

1 understand that?

2 MR. PEARL: Objection. Relevance. His opinion.

3 THE COURT: Sustained. It's not an opinion. It's
4 what he knows.

5 MR. WEBB: I have no more questions, your Honor.

6 Could I just have one second? I apologize.

7 I'm sorry.

8 THE COURT: Mr. Gold?

9 MR. GOLD: I have no question.

10 THE COURT: Any other questions?

11 MR. PEARL: Nothing, your Honor.

12 THE COURT: Thank you, Mr. Harmon. You may be
13 excused.

14 Are you ready with your next witness.

15 MR. PEARL: Yes, your Honor.

16 THE COURT: Call your next witness.

17 MR. PEARL: Judge, I think for the time being we will
18 be done with the exhibit books.

19 THE COURT: Okay.

20 If you will place them under the chairs.

21 WILLIE FRED MIMS, GOVERNMENT'S WITNESS DULY SWORN.

22 DIRECT EXAMINATION

23 BY MR. PEARL:

24 Q. Please state your full name and spell your last name.

25 A. Willie Fred Mims, M-i-m-s.

1 Q. Mr. Mims, how are you employed?

2 A. I'm assistant athletic director of the University of Iowa.

3 Q. How long have you been the assistant athletic director at
4 the University of Iowa?

5 A. For approximately four years.

6 Q. Is the University of Iowa a public or private school?

7 A. It's a public institution.

8 Q. And is it fair to say that over twenty thousand people or
9 students a year attend as undergraduates?

10 A. That is correct.

11 Q. Do they all come from Iowa?

12 A. No, they don't.

13 Q. From where do these students come?

14 A. From across the United States as well as foreign countries.

15 Q. Would you please describe for the ladies and gentlemen of
16 the jury and the Court what your duties are as assistant
17 athletic director.

18 A. I have a wide range of duties. I'm compliance office
19 department. I'm the person who is -- directs the student
20 services area within athletics. I'm also responsible for
21 coordinating our drug screening program.

22 Q. In your capacity as assistant athletic director, are you
23 familiar with the Big Ten Conference rules concerning academic
24 eligibility for student athletes?

25 A. Yes, I am.

1 Q. What is the general requirement for academic eligibility
2 for student athletes at the University of Iowa?

3 A. Student athletes must progress with quantitative and
4 qualitative progression towards a degree. They have a grade
5 point average --

6 Q. Let's focus first on that component. What is the grade
7 point average that the University of Iowa has determined its
8 student athletes must meet each year at the beginning of the
9 school year in order to compete as members of the football
10 team?

11 A. If we're looking for -- I guess I need a clarification
12 here. Are you asking for the year that these particular
13 student athletes were in question, or are we taking about
14 currently?

15 Q. Let me ask you, do you know a person by the name of Ronald
16 Harmon?

17 A. Yes, I do.

18 Q. Who is Ronald Harmon?

19 A. Ronnie is a former student athlete at the University of
20 Iowa participating in the sport of football.

21 Q. Do you know an individual by the name of Devon Mitchell?

22 A. Yes, I do.

23 Q. Who is Devon Mitchell?

24 A. Devon is a former student athlete at the University of Iowa
25 also participating in the sport of football.

1 Q. Are you familiar with when they each began at the
2 University of Iowa?

3 A. Yes, I am.

4 Q. Now, would the requirements that are applicable to Mr.
5 Harmon be the same ones that would be applicable to Mr.
6 Mitchell?

7 A. Yes.

8 Q. With reference to those individuals, could you please state
9 what the grade point average requirement was which would make
10 them eligible to compete as athletes and to receive their
11 athletic scholarship?

12 A. They must be eligible during the first year of residence as
13 prescribed by NCAA guidelines, which is a 2 point to come into
14 the institution, and be eligible for financial aid and
15 competition.

16 Q. When you refer to the grade point average of 2 point,
17 you're referring to their high school --

18 A. High school cumulative average of 2 point. From there, the
19 Big Ten has a requirement of a 1.65 during that first year of
20 residence.

21 Other words, if a student athlete were to be engaged
22 in a second sport, if he's a football athlete, they would need
23 to have -- to maintain a 1.6 after their first semester.

