

DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE
ON
INTRASTATE COMMERCE

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2017

WEDNESDAY, FEBRUARY 8, 2017
9:00 A.M.

TESTIMONY ON HOUSE BILL NO. 507
RELATING TO ATHLETE AGENTS

TO THE HONORABLE TAKASHI OHNO, CHAIR,
AND TO THE HONORABLE ISAAC W. CHOY, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 507, Relating to Athlete Agents. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers enforcement-related comments on the bill, with three requested amendments.

House Bill No. 507 repeals chapter 481E, Hawaii Revised Statutes ("HRS"), the Uniform Athlete Agents Act, and creates a new chapter for a revised Act. The

measure expands the definition of "athlete agent" to include individuals who serve a student athlete as a business agent or financial advisor for compensation or in anticipation of compensation. House Bill No. 507 also requires reciprocity for athlete agents registered in another state and increases civil penalties from not more than \$25,000 to not more than \$50,000 for a violation of the chapter.

RICO supports sections -7 and -14 that specify the conduct by an athlete agent that would give rise to a violation of the new chapter. RICO also supports the increase in civil penalties. However, RICO respectfully requests that the Committee consider the following amendments to this measure:

- 1) Add the following standard procedural language in a new subsection to section -7 on page 24, at line 9:
 - (c) The director may deny, suspend, revoke, or refuse to renew a certificate of registration after proper notice and an opportunity for a hearing pursuant to chapter 91.
- 2) Delete the last sentence in section -15 on page 33, lines 15-18, because the sentence is inappropriate in a criminal penalty section and would preclude RICO from entering into settlement agreements with respondents who opt not to have hearing.

These amendments are consistent with language used in other professional and vocational licensing chapters.

- 3) Amend subsection (c) on page 34, lines 20-21 as follows:

- (c) A violation of this chapter by the athlete agent shall be an unfair or deceptive act or practice for purposes of section 480-2.

Testimony on House Bill No. 507

February 8, 2017

Page 3

The amendment will ensure that an action pursuant to section 480-2, HRS, would apply to the registered athlete agent.

Thank you for the opportunity to testify on House Bill No. 507. I will be happy to answer any questions the Committee may have.



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

STATE OF HAWAII
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P.O. BOX 3469
HONOLULU, HAWAII 96801
cca.hawaii.gov/pvl

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

CELIA C. SUZUKI
LICENSING ADMINISTRATOR

PRESENTATION OF THE PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

TO THE HOUSE COMMITTEE ON
INTRASTATE COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Wednesday, February 8, 2017
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 507, RELATING TO ATHLETE AGENTS.

TO THE HONORABLE TAKASHI OHNO, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Licensing Administrator of the Professional and Vocational Licensing Division ("PVLD"), testifying on behalf of the Department of Commerce and Consumer Affairs ("DCCA"). This measure repeals Hawaii Revised Statutes chapter 481E and adds a new chapter to be known as the "Revised Uniform Athlete Agents Act (2015)". It also expands the definition of "athlete agent" to include individuals who, under certain circumstances, serve as financial advisors or business managers to student athletes; requires reciprocity for athlete agents; strengthens requirements for athlete agent contracts; and strengthens notification requirements.

For the Committee's information, the companion measure, Senate Bill No. 430, was heard on January 30, 2017, by the Senate Committees on Commerce, Consumer Protection, and Health and Judiciary and Labor. The bill passed out with amendments.

The DCCA offers similar comments for this House companion measure and requests that the same amendments be made to the bill.

On page 9, lines 15-16, we ask for the following amendment: "dealer in securities, financial planner, insurance [agent] producer, real estate broker or [sales agent] salesperson, tax consultant, accountant, or..." This is because "insurance producer" and "real estate salesperson" are terms that are consistently used by their respective licensing industries.

On page 11, lines 17-20, we ask for the following amendment: "(a) [~~The director is authorized to implement the regulation of athlete agents as provided in this chapter. The director may adopt rules pursuant to chapter 91 to implement this chapter.~~] In addition to any other powers and duties authorized by law, the director shall have the powers and duties to:

- (1) Grant, deny, renew, refuse to renew, restore, terminate, reinstate, condition, restrict, suspend, or revoke a registration issued pursuant to this chapter;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out this chapter;
- (3) Administer, coordinate, and enforce this chapter;
- (4) Discipline a registered athlete agent on grounds specified by this chapter or

chapter 436B or for any violation of rules adopted by the director pursuant to this chapter; and

- (5) Refuse to register a person for failure to meet the registration requirements in this chapter or for any reason specified by this chapter as grounds to discipline an athlete agent.”

