The problem was uncovered in a review of legal bills that were not approved by the NCAA. Emmert informed the executive committee of a potential problem. When it became clear that action was necessary, he hired the firm of Cadwalader, Wickersham & Taft to investigate.
Gordon: NCAA earns ridicule for butchered probe

14 hours ago • BY JEFF GORDON, STLtoday.com Sports Columnist

So the NCAA uncovered “improper conduct” in its investigation of the University of Miami football and basketball programs.

How ironic that is. The NCAA was about to drop the “unethical conduct” hammer on Frank Haith.

If Jeff Goodman’s report on CBSSports.com report is accurate — and there’s not much reason to doubt it — the association was going to draw that judgment without “smoking gun” evidence implicating Haith directly. It appeared the association was going to make suppositions about his interaction with Hurricanes booster Nevin Shapiro.

Even if none of the information fueling the Haith suppositions was gained through “improper conduct,” the entire investigation has been compromised.

Should the NCAA still ring up Haith and the other former Miami coaches on serious charges, the association can fully expect a litigious response from all involved.

NCAA president Mark Emmert has a major crisis to defuse. The credibility of his operation is under fire.

Here is how the Twitterverse reacted to this development:

Brett McMurphy, ESPN.com: “And Frank Haith thought he had a big comeback victory last night?"

Gary Parrish, CBSSports.com: “An embarrassing day for the NCAA equals a good day for Missouri’s Frank Haith.”

Bernie Miklasz, STLtoday.com: "Strange. A college football star with a bogus girlfriend that dies and a bogus investigation that may keep Frank Haith's career alive."

Joe Walljasper, Columbia Tribune: “I imagine an angry Haith in front of the infractions committee: ‘I'm out of order? You're out of order! This whole court's out of order!'”
Jason McIntyre, *The Big Lead*: “Frank Haith is on the phone with Ryan Braun right now asking how to handle this apparent procedural victory.”

Dan Wolken, [USA Today](http://usatoday.com): “Not to spoil anyone’s ‘Frank Haith is free’ party but Goodman’s story claimed NCAA verified camp payments through Shapiro’s mother.

Ivan Maisel, [ESPN.com](http://espn.com): “To recap: if Emmert & presidents operate outside #NCAA Manual (Penn State), that’s OK. But if investigators do so, they lack integrity.”

Jennifer Floyd Engel, [FoxSports.com](http://foxsports.com): “This NCAA confession of an improper investigation of Miami is both delicious & totally believable. Org is morally bankrupt. Needs overhaul.”

Jay Bilas, [ESPN](http://espn.com): “Isn’t NCAA making head coaches, those in charge, responsible for assistants’ actions? Uh, Mr. Emmert, about this happening on your watch.”

Andy Staples, [SL.com](http://sl.com): “It’s a good thing no one at the NCAA has ever been sanctimonious or holier-than-thou. Otherwise, they’d really be getting destroyed.”

Charles Robinson, [Yahoo! Sports](http://yahoo.com): “Mark Emmert was pretty clear NCAA is scrambling over enforcement conduct in the Miami case. While he hedged, it’s got to be a plus for UM.”

Gregg Doyel, [CBSSports.com](http://cbsports.com): “Miami could own the NCAA after this. Rename ‘NCAA’ to ‘UM.’ Replace Mark Emmert with Donna Shalala.”

Jay Bilas, [ESPN](http://espn.com): “Shapiro’s lawyer on NCAA payroll? Does this mean Mark Emmert ‘failed to promote an atmosphere of compliance?’”

Dick Vitale, [ESPN](http://espn.com): “NCAA has made a mockery of their investigation of Miami -- this is unreal!”

Jay Bilas, [ESPN](http://espn.com): “Still waiting for NCAA to declare itself ineligible, then seek reinstatement after the long, slow investigation.”

Dave Matter, [Columbia Tribune](http://columbiatribune.com): “Emmert = DeNiro in ‘Cop Land’ yelling at his enforcement staff (Stallone) ‘I offered you a chance to be a cop and you blew it! You blew it!’”

Ray Ratto, [CSN Bay Area](http://cnsbayarea.com): “NCAA is living the Law & Order episode where Schiff tells McCoy, ‘This opens up every prosecution of the last seven years. Settle it.’”

Dan Wolken, [USA Today](http://usatoday.com): “The NCAA does a lot of things well. Its enforcement issues are a double whammy: Makes organization look bad, allows sympathy to those who cheated.”
NCAA to launch external review of enforcement program

George Schroeder, USA TODAY Sports 12:46 a.m. EST January 24, 2013

Story Highlights

• The NCAA will launch a review into its enforcement program after uncovering improper conduct
• The review will pause the NCAA's long investigation into the University of Miami
• "To say the least, I am angered and saddened by this situation," said NCAA President Mark Emmert

With its case against the University of Miami compromised by "a very severe issue of improper conduct," the NCAA has retained a New York-based law firm to investigate its investigators — and beyond that, to explore whether there are other "trust and credibility" issues, according to president Mark Emmert, in the organization's regulatory and enforcement structure.

Emmert said members of the organization's enforcement staff had hired an attorney representing Nevin Shapiro, the booster at the center of the probe into Miami, in order to improperly obtain information through depositions in a bankruptcy proceeding. He called their actions "grossly inappropriate."

"This is obviously a shocking affair," Emmert said Wednesday in a teleconference with reporters, an event unusual in itself because the NCAA normally does not comment on investigations.

The investigation by Kenneth L. Wainstein of the firm of Cadwalader, Wickersham & Taft could have implications far beyond the Miami case. But the immediate issue is the probe into allegations of multiple rules violations by Shapiro involving Miami athletes and several coaches.

Until Emmert's revelation, it appeared the investigation into the Miami athletic department — which began almost two years ago — was winding toward a conclusion. Emmert said he hoped Wainstein's investigation would be completed within two weeks, delaying the NCAA's case against Miami by "weeks, not months."
"We will not be issuing notices of allegation until after this investigation is completed," Emmert added. "We want to make sure that any evidence that is brought forward is properly collected."

Emmert said it was "premature" to suggest the improper conduct would result in the equivalent of a mistrial. He said he expects the investigation to be completed within two weeks and that only a small portion of the case evidence was compromised by improper collection. Improperly compiled evidence "will be thrown out," he said.

"The intention is to get through this process, look at what the appropriately acquired evidence indicates and (to determine) allegations from that," Emmert said.

Miami president Donna Shalala said in a statement that the school had cooperated with the NCAA since the investigation started. Along with providing what Shalala called "thousands of documents," the school preemptively self-imposed bowl bans in the 2011 and 2012 seasons.

"I am frustrated, disappointed and concerned by President Emmert's announcement today that the integrity of the investigation may have been compromised by the NCAA staff," her statement read. "As we have done since the beginning, we will continue to work with the NCAA and now with their outside investigator hoping for a swift resolution of the investigation and our case."

The delay -- and whatever damage was done to the strength of the NCAA's case by improperly acquired evidence -- impacts several former Miami coaches, as well. CBSSports.com reported former Hurricanes head basketball coach Frank Haith, now the head coach at Missouri, was expected to be charged with "unethical conduct and failure to promote an atmosphere of compliance," and that three of Haith's former assistants would likewise be charged with unethical conduct. The web site separately reported that former football assistant Clint Hurtt, now the associate head coach at Louisville, and Aubrey Hill, who resigned at Florida last August, also would be charged with unethical conduct.