24 Going into their second year of residence, the
25 student athlete must have earned a 1.65 cumulative grade point

1 average to be eligible to receive financial aid as well as
2 compete in athletics.

3 After the second year of residence, going into the
4 third year of residence, it was a grade point average of 1.75.
5 Going into the third year of residence, it was a 1.85 -- 1.75
6 the third year, 1.85 the fourth year, and 1.95 their fifth
7 year, if they have a fifth year of competition.

8 Q. Are there also requirements with respect to how many hours
9 of courses an athlete has to complete in order to remain
10 eligible to compete and to receive his athletic scholarship at
11 the University of Iowa?

12 A. Yes.

13 Q. As applied to Mr. Harmon and Mr. Mitchell, can you please
14 tell us what those requirements were?

15 A. Yes. Under the Big Ten guidelines, the student must carry
16 twelve hours to be enrolled as full-time student, and at the
17 end of the academic year have earned 24 hours towards a
18 degree.

19 Their second year, at the conclusion of the second
20 year, the student must have earned 51 hours leading into the
21 third year of residence. At the end of the third year of
22 residence leading into the fourth year, the student must have
23 earned 78 earned hours. And going into a student's fifth year,
24 if they have a fifth year of competition, they must have earned
25 105 hours towards a degree.

1 Q. Is there also a requirement as to how many -- what they
2 must be progressing toward?

3 A. Yes, there is.

4 Q. Would you please explain what that requirement is?

5 A. The requirement is that they must be able to obtain their
6 degree in a five-year period, and the courses that they are
7 taking would be certified to meet that requirement by the dean
8 of the appropriate college or his or her designee.

9 Q. Who determines whether a student's grade point average and
10 course hours are sufficient to render the student eligible to
11 compete and to receive their scholarship?

12 A. The registrar's office.

13 Q. And is the registrar's office part of or completely
14 separate from the athletic department?

15 A. Completely separate.

16 Q. Who determines whether the athlete is progressed -- or is
17 following a program that would lead to a degree in five years?

18 A. The dean of the college or his or her designee.

19 Q. Does the dean of the college in which the student is
20 attending have anything to do with athletic department?

21 A. No.

22 Q. Those are totally separate?

23 A. Totally separate.

24 Q. By the way, if a student athlete falls below the grade
25 point average for the number of course hours that are required

1 in any particular year before the start of a season, they are
2 ineligible to compete and to receive their scholarship; right?

3 A. They are ineligible if they are -- have not achieved the
4 appropriate guidelines or requirements prior to the start of
5 that academic term. Once the tender is put into effect, it's
6 in force for the academic term of the award.

7 What I'm trying to say here, if the student signs in
8 July for the '85-86 academic year, that tender is in effect if
9 that person is eligible at that time of his signing.

10 Now, if the student becomes ineligible at the end of
11 the first term, the tender is still in effect for that
12 particular year. This is academic eligibility.

13 Q. If a non-athlete who attends the university falls below
14 these requirements, they don't get kicked out of the school; do
15 they?

16 A. No.

17 Q. So in that sense, there are stricter requirements for
18 maintaining athletic eligibility and scholarship eligibility
19 that apply to athletes than to regular students, non-athletic
20 students in the university?

21 A. Yes, there are. We -- if I may add. We also, as a
22 university, have put more requirements on the student athlete
23 than the normal student. For example, NCAA requires that a
24 student athlete carry twelve hours.

25 As a board policy, we are recommending and require

1 our students to carry 14 hours, to register for 14 hours at the
2 start of each term. And only with justifiable reasons can that
3 student drop below that 14 hours, but also must maintain what
4 they will do to make up the hour.

5 The reason behind this, we are working on four and a
6 half year graduation pace for our student athletes.

7 Q. Do people from the athletic department help athletes in
8 their course selection?

9 A. We will work with the student athlete in regards to
10 explaining what courses entail, but, no, we do not select
11 courses for the student athlete.

12 Q. Who makes the final choice?

13 A. A university-assigned advisor and the student himself.

14 Q. Does the University of Iowa create courses for athletes?

15 A. No, we don't.

16 Q. You're familiar with the transcripts of Mr. Harmon and Mr.
17 Mitchell?

18 A. Yes.

19 Q. Were all of those courses that are listed on there that Mr.
20 Harmon and Mr. Mitchell took courses that were available to
21 students generally throughout the university?