The foregoing is standard language that is reflected in other licensing laws in DCCA. As a result, the amendment would bring this new chapter in line with those laws.

On page 19, lines 4-7, we ask for the following amendment: “(b) Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state that has adopted the Revised Uniform Athlete Agents Act may apply for registration as an athlete agent in this State by submitting to the director:”

The foregoing language would ensure that the DCCA would reciprocally register athlete agents who are registered in other states. As a result, the amendment would make the process a true reciprocal registration.

On page 23, line 16, we ask for the following amendment: “(f) A certificate of registration or renewal of registration under this chapter shall be valid for two years [-] and shall be renewed by June 30 of every even-numbered year upon the payment of a renewal fee within sixty days before the expiration of the registration. Registrations that have been forfeited may be restored within one year of the forfeiture date upon payment of renewal and restoration fees. Failure to restore a forfeited registration within one

year shall result in the automatic termination of the registration. A person whose registration has been terminated pursuant to this section shall be required to reapply for a new registration as a new applicant.”

Again, the foregoing is standard language that is reflected in other licensing laws in DCCA and the amendment would bring this new chapter in line with those laws, with the exception of the June 30 biennial renewal date. Various Boards, Commissions and Programs have different renewal dates.

Finally, we note that the effective date of the bill is July 1, 2017. Pursuant to Act 248 (SLH 2007), we began implementing the Uniform Athlete Agents Program effective July 1, 2008. As of January 24, 2017, there were six (6) athlete agents registered with DCCA. As these six (6) last renewed in June 2016, their registrations are valid through June 30, 2018. However, if this bill passes with a July 1, 2017 effective date and without our suggested renewal date, it appears that these six (6) would need to apply under the new law as there are no provisions in this bill that addresses current registrants. In order to accommodate our registrants, DCCA would like to request that the effective date of the bill be changed to July 1, 2018.

Thank you for the opportunity to provide suggested amendments to House Bill No. 507.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Intrastate Commerce
Wednesday, February 8, 2017 at 9:00 a.m.

by

David A. K. Matlin, Athletic Director
University of Hawai'i at Mānoa

and

Patrick Guillen, Athletic Director
University of Hawai'i at Hilo

HB 507 – RELATING TO ATHLETE AGENTS

Chair Ohno, Vice Chair Choy, and members of the committee:

Thank you for this opportunity to submit this joint testimony of the University of Hawai'i's athletic departments at Mānoa and at Hilo, in support of HB 507.

The University of Hawai'i testified in support of the enactment of the Uniform Athlete Agents Act (UAAA) when it was being considered by the legislature during the 2007 session. As institutions with significant collegiate athletic programs, both the University of Hawai'i at Mānoa Athletic Department and the University of Hawai'i at Hilo Athletic Department are very concerned with the eligibility standing, and the best interests, of our student-athletes when approached by or working with athletic agents. As with the UAAA, we believe that the changes to it in the Revised UAAA proposed within HB 507, are in the best interest of our student-athletes.

The University of Hawai'i at Mānoa Athletic Department and the University of Hawai'i at Hilo Athletic Department respectfully request passage of HB 507 and thank you for your consideration of this joint testimony.

**TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

**ON H.B. NO. 507
RELATING TO ATHLETE AGENTS.**

BEFORE THE HOUSE COMMITTEE ON INTRASTATE COMMERCE

DATE: Wednesday, February 8, 2017, at 9:00 a.m.
Conference Room 429, State Capitol

PERSON(S) TESTIFYING: KEN TAKAYAMA
Commission to Promote Uniform Legislation

Chair Ohno and Members of the Committee:

My name is Ken Takayama, and I am a member of the State Commission to Promote Uniform Legislation. Thank you for this opportunity to submit testimony in strong support of H.B. No. 507, which enacts the Revised Uniform Athlete Agents Act (RUAAA).

The recruitment in an improper manner of student athletes who are still enrolled in an educational institution can cause substantial eligibility problems for both the student athlete and the educational institution, which in turn lead to severe economic sanctions and loss of scholarships for the institution. During the 2007 regular session, as part of an effort to counteract this problem, Hawaii joined approximately forty other states by enacting the Uniform Athlete Agents Act, which is codified as chapter 481E, Hawaii Revised Statutes.