Emmert said the misconduct was discovered when an invoice was submitted to the NCAA last fall by an attorney representing Shapiro, who is serving a 20-year prison sentence for running a $930 million Ponzi scheme. (Shapiro alleged extensive rule violations in a Yahoo Sports report in August 2011.) Emmert said the NCAA's general counsel had not approved hiring the attorney. He didn't name the attorney, but Shapiro has been represented by Maria Elena Perez, a graduate of Miami.

Emmert, who expressed anger and frustration several times during the teleconference, said at least one member of the enforcement staff has been dismissed, though he would not discuss specifics. "There are people no longer at the NCAA," he said.

Emmert said when Wainstein has completed the investigation into the enforcement staff's handling of the Miami case, the outside counsel would begin a broader review of the NCAA's enforcement and regulatory structure, which has come under frequent and increasing criticism, "to see if there are similar problems of any kind."
In recent months, enforcement agent Abigail Grantstein was fired, according to the Los Angeles Times, after her boyfriend was overheard providing information related to the eligibility case of freshman UCLA basketball player Shabazz Muhammad.

Meanwhile, former USC assistant football coach Todd McNair's lawsuit against the NCAA threatens to force the organization to release documents related to its investigation of former Trojans star Reggie Bush. And Pennsylvania Gov. Thomas Corbett filed a lawsuit earlier this month against the NCAA related to its punishment last summer of Penn State for the Jerry Sandusky scandal.

Last week during an NCAA Convention session on enforcement entitled "Tougher Rules, Smarter Enforcement," the organization cited a "public and membership distrust of the NCAA's ability to police itself" as one of the reasons for the existence of its temporary Enforcement Working Group.

The organization has recently revamped its rules and penalties structure. Among the changes to take effect Aug. 1 is an effort at increased accountability of head coaches for violations that occur on their watch. Emmert said Wednesday's announcement was an indication the NCAA plans to hold itself accountable, as well.

Chuck Smrt, a former NCAA investigator who now assists universities with compliance and investigations as president of The Compliance Group, said past complaints of enforcement misconduct by enforcement staff had been handled in-house.

"What is different it seems here, is that Dr. Emmert believes the severity of whatever alleged impropriety occurred reached that level where he decided to go outside with the review," Smrt said.

Smrt said announcing the improper conduct, as well as the external review, "would help the integrity of the enforcement process."

David Ridpath, an assistant professor of sports administration at Ohio University and a frequent critic of the NCAA's enforcement arm, said, "The revelation is the most shocking thing of all. That the NCAA brought it up and that they're hiring an outside law firm to look at the case is the most surprising thing about this."

Ridpath added: "That makes me think this (misconduct) is pretty big."

Said Emmert: "My hope and intention is that the membership will see that we're going to hold ourselves to the same standards that we expect to hold others to. Otherwise we're in the wrong business."

The following is Shalala's full statement:

"Since the University first alerted the NCAA to the possibility of violations more than two years ago, we have been cooperative and compliant with the NCAA and, I believe, a model for how
institutions should partner with NCAA staff during investigations. In addition to encouraging current and former staff members and student-athletes to cooperate with investigators, we have provided thousands of documents to the enforcement staff.

I am frustrated, disappointed and concerned by President Emmert’s announcement today that the integrity of the investigation may have been compromised by the NCAA staff.

As we have done since the beginning, we will continue to work with the NCAA and now with their outside investigator hoping for a swift resolution of the investigation and our case.

I want to thank our community for their continued support and patience.

Stand with the U.”

**Contributing:** Eric Prisbell, Daniel Uthman
NCAA investigating enforcement after misconduct in Miami case

By Dennis Dodd and Chip Patterson

The NCAA is putting the brakes on the Miami investigation process until another investigation is completed: a review of misconduct inside the NCAA enforcement program.

The national office announced on Wednesday that former NCAA enforcement staff members improperly obtained information for the purposes of the investigation through a bankruptcy proceeding. According to the release, the information and aid of Nevin Shapiro's criminal defense attorney was outside of the jurisdiction since the bankruptcy case does not involve the NCAA.

As it does not have subpoena power, the NCAA does not have the authority to compel testimony through procedures outside of its enforcement program. Through bankruptcy proceedings, enforcement staff gained information for the investigation that would not have been accessible otherwise.

The NCAA improperly retained Nevin Shapiro's attorney to work on depositions in a federal bankruptcy case in order determine NCAA violations, a source close to the case told CBSSports.com.

It would be improper for the NCAA would hire the attorney representing the subject of an ongoing investigative process. That attorney is believed to be Marie Elena Perez. It is also thought that the NCAA’s involvement in a federal case that has nothing to do with the government's interest in that case could be cause for concern for the NCAA.

The discovery has prompted NCAA president Mark Emmert to call for an external review of the entire enforcement program. The review will not only include the current issue in the Miami case but also "the overall enforcement environment, to ensure operation of the program is consistent with the essential principles of integrity and accountability."

"To say the least, I am angered and saddened by this situation. Trust and credibility are essential to our regulatory tasks," Emmert said in the official release. "My intent is to ensure our investigatory functions operate with integrity and are fair and consistent with our member schools, athletics staff and, most importantly, our student-athletes."

The NCAA also announced that the enforcement staff will not move forward with a Notice of
Allegations for the University of Miami "until all the facts surrounding this issue are known." According to multiple reports, the NCAA was in the process of contacting individuals named in the allegations and could issue the NOA anytime in the next two weeks.

"If there is any information that was obtained improperly absolutely it would be thrown out," Emmert said on the teleconference following the announcement.

This new development could to be good news for Miami -- already two postseason bans deep into its self-imposed sanctions -- as the NCAA's case could be weakened during the review. If information obtained in Shapiro's bankruptcy case is now off-limits for the NCAA investigation, the enforcement staff might not be able to provide its own evidence to support allegations that have, essentially, already been made.

"I am frustrated, disappointed and concerned by President Emmert's announcement today that the integrity of the investigation may have been compromised by the NCAA staff," Miami president Donna Shalala said in response to the announcement.

"As we have done since the beginning, we will continue to work with the NCAA and now with their outside investigator hoping for a swift resolution of the investigation and our case."

The new development in this case also means that former Miami coaches, like Missouri basketball coach Frank Haith and current Louisville assistant head football coach Clint Hurt, might be in better shape than we previously thought.

Regardless, it is bad news for the NCAA. Emmert and the enforcement staff has been under fire ever since the swift action in the Penn State case. Now some last-minute double checking has turned up a flaw in one of the most notable cases of the last decade.
NCAA finds issue with investigation

MU MENTION PAGE 3

CORAL GABLES, Fla. -- The NCAA said Wednesday its enforcement staff worked with the defense attorney for former Miami booster Nevin Shapiro to improperly obtain information through a bankruptcy proceeding that did not involve the sports governing body.

A source told ESPN's Joe Schad the attorney was given a list of questions to ask during the deposition on behalf of the NCAA. The attorney then sent a bill to the NCAA for expenses, which NCAA president Mark Emmert said led to questions of the organization's conduct in the case.

The NCAA would not reveal the name of the attorney involved. Shapiro has been represented by Maria Elena Perez, a Miami graduate.

The alleged improper conduct means the NCAA will not deliver the long-awaited notice of allegations against the Hurricanes until an external review is completed.

"I am deeply disappointed and frustrated and even angry about these circumstances," said Emmert, who also described it as "a shocking affair."