22 A. Yes.

23 Q. Now, there is one course that gives credit for football; is
24 that right?

25 A. That's correct.

1 Q. Now, is that a special benefit that's provided just to
2 student athletes to give credit for that kind of course?

3 A. No, it's not. We have a number of courses -- or a number
4 of areas within the university that do similar. We have music,
5 physical education, military science, band. They all give
6 credit for participation.

7 Q. So students who play in the university band also get credit
8 for their participation; is that right?

9 A. Yes.

10 Q. Students who sing in the university choir, they get credit
11 for their participation; is that right?

12 A. Correct.

13 Q. People who play in the chamber orchestra, they get credit
14 for their participation; is that correct?

15 A. That's correct.

16 Q. Have you ever been to a university play?

17 A. Yes, I have.

18 Q. Students at universities put on productions; is that right?

19 A. That's right.

20 Q. Spend a lot of time on that and have elaborate productions,
21 we hope?

22 A. Correct.

23 Q. And students get credit for that in the theater department;
24 is that right?

25 A. That is correct.

1 Q. Sometimes students put on dance performances; is that
2 right?

3 A. That's correct.

4 Q. And they get credit in the university for that?

5 A. Yes, they do.

6 Q. What is academic probation?

7 A. Academic probation at the University of Iowa means that you
8 are on warning that your progress has slowed down and that you
9 must work hard to get it back up to good standing.

10 Q. Now, is the term "academic probation" one that's limited to
11 athletes at the university, or are the requirements or the
12 standards for academic probation the same for all students
13 throughout the university?

14 A. It's the same for all students throughout the university.

15 Q. Can a student who is on academic probation still meet the
16 hour -- meet the academic eligibility requirements that would
17 make him eligible to compete and to receive his athletic
18 scholarship?

19 A. Most definitely.

20 Q. Based on your knowledge and your experience, were Devon
21 Mitchell and Ronald Harmon academically eligible to compete as
22 members of the football team and to receive their athletic
23 scholarships when they began, or at the beginning of each
24 season that they played?

25 A. Every semester that Ronnie Harmon or Devon Mitchell

1 competed in intercollegiate athletics, they were academically
2 eligible for participation and to receive their financial aid.

3 Q. That was as certified by, first, the registrar?

4 A. Certified by the registrar, the faculty representative, as
5 well as our director of athletics.

6 Q. And with respect to the other requirement, the progression
7 requirement, the dean of the various colleges --

8 A. The dean or the designee of the dean also verifies that
9 progression, yes.

10 Q. The University of Iowa is a large institution; is that
11 right?

12 A. Fairly large.

13 Q. And it's got a large number of majors that it offers to its
14 students; is that right?

15 A. That is correct.

16 Q. I'm going to ask you about some of those. Someone can
17 attend the University of Iowa and get a degree in accounting;
18 is that right?

19 A. That's correct.

20 Q. Advertising?

21 A. Correct.

22 Q. African Studies?

23 A. Yes.

24 Q. Art Education?

25 A. Correct.

- 1 Q. Broadcasting?
- 2 A. That is correct.
- 3 Q. Ceramic Art and Design?
- 4 A. That is correct.
- 5 Q. Chemical Engineering?
- 6 A. Yes.
- 7 Q. Dance?
- 8 A. Correct.
- 9 Q. Fashion Merchandising?
- 10 A. Correct.
- 11 Q. Film?
- 12 A. Correct.
- 13 Q. Health Education?
- 14 A. Correct.
- 15 Q. Home Economics?
- 16 A. That is correct.
- 17 Q. Mechanical Engineering?
- 18 A. That is correct.
- 19 Q. Museum Studies?
- 20 A. That is correct.
- 21 Q. Music?
- 22 A. Correct.
- 23 Q. Music Education, Music History and Music Therapy?
- 24 A. That is correct.
- 25 Q. Nursing?