The Uniform Athlete Agents Act :

- Requires sports agents seeking to represent student athletes who are or may be eligible to participate in intercollegiate sports to register with the

Department of Commerce and Consumer Affairs, and submit, among other things, a criminal history disclosure;

- Imposes specified contract terms on these agreements to the benefit of student athletes; and
- Provides educational institutions with a right to notice along with a civil cause of action for damages resulting from a breach of specified duties.

According to an article in the November 7, 2014, edition of the Wall Street Journal (a copy of which is attached), some college officials say that the Uniform Athlete Agents Act "has helped reduce improper contact between agents and student athletes" (at page 10). However, a variation of the sports agent problem has been developing in the form of "financial advisers". According to that article, there have been:

- Reports from college athletic officials that "brokers, insurance agents, bankers and other types of financial advisers often contact athletes who are promising pro prospects"; and
- That "the double standard between financial advisers and sports agents has long bothered some college athletic officials, regulators and even players. Agents were reined in [by the Uniform Athlete Agents Act] . . . while leaving players as vulnerable as ever to unscrupulous financial advisers" (at page 10).

S.B. 430 repeals chapter 481E, Hawaii Revised Statutes, and replaces it with a new Revised Uniform Athlete Agents Act that expands applicability to financial advisers under certain circumstances—thereby requiring them to register as athlete agents. More specifically as compared to the existing law (chapter 481E), this measure:

- (1) Expands the definition of "athlete agent" and the regulatory registration

requirements to include individuals who provide certain financial and business services to student athletes;

- (2) Requires reciprocity in registration whereby registrations by an agent in one state must be recognized in another state, subject to certain conditions.
- (3) Requires agency contracts to have the athlete agents disclose their registrations, and have the student athlete acknowledge the possible jeopardy to their eligibility.
- (4) Provides civil penalties to athlete agents who fail to notify the educational institution at which a student athlete is enrolled before contacting a student athlete;
- (5) Adds criminal penalties for athlete agents who encourage another individual to take on behalf of the agent an action the agent is prohibited from taking; and
- (6) Gives student athletes a right of action against an athlete agent who violates the act.

The National Collegiate Athletic Association has officially endorsed the Revised Uniform Athlete Agents Act (copy attached).

A summary of the Act prepared by the national office of the Uniform Law Commission is also attached.

Thank you very much for this opportunity to testify.

THE WALL STREET JOURNAL.

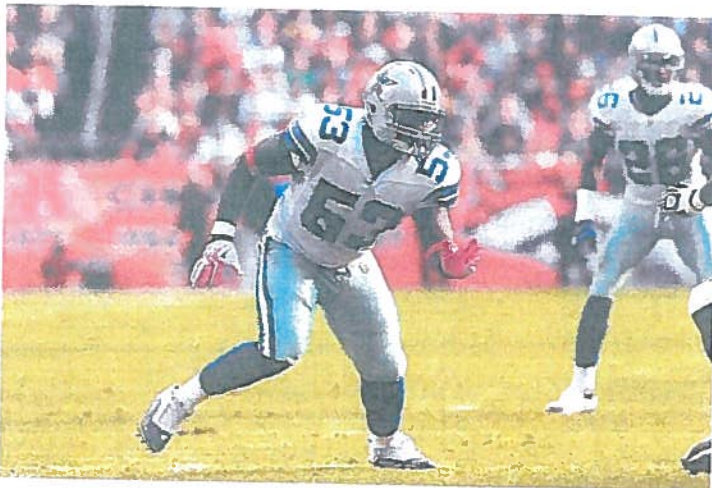
This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

<http://www.wsj.com/articles/colleges-push-to-keep-financial-advisers-away-from-athletes-1415331002>

SPORTS

Colleges Push to Keep Financial Advisers Away From Athletes

Momentum Is Growing to Narrow a Gap Between Laws That Oversee Sports Agents and Financial Advisers Who Approach College Athletes



Steve Octavien is shown playing for the Dallas Cowboys in a 2009 loss against the Denver Broncos. After graduating from Nebraska, he invested \$80,000 with financial adviser Mary Wong. He hasn't been able to get back any of the money and believes she used it to pay her own credit-card bills and make other clients whole.
GETTY IMAGES

By JULIE STEINBERG

Nov. 6, 2014 10:30 p.m. ET

Former Dallas Cowboys linebacker Steve Octavien recently landed a marketing job, got married, brought his newborn daughter home from the hospital and is saving up for the down payment on a house.

But as he gets on with life after six years of professional football, the 29-year-old Mr. Octavien regrets handing over \$80,000, including his signing bonus, to a stockbroker named Mary Wong in 2008. They met while he was playing at the University of Nebraska, where he says she sometimes paid his rent, cellphone bills, car insurance and other expenses, a likely violation of National Collegiate Athletic Association rules.