A person familiar with the decision to use Shapiro's attorney told Schad that no NCAA officials ever sat in on the bankruptcy depositions, but confirmed that the officials suggested questions Shapiro's attorney could ask. The source said the NCAA's in-house counsel and vice president of enforcement approved the arrangement.

Another source familiar with the NCAA's concerns in the matter said it is neither common nor acceptable for the NCAA's enforcement staff to retain an attorney representing a person at the center of an investigation to ask questions in unrelated depositions that could aid the NCAA. That behavior, according to the source, could be deemed as an attempt to defraud the court, and the attorney would not be considered an independent party to the NCAA's investigation.

Emmert said during a teleconference on Wednesday that "no one approved the hiring of an outside attorney. It was later (in the fall) when the bill and invoices were presented for legal work that had not been approved."

Emmert added that any information obtained during this would be thrown out.
"We have no interest in pursuing a case based on information garnered through inappropriate behavior," Emmert said. "That's not what we stand for. ... We have a great amount of evidence compiled and only some a portion of it is a result of this conduct."

One key person in the investigation has been former Miami equipment room staffer Sean Allen, who was deposed by Perez as part of Shapiro's bankruptcy proceedings. If the NCAA found it could not use the information gleaned in the deposition, that would figure to favor the Hurricanes.

A source told "Outside the Lines" that the latest development is a "huge mess" but also claimed that it likely will not jeopardize the NCAA's overall investigation of Miami.

"It's another delay," the source told OTL. "This case has been dragging on forever."

Miami president Donna Shalala, in a statement released through the university, said she is "frustrated, disappointed and concerned" that the NCAA may have compromised the investigation.

"As we have done since the beginning, we will continue to work with the NCAA and now with their outside investigator hoping for a swift resolution of the investigation and our case," Shalala said.

Shalala's statement also said Miami first informed the NCAA of possible violations more than two years ago.

"I have been vocal in the past regarding the need for integrity by NCAA member schools, athletics administrators, coaches and student-athletes," Emmert said. "That same commitment to integrity applies to all of us in the NCAA national office.

"One of the questions that has to be answered, unequivocally, is what was the nature of that contractual arrangement and what was all the activity that that individual was involved with. There is some uncertainty about all of that, and it's one of the first orders of business for the firm that we've hired to investigate."

Emmert spoke angrily at times during a half-hour conference call to discuss the findings, in which he revealed that he briefed the NCAA's executive committee and the Division I board presidents with some information about the Miami matter. He said he developed a better understanding of what went on in the days that followed, which led to the hiring of Kenneth L. Wainstein of the firm Cadwalader, Wickersham & Taft LLP to conduct the external review of what happened.

Emmert said he hopes that process can be completed within two weeks and that the investigation will continue with "appropriately acquired evidence."
The NCAA used information from two depositions conducted as part of the bankruptcy case, and Emmert said one of the questions he wants Wainstein's probe to answer is: "How in the world can you get this far without it being recognized that this was an inappropriate way to proceed?"

"We cannot have the NCAA bringing forward an allegation that's predicated on information that was collected by processes none of us could stand for," Emmert said. "We're going to move it as fast as possible, but we have to get this right."

The Hurricanes' athletic compliance practices have been probed by the NCAA for nearly two years. Allegations of wrongdoing involving Miami's football and men's basketball programs became widely known in August 2011, when Yahoo! Sports published accusations brought by Shapiro, who is serving a 20-year term in federal prison for masterminding a $930 million Ponzi scheme.

Miami has self-imposed two postseason bans in response to the investigation. The Hurricanes would have played in the Atlantic Coast Conference championship game this past season, meaning they could have qualified for the Discover Orange Bowl.

"Although we are deeply disappointed in this turn of events, we strongly support the actions President Emmert is taking to address the problem," said Lou Anna K. Simon, the NCAA's executive committee chair and Michigan State's president.

The delay in the notice of allegations also means former Miami and current Missouri men's basketball coach Frank Haith won't know if and when he will face any charges.

CBSSports.com reported Monday that Haith would be charged with allegations of "unethical conduct and failure to promote an atmosphere of compliance." Haith has professed his innocence.

Missouri athletic director Mike Alden could not be reached for comment.

The NCAA looked back into Haith's career at Miami. The lead investigator on the Haith portion of the case was former NCAA enforcement staffer Abigail Grantstein, who was fired by the NCAA after information about the case against UCLA freshman Shabazz Muhammad was inappropriately leaked by Grantstein through her boyfriend while on a plane trip.

This would figure to be another significant issue for the NCAA and its enforcement department. Among the others pending:

- A California case filed by former USC assistant football coach Todd McNair, who said the NCAA was "malicious" in its investigation into his role in the benefits scandal surrounding Heisman Trophy winner Reggie Bush. Los Angeles Superior Court Judge Frederick Shaller said he was convinced that the actions of NCAA investigators were "over the top."

- Earlier this month, the NCAA was sued by Pennsylvania Gov. Thomas W. Corbett, who claimed the sports governing body overstepped its authority and "piled on" when it penalized
Penn State for the Jerry Sandusky scandal last summer. The governor asked a federal judge to throw out the sanctions, arguing that the measures -- which include a four-year bowl ban and $60 million fine -- have harmed students, business owners and others who had nothing to do with Sandusky's crimes.

And now comes Miami, an investigation that was believed to be nearing an end.

Many people who expected to be named in the notice of allegations had been briefed in recent days about what charges they may face, and the NCAA and Miami had reviewed some draft, or preliminary, findings.

Now the drawn-out inquiry has taken its most bizarre turn.

"In my two-and-a-half years, I've certainly never seen anything like this and don't want to see it again," Emmert said.
Bernie Bytes: NCAA comes off looking dirty

17 hours ago  •  BY BERNIE MIKLASZ, Post-Dispatch Sports Columnist

Well, well, well ... so what’s the latest from the NCAA? Let me quote from the news release:

“The NCAA office has uncovered an issue of improper conduct within its enforcement program that occurred during the University of Miami investigation.”

The release concluded: “As it relates to the Miami investigation, the NCAA will not move forward with a Notice of Allegations until all the facts surrounding this issue are known.”

Instant reaction: this should help Mizzou basketball coach Frank Haith, who was targeted by the NCAA investigators for alleged misdeeds at Miami.

That’s an understatement.

This could be a game-changer for Haith.

You can read the details elsewhere on STLtoday.com. But the NCAA is turning itself in for violating its own policies for conducting investigations. The NCAA broke its own rules; staff members worked with a criminal defense attorney for the disgraced Miami booster (Nevin Shapiro) that threw the accusations at Miami’s football and basketball programs.

This is not good for the NCAA.

This makes the NCAA look dirty.

This also raises questions.

Should we trust the NCAA on anything to do with this investigation? If the NCAA formally accuses Haith of ethical violations during his time as coach at Miami, why should anyone accept the validity of the allegations?

The NCAA has just admitted that the process was contaminated.

Even with the NCAA vowing to clean up its own messy handling of the investigation, I don’t see how the NCAA can make it all look neat and tidy in the end. This investigation, and any allegations, will carry a stench that won’t dissipate.
If the NCAA — after admitting to a corrupt investigation — goes forward to blast Haith with serious charges, the accusations won’t be credible. The taint won’t be removed. Surely the NCAA understands this.