- 1 A. That is correct.
- 2 Q. Painting?
- 3 A. Yes.
- 4 Q. Drawing?
- 5 A. Yes.
- 6 Q. Photography?
- 7 A. Yes.
- 8 Q. Physical Education?
- 9 A. Yes.
- 10 Q. Physical Fitness and Human Movement?
- 11 A. Correct.
- 12 Q. Physical Therapy?
- 13 A. Correct.
- 14 Q. Piano and Organ?
- 15 A. Correct.
- 16 Q. Radio and TV?
- 17 A. Correct.
- 18 Q. Recreation and Leisure Services?
- 19 A. Correct.
- 20 Q. Sculpture?
- 21 A. Correct.
- 22 Q. Stringed Instruments?
- 23 A. That is correct.
- 24 Q. Studio Art?
- 25 A. Correct.

1 Q. Textiles and Clothing?

2 A. Correct.

3 Q. Voice?

4 A. Correct.

5 Q. Wind and Percussion Instruments?

6 A. Correct.

7 Q. Women's Studies?

8 A. Correct.

9 Q. And that's far from a totally inclusive list; is that
10 right?

11 A. That is correct.

12 Q. And what that reflects is that you have a diverse community
13 there of people who go to school for all sorts of different
14 reasons; is that right?

15 A. Most definitely.

16 Q. And in fact, does the University of Iowa have any goals
17 with respect to diversity?

18 A. Most definitely. We're committed as a university to make
19 sure we can have as diverse a population on our campus as
20 possible. One of the things that we have as a disadvantage in
21 our state is a rural community, and we must make sure that the
22 students who attend our university do come in contact with
23 people from various experiences. And we actively recruit
24 students for this means.

25 Q. Now, when you speak of recruiting, you are not limiting

1 yourself to athletic recruiting; is that right?

2 A. No.

3 Q. With respect to the university's policies of recruiting all
4 across the board, how does the goal of diversity fit in?

5 A. We actively encourage various areas within our university
6 to go out and bring in students who will give diversity to the
7 university. For example, our Special Support Services has a
8 charge to make sure they have contact with culturally deprived
9 individuals and make sure they have an opportunity to gain an
10 education, and also for our student population in general to
11 experience their being there at the university.

12 We feel that this is a way to broaden horizons of our
13 students as well as to incorporate in our state the individuals
14 who can give us this broadness.

15 Q. What type of people does the University of Iowa recruit in
16 order to obtain this diversity?

17 A. Minorities, individuals from various ethnic groups, foreign
18 students. We recruit individuals who have potential to succeed
19 at the institution and show promise.

20 Q. What is the Summer Enrichment Program?

21 A. The Summer Enrichment Program is one that was established
22 by the university over three years ago to bring in
23 underprepared students and give them an opportunity to go
24 through a summer program in intensified mathematics, rhetoric
25 and university services, more or less, and to see if they can

1 meet the challenges for the academic year.

2 This is a stipulation of their admissions. They
3 don't meet the normal admissions guidelines, so we give them an
4 opportunity to come in the summer, prove themselves and then
5 incorporate them into the academic curriculum at the
6 university.

7 Q. These would include inner-city individuals?

8 A. Yes, it would.

9 Q. It would include rural-area individuals?

10 A. Yes, it would.

11 Q. And basically would include among them people who grew up
12 without a great educational advantage. Is that fair?

13 A. That's correct.

14 Q. The group that you just talked about in the Summer
15 Enrichment Program, does it include any athletes?

16 A. Yes.

17 Q. Does it include people who are not athletes?

18 A. Most definitely.

19 Q. Would you describe, please, the academic support services
20 that are available to athletes and compare them or relate them
21 to the academic services that are available to students,
22 generally, that you just described?

23 A. What we try to do is be in concert with the other areas in
24 our university. We do provide tutorial services for our
25 student athletes. This is also provided for the students who

1 may participate in the summer program.

2 And I guess the best way for me to kind of compare
3 would be, our special services support services at the
4 university, who more or less work diligently in working with
5 these students they bring into the summer program, we provide
6 tutorial services, we provide study skill sessions. We provide
7 learning centers. We have contacts with faculty to see how a
8 student is progressing in particular classes.

9 We also provide study areas for the individuals
10 involved. We provide academic counseling only to the extent
11 that we work with the university-assigned advisor.

12 Q. Are these services you described special benefits conferred
13 on people because they can play football, or are they available
14 to the group you just described generally, people who come from
15 disadvantaged backgrounds in terms of their education?