The \$80,000 soon disappeared, he says, and Ms. Wong pleaded guilty in 2010 to securities fraud related to an alleged Ponzi scheme that victimized other clients. She is serving a 63-month sentence in federal prison.

“Now I have a family,” says Mr. Octavien, who earned roughly \$600,000 in his NFL career with four teams. “That would have been money that I would have loved to give them.” Prison officials say Ms. Wong told them she declined to comment for this article.

It is illegal in most states for sports agents to provide gifts or other items of value to amateur athletes—and agents are supposed to register with state regulators before approaching an athlete. Violators can be prosecuted.

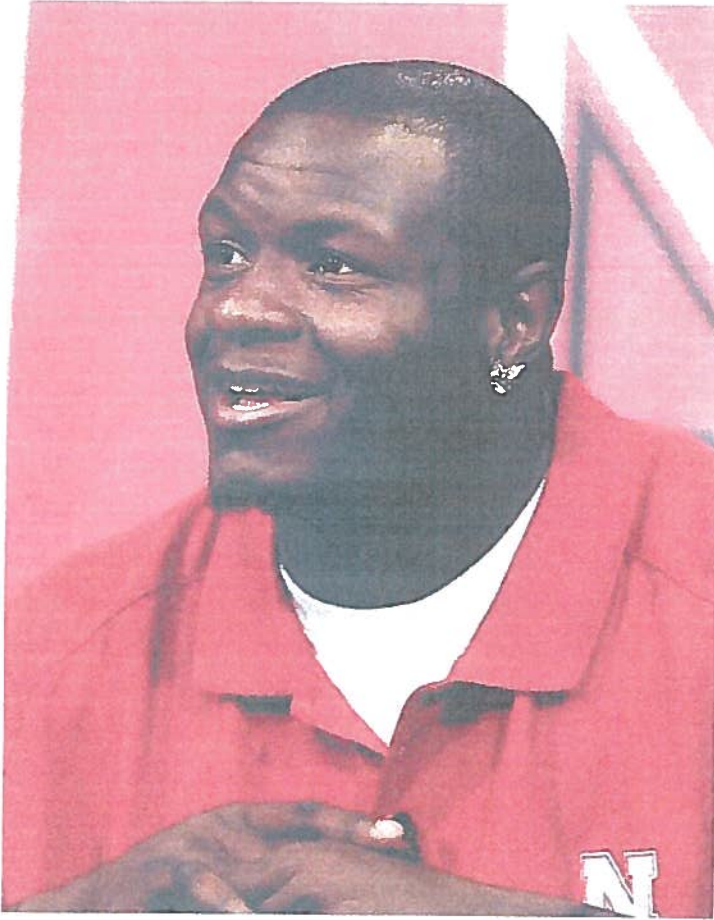
Those laws rarely apply to financial advisers like Ms. Wong. While NCAA rules prohibit athletes from accepting money or gifts from anyone trying to woo them, there is little to discourage financial advisers from trying.

As a result, brokers, insurance agents, bankers and other types of financial advisers often contact athletes who are promising pro prospects, according to college athletic officials.

At Baylor University, some football and basketball players have gotten messages through their Facebook pages from financial advisers, says Josh Lens, assistant athletic director of compliance at the Waco, Texas, college. Last season, he confronted one adviser trying to talk to players outside the locker room after a victory against Texas Christian University in Fort Worth.

Cincinnati Bengals defensive tackle Devon Still says five financial advisers he met while playing at Pennsylvania State University from 2008 to 2011 promised “more than anyone else was offering” if he would hire them.

He hired a different broker during his senior year and invested \$100,000 through that broker after joining the National Football League.



Steve Octavien played linebacker from 2005 to 2007 at the University of Nebraska, where he says financial adviser Mary Wong sometimes paid his rent, cellphone bills, car insurance and other expenses. The gifts are a likely violation of National Collegiate Athletic Association rules but aren't prohibited by current laws. *HUSKERS*

Last year, the broker was banned for life from the securities industry after failing to appear at a disciplinary proceeding related to fraud allegations at a firm that was recommended by the broker to clients. Mr. Still says he hasn't been able to get his money back.

A lawyer for the broker, Jinesh Brahmhatt, says his client hasn't recovered an investment he made in the same firm.

At Nebraska, several former football players remember Ms. Wong as a familiar sight. They say she hosted cookouts at her Omaha home, sometimes preparing short ribs. She also paid for clothes and flights on a private jet, took players to nightclubs and bought tire rims for one player's car.