That’s why Haith and Missouri should hope for a more positive outcome. Maybe the NCAA will back off. If the NCAA wanted to show true integrity, they’d throw away this soiled investigation, and take it to the nearest dump. But even if the NCAA proceeds (at least on Haith), perhaps his alleged transgressions will be minor and pose no real problem for Mizzou. I don’t think the NCAA wants to draw more attention to itself on this. And if the NCAA hammers Haith (and others), it will invite real controversy.

CBSsports.com reported that the NCAA’s allegations are light on evidence — but that the NCAA doesn’t believe Haith’s version of events.

Well, why should anyone believe the NCAA’s findings on this matter?

Perhaps the NCAA — if actually humbled — will cut Haith a break. After confessing to a corrupt investigation, I don’t see how the NCAA can stand high and mighty on this and do so with a clean conscience.

Yes the NCAA is arrogant. But after this embarrassing disclosure, how can the NCAA enforcement staff make moral judgments on Frank Haith?

Moving On …

On top of the latest news, the NCAA admitting its own wrongdoing, I am troubled by the fact that someone leaked the alleged allegations to CBSsports.com. And I don’t have much trust in the NCAA’s enforcement staff, anyway.

Honestly, this is what I wrote about an hour ago, BEFORE the NCAA issued its release about the improper investigation:

This has nothing to do with whether I believe Haith is “guilty” or “innocent” … I don’t know what to believe; I wasn’t there. It’s a separate issue. If someone at the NCAA leaked word of this report — and leaked it prematurely, as it turns out — it’s shameful. And there would be absolutely no reason to trust the fairness and integrity of the process.

Well, I am only speaking for myself, I have no reason to believe in the NCAA’s selective application of justice. When the organization looked the other way on the tawdry Cam Newton affair, that is all I needed to know.

Other stuff:

(A) Maybe the clouds will part, just a little for Mizzou. This has been a brutal stretch for Missouri. The NCAA tournament upset by Norfolk State, a disappointing first football season in the SEC, Michael Dixon getting bounced from the basketball team, the mess with Haith, and the reasonable concerns among objective observers (read: non-fanboys) over Gary Pinkel’s viability moving forward as football coach. 

STORY CONTINUES...
NCAA investigation of Miami scandal flagged for misconduct

January 24  By BARRY JACKSON

NO MU MENTION

MIAMI - Sounding very much like an NCAA investigator, the attorney for Nevin Shapiro sat across the table from former Miami equipment manager Sean Allen and peppered him with dozens of questions about alleged NCAA rules violations involving the University of Miami.

In the process of that deposition 13 months ago, attorney Maria Elena Perez extracted considerable incriminating information against Miami - information Allen has said he never would have disclosed if he had not been under oath.

The deposition was taken under the auspices of a bankruptcy court hearing - a proceeding designed to recoup money that Shapiro took from investors in a $900 million Ponzi scheme that led to Shapiro being sentenced to a 20-year jail term.

But a review of the deposition on Wednesday revealed that many of Perez's questions had nothing to do with financial issues, and dozens had more to do with alleged violations by Miami than any attempts to trace money that could be recouped.

That deposition with Allen - and another Perez deposition with former sports agent Michael Huyghue - likely will be removed from the NCAA's evidence against Miami presuming an NCAA investigation confirms its belief that the information was improperly obtained, NCAA president Mark Emmert indicated Wednesday.

Perez submitted a bill to the NCAA - which the NCAA would consider a conflict because she was representing Shapiro.

What's potentially problematic for Miami, however, is Allen met with the NCAA after that deposition and was asked to recap and confirm allegations that he made during the deposition. It's unclear if Allen's responses during that interview will be used.
Allen met with the NCAA in August 2011 but previously told The Miami Herald that he was not truthful during that meeting. He said he was truthful during the deposition only because he was under oath.

Among the highlights of what Allen told Perez in the deposition, which Allen said was attended by an NCAA official:

Asked by Perez if he ever witnessed Shapiro paying money to Miami football or basketball players, Allen said: "Yes. I don't remember the specifics. It was relatively small amounts ... low hundreds."

He also said: "I vaguely remember Nevin giving (former Miami running back) Tyrone Moss some sort of money for his baby or something like that."

Allen said Shapiro gave him $3,000 to entertain Ray-Ray Armstrong, Dyron Dye and Andre Debose during an unofficial recruiting visit to Miami. "Nevin said, 'Take those guys out to a strip club and make sure they have a good time,'" Allen said. Armstrong and Dye ultimately attended Miami; Debose went to Florida.

Allen said he gave money to Miami players who were being recruited by Axcess Sports, an agency co-owned by Shapiro and Huyghue. Allen confirmed those players included Tavares Gooden, Jon Beason and Devin Hester. "We're talking small amounts of cash, maybe $50 here, because it was my own money."

Asked Shapiro's motivation in giving players money, Allen said: "One, I think he enjoyed being around them. The other part is he ultimately wanted them to sign with Axcess Sports."

Allen, who worked for Axcess, said he brought Miami players to Shapiro on behalf of Axcess, including Gooden, Hester and Kyle Wright. "I'm sure I'm missing someone. It was more bringing them around Nevin, and he was the one that would talk to them about that sort of stuff."

Allen told Perez that Shapiro would give money to the winners of bowling events at Lucky Strikes on Miami Beach, and Miami players participated in those tournaments.

Asked if he ever took players to Shapiro's suite, Allen said: "Yes, one time that I remember: Jeffrey Godfrey and I believe Teddy Bridgewater was with him." Both were high school players at the time, and neither attended Miami.

"Miami was never serious about (Godfrey)," Allen said. "Jeff and I were at Nevin's house one time, and I remember Nevin giving him a pair of old white used sneakers. I want to say Nevin gave me $100 or something and said, 'Go out to eat.'"

Allen said he took Bridgewater to meet with Miami coach Al Golden soon after Golden took the job.
Allen said he "can say with certainty that Nevin paid" for meals and a strip club outing with basketball coach Frank Haith and assistant Jake Morton.

Perez repeatedly pressed Allen after he said he had no recollection of giving or witnessing Shapiro giving Morton $10,000, money that Shapiro claimed was ultimately to be forwarded to a family member of basketball player DeQuan Jones.

"I don't want to trick you," Perez said at one point. "I just want to understand what you're saying." Allen said: "I don't remember doing it ... Possible it could have happened. I just really don't remember."

Allen told Perez that Shapiro "had me take (former Miami quarterback) Robert Marve to look at Escalades; Robert was paying for it." He also said he saw former Miami defensive back Randy Phillips at Shapiro's home "multiple times."

The deposition with Huyghue did not produce any significant incriminating information against Miami, according to a Herald analysis of the document.

Gary Freedman, a partner in the firm that is serving as the bankruptcy trustee in the case, said he was not aware that Perez was allegedly being paid by the NCAA until the news broke Wednesday.

"That was a shock to me," he said. "I assumed anything she was doing was being done for the benefit of the client. (Allen and Huyghue) could have objected to the subpoena. I don't believe they did."

Freedman said the depositions with Allen and Huyghue were the only ones Perez conducted and "we have not used the transcripts to try to recover money. We haven't found the need." The trustee has recouped $35 million in the case, Freedman said.

Though Freedman and partner Joel Tabas were aware the depositions were conducted, Freedman said Perez did not need their permission to do them.

He said in the Southern District of Florida, attorneys can issue subpoenas in bankruptcy court without the court's permission. "Maria was representing Nevin," Freedman said. "She wasn't representing us."