Financial adviser Mary Wong after her arrest in 2009. She pleaded guilty in 2010 to securities fraud and is serving a 63-month federal prison sentence. DOUGLAS COUNTY (NEB.) DEPARTMENT OF CORRECTIONS

Mr. Octavien says he knew better than to take anything from a sports agent. “When it came to the agents, that stuff was a big no-no to me,” he says. Ms. Wong was different because “she was a financial adviser” who “had nothing to advise,” since he wasn’t earning any money from football at the time.

The alleged gifts to the Nebraska football players haven’t been previously reported. Athletic-department compliance officials questioned two athletes about Ms. Wong, according to people familiar with the situation. A Nebraska spokeswoman says the college told the NCAA about “one of the allegations.”

She says Nebraska “takes seriously any claims of potential rules violations by former student-athletes. As we do with all alleged claims, we review the available information and the credibility of the source and take appropriate action if warranted, including self-reporting to the NCAA.”

Nebraska's football program ranks fourth in all-time wins by college teams, including an 8-1 record so far this season. The Cornhuskers have sold out every home game since 1962 and play next at Wisconsin on Nov. 15.

A spokeswoman for the NCAA declined to comment. In a case unrelated to Ms. Wong's alleged gifts, Nebraska finished serving in January a two-year probation imposed by the NCAA after athletes accepted books and supplies from campus bookstore employees that exceeded course requirements.

The double standard between financial advisers and sports agents has long bothered some college athletic officials, regulators and even players. Agents were reined in after the Uniform Law Commission, a nationwide group of lawyers, judges, legislators and law professors, drafted the Uniform Athlete Agents Act in 2000.

It became the template for laws in 40 states, the District of Columbia and U.S. Virgin Islands. California, Michigan and Ohio have passed similar laws. Some college officials say the state laws have helped reduce improper contact between agents and student-athletes, while leaving players as vulnerable as ever to unscrupulous financial advisers.

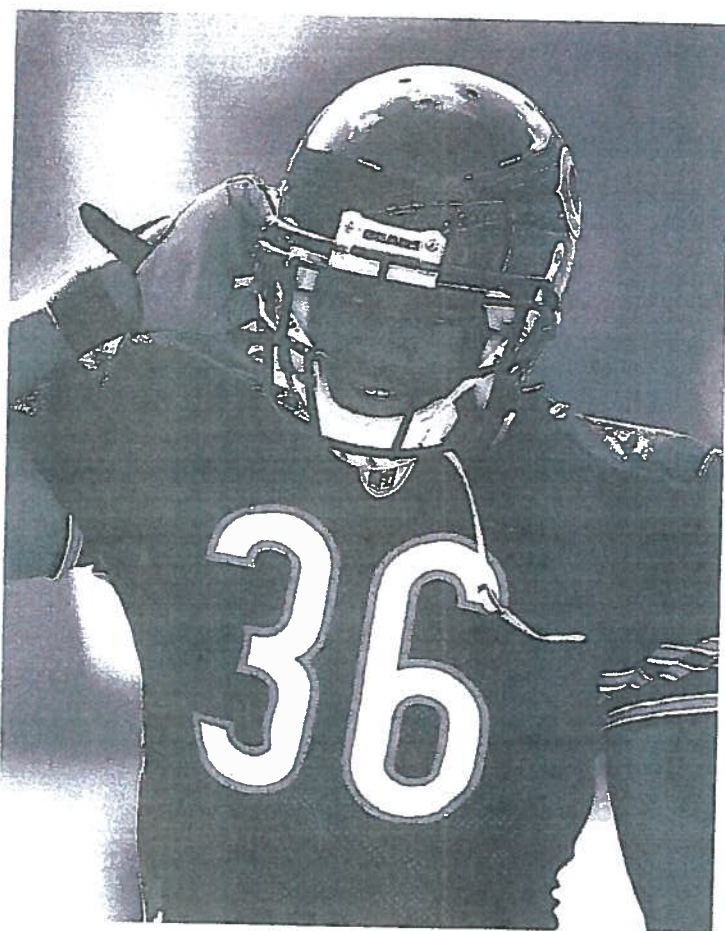
Maryland and Oregon now have laws specifically aimed at financial advisers.

"It's very disappointing that people target students," says Mark Doman, chief executive of the Doman Group, a wealth-management firm in New York that has pro athletes as clients. "Financial advisers should be looked at with as much scrutiny as agents."