Asked if what Perez did was wrong, Freedman said: "I don't know. I don't know the agreement she had with her client or the NCAA. It wasn't on my radar screen. As far as getting mad, it doesn't affect anything we're doing. (But) it could be a distraction."
In a surprise twist, NCAA puts Haith case on hold

Investigators' improper conduct could help MU coach avoid sanctions.

January 23

By TEREZ A. PAYLOR

The NCAA emboldened its critics and gave Missouri basketball coach Frank Haith new life Wednesday with a rare and stunning revelation.

No stranger to criticism because of its complex rulebook and controversial penalties, the National Collegiate Athletic Association blew the whistle on itself.

NCAA president Mark Emmert announced Wednesday that college sports’ major governing body had uncovered “a very severe case” of improper conduct by its own rules enforcement staff and was launching an external investigation into misconduct. As a result, the NCAA has put on hold an investigation into the University of Miami that involves Haith.

“For me, it is deeply disturbing,” Emmert said during a teleconference.

The NCAA was reportedly close to delivering a notice of allegations against Haith, a former Miami coach, as part of a broader investigation into that school’s athletic department. But now there’s a chance those allegations may never surface because of what the NCAA disclosed Wednesday.

“It’s a substantial embarrassment,” said Mike McCann, the director of the sports and entertainment law institute at the University of New Hampshire and a legal analyst for SI.com. “It undermines the confidence that people have in NCAA enforcement because if there’s corruption here, it makes you wonder where else could it have occurred.”

According to the NCAA, former enforcement staff members paid the criminal defense attorney for Nevin Shapiro to improperly obtain information through a federal bankruptcy case. The NCAA does not have subpoena power, and the information it received through the bankruptcy...
proceedings would not have been available to its staff if it hadn’t enlisted the help of Shapiro’s attorney.

“This is completely contrary to our policies and procedures,” Emmert said.

A message left by The Star for a person listed in federal court records as Shapiro’s bankruptcy attorney was not returned Wednesday night.

Shapiro, who is in prison for his role in a Ponzi scheme, is a former Miami booster who in a 2011 Yahoo Sports report accused Haith of being complicit in a $10,000 payment to recruit DeQuan Jones.

It’s not known what information in the Miami case was obtained improperly, but Emmert said Wednesday that the NCAA can’t bring forth allegations using information its investigators should not have obtained.

“My understanding is there is a great amount of evidence that has been compiled in this case,” Emmert said, “some small portion of which has been (gained as) a result of this conduct.”

CBSSports.com reported Monday that Haith was expected to face NCAA charges for unethical conduct and failure to promote an atmosphere of compliance that could land him a show-cause penalty — a potential death knell for a college coach.

The report cited an anonymous source who said the NCAA was unable to prove Shapiro’s allegation about the $10,000 payment to Jones.

However, the source said, the NCAA did not believe Haith’s story that payments to his assistants intended for camp money did not wind up going to repay Shapiro, whose mother — the recipient of the money — verified the payment to the NCAA. Haith has denied Shapiro’s allegations, and his attorney called the CBSSports.com report premature.

Don Jackson, an attorney based in Birmingham, Ala., who has represented athletes, coaches and universities in NCAA cases for 23 years, said Wednesday’s developments can only help Haith.

Even if Haith is served with a notice of allegations, Jackson said, the NCAA’s admission of misconduct could give Haith and his attorneys — who refused to comment on Wednesday — a case to make with the NCAA’s Committee on Infractions, which makes rulings and determines penalties when NCAA violations are alleged.

“The issue of credibility in any of the Committee on Infraction’s cases is significant,” Jackson said. “They either believe the enforcement staff or they don’t. They either believe the parties at interest or they don’t. In this particular situation, it’s quite clear that the enforcement staff, their credibility has been significantly impacted.

“You can’t just question one issue (of the NCAA’s case) without questioning everything.”
Jackson said it's conceivable the infractions committee could even use the NCAA's admission to exonerate Haith.

"I do know that now every aspect of this case is in question," Jackson said.

Apparently, the same can be said for other cases the NCAA has recently ruled on.

Kenneth Wainstein, a partner with the law firm of Cadwalader, Wickersham & Taft LLP, will conduct the external investigation, which will focus on the Miami case but also will explore whether the enforcement staff committed improprieties in other cases.

The potential list could include the suit brought by former University of Southern California assistant football coach Todd McNair, who claims the NCAA was "malicious" in its investigation into his role in the benefits scandal surrounding Heisman Trophy winner Reggie Bush. Los Angeles Superior Court Judge Frederick Shaller has already said he was convinced the actions of NCAA investigators were "over the top."

Pennsylvania Gov. Tom Corbett also has sued the NCAA, seeking to void the harsh sanctions put on the Penn State football program following the Jerry Sandusky sex-abuse scandal.

Emmert said he hopes the investigation into the NCAA's improper conduct can be completed in one to two weeks.

"We cannot have the NCAA bringing an allegation that's predicated upon information collected by processes that none of us can stand for," Emmert said. "We're going to move as fast as possible, but we just have to get this right."

Some questioned whether the investigation would be rushed.

"That seems short to me," McCann said. "Considering an NCAA investigation typically takes several months, why would this only take a week or two?"

_The Associated Press contributed to this report._
Missouri has multiple viable options if coach Haith is hit with show-cause sanctions

January 23

By BLAIR KERKHOFF AND TEREZ A. PAYLOR

The Kansas City Star

Will this be the winter of Missouri discontent?

Missouri basketball coach Frank Haith is expected to be charged by the NCAA with unethical conduct and failure to promote an atmosphere of compliance while he worked at the University of Miami, according to a report by CBSSports.com's Jeff Goodman.

But time and location would create unique circumstances in Haith's case if and when formal allegations are made by the NCAA.

He's no longer at the school where the trouble originated, and when Missouri hired him in April 2011, athletic director Mike Alden had checked with the NCAA for past discretions and was given a green light.

The Miami scandal, which focused on gifts provided by jailed booster Nevin Shapiro, was uncovered in reporting by Yahoo Sports after Haith had moved to Missouri.

Does that mean Missouri could pay for the alleged misdeeds at another school?

If the NCAA charges Haith, he is expected to have 90 days to respond in writing before a hearing is set with the NCAA Committee on Infractions, likely in June. At that stage, he can argue the charges, and Missouri officials could observe. There are past examples of the NCAA not being able to prove all allegations made in a formal notice.

It typically takes the committee an average of two months to rule and hand out penalties. Once decisions are made public, parties can appeal.
If Haith is found guilty of the charges mentioned in the CBSSports.com report, a multiple-year show-cause penalty could result. A show-cause typically renders a coach unemployable in the college ranks. Former Tennessee basketball coach Bruce Pearl and Indiana basketball coach Kelvin Sampson were hit with multiyear show-cause penalties.

If Haith remains the coach at Missouri and is tagged with a show-cause order, it's likely he would be prohibited from recruiting or suspended for multiple games. Those penalties would follow him to Missouri.

If Missouri wanted to keep Haith, the school likely would have to explain to the NCAA why it wants to employ a coach with such a charge and could also seek relief from the penalties, which has been successful in other NCAA cases.

Missouri also would have the option to terminate Haith based on language in his contract.