Cincinnati Bengals wide receiver Greg Little told investigators last year that he got money in 2010 from either a sports agent or financial adviser while playing at the University of North Carolina at Chapel Hill.

Last fall, prosecutors in North Carolina filed felony charges against the agent for alleged gifts to former football players. The financial adviser hasn't been prosecuted because state officials "didn't believe the UAAA applied to him," says Jim Woodall, the district attorney in Orange and Chatham counties.

The agent hasn't entered a plea yet. The financial adviser, Marty Blazer, couldn't be reached, and his lawyer declined to comment. Mr. Little's current agent, Jason Rosenhaus, says the football player has no comment on the case, which led to a postseason ban for the 2012 football team.



Josh Bullocks, shown warming up before a Chicago Bears win over the Detroit Lions in 2009, says he and twin brother Daniel lost hundreds of thousands of dollars they invested with financial adviser Mary Wong. The brothers met her while playing at the University of Nebraska. *GETTY IMAGES*

Momentum to narrow the regulatory gap is growing. At a two-day meeting that starts Friday, a Uniform Law Commission panel will consider expanding the definition of “agent” to include many kinds of financial advisers.

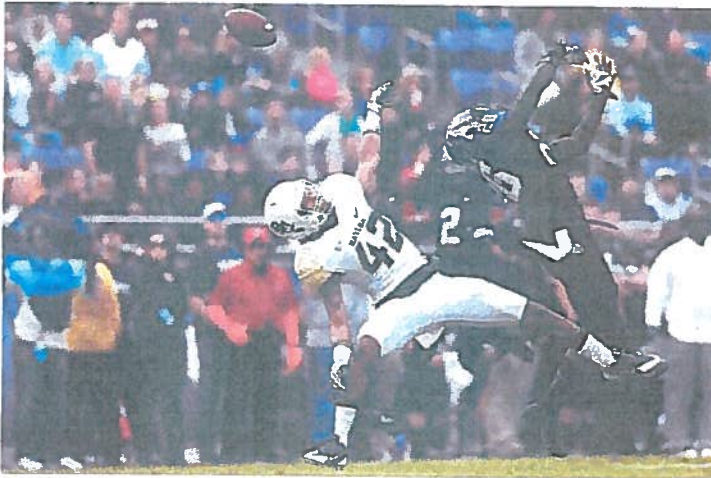
Under the current proposal, advisers would be regulated under state sports-agent laws if they try to help the player sign a pro contract or charge a student-athlete differently than other clients. Mr. Octavien and two other former Nebraska players say Ms. Wong, a licensed broker for more than 15 years, didn’t charge them fees or sales commissions.

Ms. Wong is a “great illustration of what we’re trying to stop,” says Paul Pogge, associate athletic director of the University of North Carolina at Chapel Hill, who unsuccessfully pushed for an even tougher proposal, citing support from athletic directors and agents.

“It’s been a gray area that needs clarifying because we need to protect our students from people who want to profit off them and don’t have their best interests in mind,” he adds.

A final vote is expected next year, a panel member said Thursday. A spokeswoman for the Securities Industry and Financial Markets Association, a Wall Street trade group, declined to comment on the possibility of new laws for financial advisers who approach college players. An NCAA spokeswoman also declined to comment.

Since he arrived at UNC in 2012, Mr. Pogge has tried with other officials to exert more control over financial advisers and other professionals by telling them to register with college officials before contacting student-athletes. The policy has few teeth.



Baylor University wide receiver Levi Norwood, shown in a 41-38 win against Texas Christian University in November 2013. After the game, one Baylor athletic-department official confronted a financial adviser trying to talk to players outside the locker room. GETTY IMAGES

Financial advisers aren't mentioned in last month's report by a former prosecutor about the scandal that has tarnished UNC's reputation for top-flight academics and athletics. The report said athletes and other students were able to take no-show courses in the college's Department of African and Afro-American Studies.

Across the U.S., about 96,000 male college students played Division I sports during the 2013-14 school year, according to the NCAA. No one knows how many student athletes in sports with pro leagues like the NFL, National Basketball Association and Major League Baseball are approached by agents or financial advisers while in college.

Daniel Bullocks, a Nebraska defensive back from 2001 to 2005, says about a dozen financial advisers offered him gifts and cash payments of as much as \$5,000 while he was in Lincoln, sometimes after showing up at bars.

"They would just know where the guys hang out," says Mr. Bullocks, now an assistant coach at the University of Northern Iowa in Cedar Falls. He says he didn't accept anything from anyone while playing at Nebraska.