Whatever the timeline in Missouri’s case, Haith’s situation will hang over the team until it’s resolved, which could be well after this season ends.
NCAA investigation into Miami and possible charges against Haith on hold

By Steve Walentik
Wednesday, January 23, 2013 at 1:13 pm

The NCAA investigation into rules violations at the University of Miami — and potential charges made against Missouri Coach Frank Haith — is on hold after college sports governing body uncovered an issue of improper conduct within its enforcement program.

NCAA President Mark Emmert has commissioned an external review of the NCAA’s enforcement program after learning that former enforcement staff remembers worked with and paid the criminal defense attorney for disgraced Hurricanes booster Nevin Shapiro to improperly obtain information for the purposes of the NCAA investigation.

Because the NCAA does not have subpoena power, it cannot compel testimony through procedures outside of its enforcement program. A statement announcing the review said, “Through bankruptcy proceedings, enforcement staff gained information for the investigation that would not have been accessible otherwise.”

“This is obviously a shocking affair,” Emmert said in a teleconference Wednesday afternoon.

He also said: “I am deeply disappointed, frustrated and even angry about these circumstances.”

Emmert said this is not the equivalent of a mistrial, but he said information determined to be obtained improperly will be thrown out.

“The single most important issue of fairness for me is that we make sure that any allegations brought forward are based on good, sound information that was gathered through appropriate means,” Emmert said. “We cannot have the NCAA bringing forward an allegation that’s predicated on information that was collected by processes that none of us could stand for.”
He said the NCAA would not re-investigate to try to obtain the information through different methods, but he also characterized the improperly obtained information as only "some small portion" of the material the NCAA has gathered during a nearly two-year investigation.

The review will be conducted by attorney Kenneth L. Wainstein, former Homeland Security Advisor to President George W. Bush and a partner with the law firm Cadwalader, Wickersham & Taft LLP. Wainstein and his team will begin by investigating any issues surrounding the relationship between NCAA enforcement staff and Shapiro's attorney, but Emmert also wants them to investigate to see if there are "similar problems of any kind within the general environment of the enforcement operation and our broader regulatory role."

Emmert said the NCAA will not move forward with the release of its notice of allegations until the review is completed and all the facts surrounding the issue are known. He said the review could take 7-10 days but no more than two weeks and that the NCAA will hope to make a decision about the notice of allegations.

"I'm acutely aware of the problems this poses for some who are under a cloud, and obviously there's a lot of speculation in the media for what this means for all involved," Emmert said.

He added: "The intention is to get through this process, look at what the appropriately acquired evidence indicates and then proceed with notice of allegations."

It was suggested that public perception following Wednesday's announcement would help anyone who could be facing charges.

"I don't know whether it hurts any of these cases, and candidly, that's not my concern," Emmert said. "My concern is that the policies and procedures and behaviors inside the national office and especially in the enforcement program are consistent with our values. Whether it produces good information or no information, it's got to be information that's gathered appropriately. There's no way to cut corners in this."

It is too early to know how Wednesday's announcement will impact any potential case the NCAA could bring against Haith. But with the NCAA review under way, it is reasonable to wonder about the validity of a CBSSports.com report on Monday that said Haith could be facing charges of unethical and failure to promote an atmosphere of compliance — and a multiple-year show-cause penalty — for his role in alleged violations that occurred at Miami.

"Our staff has been in conversations with the university and with the individuals that are involved to discuss some of the matters related to this and in some cases given an overview of the fact that there were issues with some of the evidence and that we would be dealing with them," Emmert said. "But specific details that have been reported out in some stories are not based upon any formal allegations that we've presented and are more supposition and, in some cases, speculation."

Through an MU spokesman, Haith declined to comment on the NCAA's announcement.
Haith said after Tuesday night’s 71-65 victory over South Carolina that he looked forward to the release of the NCAA’s notice of allegations because that would mean the 19-month investigation would be nearly over. Instead, his wait will last a little while longer.
COLUMBIA MISSOURIAN

UPDATE: Haith, Miami allegations on hold

By Brendan Meyer
January 23, 2013 | 12:40 p.m. CST

COLUMBIA—The NCAA released a statement on Wednesday stating that the notification of allegations surrounding the University of Miami investigation will be put on hold for now.

The release from the NCAA stated that it found “improper conduct within its enforcement program” during the process of its investigation, which could potentially change Missouri men's basketball coach Frank Haith's status within the investigation.

The NCAA found improper conduct because a former NCAA staff member, who worked with Miami booster and current inmate Nevin Shapiro’s defense attorney, improperly obtained information during the investigation through a bankruptcy proceeding that did not involve the NCAA.

Essentially, the NCAA had an attorney on its payroll that was representing Shapiro while also gathering information.

Monday, CBS Sports.com reported, using an unnamed source, that the NCAA allegations surrounding the University of Miami could be released as early as this week. The report detailed several charges against Haith, who coached at Miami before coming to Missouri.

Mark Emmert, president of the NCAA, voiced his frustration on Wednesday during a teleconference, stating that it was “a very severe issue” regarding a critical flaw within the NCAA’s investigation.

Haith, who said Tuesday that he was looking forward to the process coming to an end, will have to wait longer to receive any type of closure.

“We will not be issuing notices of allegations until after this investigation is concluded so that we’ve got great clarity as to what the nature of the circumstances are,” Emmert said. “We
want to make sure that any evidence brought forward is appropriately collected and that it has the integrity that we expect and demand.”

Emmert said he hopes that investigators can conclude their work within the next two weeks and that any information collected improperly would be thrown out.

“We’re not going to continue to conduct more (investigating). We will use the information that was collected appropriately,” Emmert said. “My understanding is there’s a great amount of evidence that’s been compiled in this case, only some small portion of which has been the result of this conduct.”

It is unknown if information or evidence regarding Haith was collected inappropriately.

On Monday, the CBS sports.com report said Haith would be charged by the NCAA with unethical conduct and failure to promote an atmosphere of compliance during his time coaching at Miami. It’s an investigation that has taken more than a year and a half, stemming from his alleged role in the debacle surrounding Shapiro and the Miami football and basketball programs.

Back in August 2011, according to a Yahoo! Sports report, Shapiro claimed that Haith had knowledge of a $10,000 payment Shapiro made to one of Haith’s assistants, who then used that money to lure then basketball recruit DeQuan Jones.

According to the CBS sports.com report, the NCAA was unable to prove this claim but that Haith will still be charged with “unethical conduct because the NCAA did not believe his story that payments to his assistants intended for camp money did not wind up going to repay Shapiro.”

The report also alleged that Haith will be charged with failure to promote an atmosphere of compliance because of “impermissible airline travel that was given to the family of two (Miami) players from a member of his staff” and for allowing interactions between Shapiro and players while on college visits.

Judging by the new developments released by the NCAA on Wednesday, the allegations about Haith could potentially change.

*Supervising editor is Greg Bowers.*
Questions About Torture: What The University Of Missouri Should Ask A Gitmo Psychologist

This month marked 11 years since the opening of the infamous prison camp at Guantanamo, where over a hundred men, many innocent, remain indefinitely detained by the U.S. while hundreds of others have had their lives ruined. The national opening of *Zero Dark Thirty* and its controversial interpretation of torture's benefits at the hands of U.S. forces ironically merged with this distressing anniversary. In the midst of these events—which have reignited public interest in the lack of accountability for torture and other violations of international laws—news broke that Dr. Larry James, a senior intelligence psychologist at Guantanamo during a time of the worst documented abuses, was on the short list for a high-level administrative position at the University of Missouri.