Tom Osborne, Nebraska's athletic director from 2007 to 2013, says he met twice a year with every team and the compliance staff to make sure all Nebraska student athletes knew which gifts weren't allowed. Players had to sign an annual document indicating they hadn't received extra benefits, he says.

The NCAA can punish students and colleges for improper gifts but lacks the power to go after all gift givers.

Mr. Osborne, who won 255 games and three national championships in 25 seasons as Nebraska's head football coach, recalls hearing Ms. Wong's name while he was athletic director but says he knew nothing specific about her.

Mr. Octavien says he was struggling financially when he met Ms. Wong in 2005. His scholarship didn't cover all of his living expenses, and juggling football, his classes and study left no time to get a job. During one off-season, he worked at a lumberyard.

"So what do they think will happen when relief swings our way in the form of a financial adviser?" he says now. Ms. Wong, then in her 40s, "took care of us like her own children."

Mr. Bullocks's twin brother Josh, who played free safety at Nebraska, adds: "Mary was a best friend to all of us."

Marlon Lucky, who played at Nebraska from 2005 to 2009, says he flew to Atlanta on a private jet with Ms. Wong for spring break. The broker bought him a suit during the trip, he says, and gave him \$800 later that he spent on Christmas gifts for his cousins.

"It was obvious she wanted to take me on as a client" because of the gifts she was giving, Mr. Lucky says. "I figured [she] was kind of grooming me." He says he didn't invest with Ms. Wong during his brief NFL career.

Securities records and court documents show that she was a registered broker from 1987 to 2004 at First Investors Corp. and Wells Fargo & Co. Wells Fargo fired her for an unspecified violation of company policies, and then she launched her own firm. First Investors couldn't be reached, and Wells Fargo declined to comment.

The Bullocks twins turned to Ms. Wong for advice about managing their money, gave her power of attorney and formed a limited-liability investment company with the broker, they say.

Before long, Ms. Wong was swamped by regulatory troubles. In 2007, a New York Stock Exchange panel concluded that she took more than \$150,000 from two widowed clients and put the money in her own bank account.

The panel said she “offered a convoluted alibi” and “expressed no regret or contrition for her deceitful, fraudulent, and shameful actions.” Ms. Wong was banned for life from working for any NYSE-affiliated securities firm.

When Mr. Octavien walked into the Dallas Cowboys locker room in 2008, he saw a poster with a picture of Ms. Wong’s face. The poster urged players to stay away from the broker—but Mr. Octavien ripped it down and said she was his financial adviser. A team spokesman wouldn’t comment.

Mr. Octavien says he now believes she forged checks with his signature and used his \$80,000 to pay her own credit-card bills and make other clients whole. Daniel Bullocks says the Federal Bureau of Investigation told him Ms. Wong transferred money from his account, instead of investing it in real estate as promised. The brothers say they lost hundreds of thousands of dollars.

Regulators haven’t accused Ms. Wong of wrongdoing related to the former Nebraska players. When she pleaded guilty to securities fraud in 2010, Ms. Wong told a federal court that she “misrepresented the nature of some financial transactions,” without being more specific.

Mr. Octavien says he has forgiven Ms. Wong but has learned the hard way to be wary. He reads the fine print in any contract at least three times. “I don’t trust anyone with my money,” he says.

Write to Julie Steinberg at julie.steinberg@wsj.com

Copyright 2014 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.



NCAA Support of the Revised Uniform Athlete Agents Act

The NCAA supports the Revised Uniform Athlete Agents Act (RUAAA) and its adoption in every state. Since 2000, the NCAA has supported passage of the original version of the Act because of the important protections provided to student-athletes and educational institutions through the regulation of athlete agent activities. The RUAAA updates and improves the 2000 version of the Act through enhanced protections and a revised registration process. Specifically the RUAAA:

- Expands the definition of “athlete agent”
- Establishes a reciprocal and interstate compact process to allow for more efficient registration
- Enhances agency contract requirements
- Establishes athlete agent notification requirements
- Creates a cause of action for student-athletes

The improper conduct of an athlete agent can have a detrimental impact on student-athletes, educational institutions and the athlete agent community. The RUAAA is an important tool in addressing these concerns.