We write because a few years ago, Wright State, a public university in the state of Ohio, hired Dr. James as Dean of its School of Professional Psychology. Like most Ohio residents, where we both lived at the time, we did not learn about his hiring until after the fact. Shortly after, the state psychology board issued Dr. James a license to treat patients in Ohio. Concerned, we did our own research. Attempting to reconcile Dr. James's story with the public record, we spent over a year carefully examining declassified government documents, news accounts, and testimonials from other service members, intelligence officers, former and current detainees, and their counsel. Dr. James’s story of ending abuse and protecting prisoners from harm simply did not check out. Instead, we found alarming evidence that his team of interrogation consultants were integral to the cruel treatment of boys and men in Guantanamo. Indeed, Dr. James’ own statements were internally inconsistent and, on their face, seemed to violate ethical prohibitions against misrepresenting his own professional experience and breaching confidentiality. Based on this research, we asked the state psychology board to investigate Dr. James’s fitness to practice—a request that it refused, responding that it was “unable to proceed” and offering no reason for its inaction.

The people of Missouri are more fortunate than the people of Ohio: concerned faculty and press have brought Dr. James’s candidacy into the public light, giving the search committee, the University of Missouri community and others affected an opportunity to examine the candidate’s record openly and thoroughly before making this important decision. We write in the belief that the evidence we have compiled is relevant to this discussion, and with the hope that the University of Missouri will learn from Wright State and the Ohio Psychology Board’s mistakes. The *Columbia Missourian* reports that the search committee is
scheduled to interview Dr. James in early February. We highlight below some lines of inquiry that we think the committee would be remiss not to pursue.

If Dr. James was "not involved in any of those horrible things" in Guantanamo and he was instead "on hand to clean up issues related to detainees and personnel working with detainees," as well as to write "policies so other abuses would not occur to anyone in our care," how does he explain the fact that, in the midst of his first deployment at Guantanamo, the policy that was in fact written was the Camp Delta Standard Operating Policy (SOP), approved on March 27, 2003, including specific guidelines for Detainee Behavioral Management i.e. the Behavioral Science Consultation Team which Dr. James led?

According to the SOP, "the purpose of the Behavior Management Plan is to enhance and exploit the disorientation and disorganization felt by a newly arrived detainee in the interrogation process ..." During the first two weeks at Camp Delta, the detainee was kept in isolation, denied contact with the International Committee of the Red Cross and Chaplain and was denied a Koran, prayer beads, and prayer cap. After the initial two weeks, the detainee remained in isolation for another two weeks. All these actions were in violation of international law as well as Dr. James's Code of Ethics. What is Dr. James's explanation of these policies?

Dr. James's personal bio of himself states that he served as Chief Psychologist of the Joint Task Force at the U.S. Naval Station at Guantanamo Bay, Cuba in 2003. Dr. James's admission that he was known as "Biscuit 1," along with military policy documents specifying that "BSCT1" was the designation for the Chief of the Behavioral Science Consultation Team (BSCT), strongly suggest that he led the Guantanamo BSCT at this time. Citations are detailed in par. 3 of our 2010 Board Complaint.

Given Dr. James's statement, "[I] was not involved in any of those horrible things that occurred at any of those places like in Cuba," what does he consider to be "horrible things?"

From our perspective, it is clear by his own accounts that he was, indeed, "involved" in "the horrible things that occurred ... in Cuba." For example, in his memoir, Fixing Hell, Dr. James recounts calmly observing guards and interrogators wrestle a screaming, near-naked man on the floor while trying to put on female lingerie and choosing not to immediately intervene -- or to report or sanction the men for the abuse. This is detailed, along with quotes and citations to his book, in par. 37-42 of the above-referenced Complaint.

In the same book, he also admits to leading the team responsible for detaining and interrogating the three young boys from Afghanistan (see par. 44-48 of Complaint). These boys, whose estimated ages were between 12-14, were imprisoned, flown across the world (blindfolded, according to one of the boys) and held incommunicado without access to family or counsel for almost a year. By his own account, James coordinated the "transfer" and then oversaw all aspects of their interrogation, detention and even treatment, although he warns: "There was no mistaking our intentions..." meaning the health care treatment was meant as preparation for interrogation. These are clear violations of international law, human rights, and psychological ethics--and most people's moral standards. The boys were released without ever being charged.
Perhaps Dr. James doesn't find these "things" to be "horrible." Perhaps he doesn't find "horrible" other conduct that has been documented as widespread and, in some cases, official policy during the period that he was responsible for consulting on interrogation policy at the prison: rape and death threats; sexual, cultural, and religious humiliation; forced nudity; sleep and sensory deprivation; over-stimulation; extreme isolation; short-shackling into painful, stress positions for hours; and physical assault.

The evidence indicates that abuse of this kind was systemic, that BSCT health professionals played an integral role in its planning and practice, and that Dr. James, as the Chief Psychologist of the BSCT, at minimum knew or should have known it was being inflicted.

Dr. James's recent statement to the Missouri press that "I did not have command authority. I was a consultant to a commanding general," conflates two concerns. First, the more significant question to ask Dr. James is whether, as head of the Behavioral Science Consultation Team, he had command authority over his team of psychologists and psychiatrists at Guantánamo? Did he have the power and duty to stop interrogations?

We do not allege that Dr. James had command authority over the interrogators, but that in his role as head of the Behavioral Science Consultation Team, his team consulted on the planning and implementation of interrogation tactics that were at the very least unethical. Evidence indicates that in this role Dr. James did have command authority of his BSCT team and the de facto authority to stop abusive and torturous interrogations.

As an example, on April 22, 2003, a BSCT psychiatrist allegedly under Dr. James's command recommended that a man be forcefully and repeatedly lifted and dropped to the floor as a means of keeping him awake and "install[ing] interrogator's dominance in [the] room." A contract interrogator and a contract analyst observing the incident from a neighboring booth reported that, while the intelligence team watched, two guards slammed the man to the floor as many as 25-30 times using force "adequate to cause severe internal injury," (see par. 30-36 of Complaint).

Did Dr. James have command authority over this member of his team? Was he responsible for the abuse cited above? Did he have a responsibility to stop the interrogation, or a duty to report the action?

Second, why does Dr. James give prominence to his role at Guantánamo in self-aggrandizing claims, yet deny any power when others attempt to hold him accountable, as he has done in his statements to the Missouri press?

In a posting to the listserv of the American Psychological Association Presidential Task Force on Psychological Ethics and National Security in 2005, Dr. James wrote, "the commanding general also put me in the 'IG' role, thus, I had oversight over everything (sic) . . . the second thing I requested was to have legal authority to STOP any interrogations/interviews when I thought something was inappropriate. Meaning, a psychologist (me) had veto authority to stop anything that I thought was harmful, dangerous, unethical, illegal, etc. The general easily concurred with this request. It allowed me to work for the military client, but also ethically look out for the welfare for the detainees as well."
On what basis does Dr. James claim to have been "thoroughly investigated ... and ... found completely innocent"?

As we have noted and others have reported (see, e.g., here), none of the sanctioning bodies has actually conducted meaningful investigations or hearings. The Ohio Board responded that it was "unable" to proceed, without further explanation; indeed, that Board has spent the last 18+ months in court defending its right to not investigate Dr. James. Meanwhile, throughout its own lengthy legal battle, the Louisiana Board steered clear from advancing a position on Dr. James's conduct. Instead, it argued (without evident legal basis) that the statute of limitations had expired and thus that, it, too, was unable to look into the matter.

To say that James "won" the proceedings before the Ohio Board (as Tom Warhover at the Missourian described it) is a legal stretch. If James "won" the proceedings before the Ohio Board, it could not have been based on his "innocence," when there was no meaningful inquiry into his conduct. If James "won," it is because the Ohio Board--like other licensing boards, the American Psychological Association, the U.S. Department of Justice and other institutions empowered to hold individuals accountable for torture--chose the easy way out. It ducked the issue, confident it could take refuge in a climate where "looking forward, not backward" is the mantra of choice.

Dr. Michael Pullis, search committee chair from the University of Missouri, has said, "I understand the allegations, but that is not sufficient to discriminate against anyone." But when presented with disturbing evidence from credible sources, it is not discrimination to expect certainty, beyond doubt, that a candidate to a top educational post does not bear responsibility for the torture of others, to expect certainty that he has not been dishonest with his employers, faculty, students, professional boards and the American people. To do otherwise risks sending the message that the University of Missouri does not take seriously allegations of abuse and dishonesty. The search committee should consider how such a message will impact the university community, in particular, survivors of sexual, child, domestic and all other forms of abuse and violence.

This piece was co-written with Dr. Trudy Bond, Ed.D. She is an Ohio-based psychologist, where she has been treating patients for 30 years, and is a member of the Coalition for an Ethical Psychology.
When it comes to guns, our money talks

January 23

By MARY SANCHEZ

The Kansas City Star

This is American life in a gun-soaked culture:

A person can wind up a beneficiary of the heady profits from firearms sales without even knowing it. Consider Missouri Tigers fans.

The University of Missouri was among the investors flagged in a recent New York Times column about the private equity firm Cerberus Capital Management and its formation of Freedom Group. By gobbling up gun manufacturers, Freedom Group was known as the largest firearms maker in America, including Remington, Bushmaster, Marlin and H&R.

The university was ready for the newspaper’s questions about potentially uncomfortable alliances and the flow of money to firearms. It had already reviewed its portfolios.

Cerberus accounted for about $275,000 of the $450,000 in investments that MU officials had been able to identify as being tied to gunmakers.

Because it manages a wide range of retirement funds and endowments affecting public university systems and state governments, the reach of Cerberus is massive.

But it was the weight of the Cerberus investments held by the $154 billion California State Teachers’ Retirement System that influenced the firm’s decision to sell off Freedom Group. Officials with the teachers fund realized that the Bushmaster rifle Adam Lanza used to murder 20 children and seven adults was made by a Freedom Group company.

Reportedly, equity firm executives considered simply making a financial contribution to Newtown, mental health or education to absolve themselves of potential backlash. Wisely, they realized a corporate payout wasn’t sufficient, not with a nation grieving.

Instead, Cerberus decided to sever the relationship. The sale isn’t complete, so no news yet on who the new owners, and unwitting investors, will be.
MU stresses that the system’s ties to firearms is small, about 0.01 percent of its nearly $4 billion in invested assets.

But that leads to the question people must consider: How much of an investment, how close of a connection, does one need to feel any culpability when violence is committed by guns?

Holdings are handled by external managers. Indeed, there are many ways that distance and complicated portfolios enter the equation.

In the last quarter reported, Freedom Group’s sales grew 20 percent to $237.9 million. And gun sales have spiked since Newtown.

So, as the saying goes, investors just made “a killing.”

Likewise, people speak about what we are willing “to invest” in as a nation. Will the choice be education, character-building or guns?

An emerging lesson of Newtown is that when it comes to guns in America, we’re all invested somehow.
The hidden time bomb ticking inside Obamacare

January 23

By GEORGE WILL

The Washington Post

A willow, not an oak. So said conservatives of Chief Justice John Roberts when he rescued the Affordable Care Act — aka Obamacare — from being found unconstitutional.

But the way he did this may have made it unworkable.

This plausible judgment comes from professor Thomas A. Lambert of the University of Missouri Law School, writing in Regulation, a quarterly publication of the libertarian Cato Institute.

The crucial decision, he says, was four liberal justices joining Roberts' opinion declaring that the ACA's penalty for not complying with the mandate to purchase health insurance is a tax on not purchasing it. With this, the court severely limited the ability of the new health-care regime to cope with its own predictable consequences.

What was supposed to be, constitutionally, the dispositive question turned out not to be. Conservatives said the mandate — the requirement that people engage in commerce by purchasing health insurance — exceeded Congress's enumerated power to regulate interstate commerce.

Liberals jeered this argument, noting that since the New Deal, courts have given vast deference to Congress regarding that power. The ridicule stopped when five justices agreed with the conservative argument.

But this did not doom the act because Roberts invoked what Lambert calls "a longstanding interpretive canon that calls for the court, if possible, to interpret statutes in a way that preserves their constitutionality." Hence Roberts ruled that what Congress called a "penalty" for not obeying the mandate was really a tax on noncompliance.
Lambert believes this has momentous implications. The problems arise from the interplay of two ACA provisions — “guaranteed issue” and “community rating.”

The former forbids insurance companies from denying coverage because of a person’s pre-existing health condition. The latter, says Lambert, requires insurers to price premiums “solely on the basis of age, smoker status, and geographic area, without charging higher premiums to sick people or those susceptible to sickness.”

The point of the penalty to enforce the mandate was to prevent healthy people from declining insurance, which would leave an insured pool of mostly old and infirm people. This would cause premiums to soar, making it more sensible for the healthy to pay the ACA tax.

Roberts noted that a person earning $35,000 a year would pay a $60 monthly tax and someone earning $100,000 would pay $200. But the cost of a qualifying insurance policy is projected to be $400 a month. Clearly, it would be sensible to pay $60 or $200 rather than $400, because if one becomes ill, “guaranteed issue” assures coverage and “community rating” means one’s illness won’t result in higher insurance rates.

So, Lambert says, the ACA’s penalties are too low to prod the healthy to purchase insurance, even given ACA’s subsidies for purchasers. The ACA’s authors probably understood this perverse incentive and assumed that once Congress passed the ACA with penalties low enough to be politically palatable, Congress could increase them.

But Roberts’ decision says the small size of the penalty is part of the reason it is, for constitutional purposes, a tax. It is not a “financial punishment” because it is not so steep that it effectively prohibits the choice of paying it. And, Roberts noted, “by statute, it can never be more.” As Lambert says, the penalty for refusing to buy insurance counts as a tax only if it remains so small as to be largely ineffective.

Unable to increase penalties substantially, Congress has only one way to induce healthy people to purchase insurance. This is by the hugely expensive process of increasing premium subsidies enough to narrow the gap between the cost of insurance and the penalty for not purchasing. This, Republicans will ferociously resist.

Because the penalties are constitutionally limited by the reasoning whereby Roberts declared them taxes, he may have saved the Affordable Care Act’s constitutionality, at the price of sacrificing its feasibility.
FastCAT offers free rides through week

Wednesday, January 23, 2013 at 2:00 pm

The city is offering free rides this week on the FastCAT bus route serving the downtown and campus areas.

The service is meant to promote the bus route during the first week of the new semester at the University of Missouri. Rides will be free through Sunday.

Also this week, Columbia Transit will have a contest to give away three semester-long bus passes. A “fact of the day” will be posted on FastCAT buses, and riders can enter the contest daily by "liking" the Columbia Transit Facebook page and then posting the facts there.

Schedules and bus tracking are available at ridefastcat.com.