THE REVISED UNIFORM ATHLETE AGENTS ACT (2015)

- A Summary -

With the immense amount of money at stake for a wide variety of professional athletes and those who represent them, the commercial marketplace in which athlete agents operate is extremely competitive. While seeking to best position one's clients and to maximize their potential income is both legal and good business practice, the recruitment of a student athlete while he or she is still enrolled in an educational institution can and will cause substantial eligibility problems for both the student athlete and the educational institution, which in turn lead to severe economic sanctions and loss of scholarships for the institution. The problem becomes worse where an unethical agent misleads a student, especially where the athlete is not aware of the possible effect of signing the agency agreement or where agency is established without notice to the athletic director of the institution. In an effort to address these problems, the Uniform Law Commission (ULC) drafted the Uniform Athlete Agents Act (UAAA), which was approved in 2000.

The UAAA provided for the uniform registration and certification of individuals who sought to represent student athletes who were or may have been eligible to participate in intercollegiate sports. Agents who were issued a valid certificate of registration or licensure in one state were able to cross-file that application (or a renewal thereof) in all other states that have adopted the act. Individuals who applied for registration as agents were required to disclose their training, experience, and education, whether they or an associate had been convicted of a felony or crime of moral turpitude, had been administratively or judicially determined to have made false or deceptive representations, had their agent's license denied, suspended, or revoked in any state, or had been the subject or cause of any sanction, suspension, or declaration of ineligibility.

In addition, the UAAA required athlete agency contracts to contain the amount and method of calculating an agent's compensation, the name of any unregistered person receiving compensation because the athlete signed the agreement, a description of reimbursable expenses and services to be provided, and warnings of the notice requirements imposed under the act. The UAAA further required both athlete agents and student athletes to give notice of the contract to the athletic director of an affected educational institution within 72 hours of signing the agreement, or before the athlete's next scheduled athletic event, whichever occurred first.

The UAAA also prohibited agents from providing materially false or misleading information, promises or representations, with the purpose of getting a student athlete to enter into an agency contract and prohibited providing anything of value to a student athlete or another person before that athlete enters into an agency contract. The UAAA provided that an athlete agent may not intentionally initiate contact with a student athlete unless registered, refuse or willfully fail to keep or permit inspection of required records, fail to register where required, provide materially false or misleading information in an application for registration or renewal thereof, predate or postdate an agency contract, or fail to notify a student athlete (prior to signing) that signing an agency contract may make the student athlete ineligible to participate in that sport, and imposed criminal penalties for violations of this prohibited conduct. The UAAA also provided educational institutions with a civil cause of action for damages resulting from a breach of specified duties.

The UAAA was revised in 2015 and is now known as the Revised Uniform Athlete Agents Act (RUAAA). The purposes of the RUAAA include providing enhanced protection for student athletes and educational institutions, creating a uniform body of agent registration information for use by state agencies, and simplifying the regulatory environment faced by legitimate athlete agents.

While retaining other portions of the UAAA, the RUAAA makes the following changes:

- “Athlete agent” is further defined to include an individual who, for compensation or the anticipation of compensation, serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes, and an individual who gives something of value to a student athlete or another person in anticipation of representing the athlete for a purpose related to the athlete’s participation in athletics.
- Two alternatives for athlete agent registration are provided. Alternative A includes a true reciprocal registration requirement in that if an individual is issued a certificate of registration by one state, the registration is in good standing and no disciplinary proceedings are pending against the registration, and the law in that state is the same or more restrictive as the law in another state, the other state would be required to register the individual. Alternative B would adopt an interstate compact when the act is enacted by at least five states. The compact would create the Commission on Interstate Regulation of Athlete Agents to provide a single registration site where an individual could register to act as an athlete agent in the states that are members of the compact.
- Additional requirements are added for the signing of an agency contract. The contract must now contain a statement that the athlete agent is registered in the state in which the contract is signed and list any other state in which the agent is registered. The contract must also be accompanied by a separate record signed by the student athlete acknowledging that signing the contract may result in the loss of eligibility to participate in the athlete’s sport.
- An agent is required to notify the educational institution at which a student athlete is enrolled before contacting a student athlete. A violation of this notice requirement is subject to civil penalties. The revised act also contains a provision that requires an athlete agent with a preexisting relationship with a student athlete who enrolls at an educational institution and receives an athletic scholarship to notify the institution of the relationship if the agent knows or should have known of the enrollment and the relationship was motivated by the intention of the agent to recruit or solicit the athlete to enter an agency contract or the agent actually recruited or solicited the student athlete to enter a contract.
- Criminal penalties are added for athlete agents who encourage another individual to take on behalf of the agent an action the agent is prohibited from taking. Student athletes are also given a right of action against an athlete agent in violation of the act.

For further information about the RUAAA, please contact ULC Legislative Counsel Brian Lewis at (312) 450-6619 or blewis@uniformlaws.org.