16 A. It's available for students who just come with
17 disadvantaged backgrounds, as well as with our student
18 athletes.

19 One of the things we pride ourselves on is providing
20 services once these students are here. Just getting them there
21 is not what all it's about. We must retain them also, so we
22 must provide the services that's going to help them meet the
23 challenges of the university.

24 Q. Are you familiar with the committee known as the Minority
25 Enrichment Committee for Student Athletes?

1 A. Yes.

2 Q. Could you please explain what that committee is about?

3 A. That committee has been established to give guidance and
4 encouragement to our student athletes, minority student
5 athletes, in progressing at the University of Iowa.

6 What we try to do with this committee is to identify
7 all our minority student athletes, assign them to a staff
8 member who will act as a liason with that person, giving them a
9 call every now and then, talk to them in regards to what
10 they're feeling at the institution, if they're having any
11 problems or concerns that need to to be addressed.

12 We also use this as -- this group as an avenue to
13 bring together minority faculty and staff with the student
14 athletes on our campus so they also can be enriched by these
15 faculty members in order to make their experience with the
16 university much more worthwhile.

17 And we'd like to take that one step further, which
18 we're working on currently, is to also extend beyond the
19 university in regards to developing a network of these former
20 minority people who have gone on and established themselves in
21 business or industry and act as advisors to these student
22 athletes in regard to what things they must do to prepare them
23 themselves for the business world.

24 Q. Are you familiar with the Academic Achievement Advisory
25 Committee?

1 A. Yes, I am.

2 Q. Would you explain what that is?

3 A. That committee is a subcommittee of the board controlled by
4 athletics, the body that establishes the guidelines and
5 policies for the athletic department to work under.

6 The Academic Achievement Advisory Committee was at
7 one time chaired by the vice president for academic affairs.

8 We establish guidelines and policies that oversee the
9 academics for the university athlete. We establish criteria
10 such as the 14-hour rule that we currently have. The advisory
11 committee came up with that rule because they felt it was
12 needed in order to insure the student athletes do graduate or
13 comes as close to graduation as they possibly can in case they
14 have a professional career in mind.

15 They also monitor their schedules. Our athletic
16 teams must submit their schedule to the Academic Achievement
17 Advisory Committee to review prior to the board passing that
18 schedule.

19 There have been times when the committee has
20 recommended that the schedule be changed because, as a board
21 policy, only eight class days can be missed in any given
22 semester.

23 Q. Are the academic requirements adopted by the University of
24 Iowa stricter than those required by the Big Ten -- I'm sorry
25 -- by the NCAA?

1 A. Yes, it is.

2 Q. How does the graduation rate for your student athletes at
3 the University of Iowa compare to your graduation rate for
4 students in the general population at the University of Iowa
5 who are not athletes?

6 A. The athletic population graduates at a higher rate than the
7 normal student body.

8 Q. Are you familiar with the steps taken by the University of
9 Iowa to familiarize themselves -- to familiarize the student
10 athletes with the Big Ten and NCAA regulations concerning
11 concerning their eligibility to compete and to receive their
12 athletic scholarship?

13 A. Yes, I am.

14 Q. How do you know about those?

15 A. Basically, I go through the rule book, and I have a large a
16 amount of contact with the Big Ten Conference and the NCAA.
17 I'm one of the people within the university who is charged with
18 the task of being in contact with the NCAA and the Big Ten
19 Conference.

20 Q. And you're actually the guy who stands there in front of
21 the team each year and goes through it?

22 A. Un -- yes, I am. It's a situation that's grueling at times
23 but, yes, I am the person charged with that task.

24 Q. Could you describe the procedures you follow each year with
25 respect to talking to the team about the rules that they are

1 supposed to follow in order to stay eligible to compete and to
2 receive their athletic scholarship?

3 A. What we do, we have a two-and-a-half hour period of time
4 that we conduct this process. What we do is cover Big Ten
5 rules and regulations, NCAA rules and regulations, departmental
6 rules and regulations, as well as institutional rules and
7 regulations.

8 We talk in terms of what it means to be ineligible.
9 We talk in terms of academic progress and what things you must
10 do to be making academic progress. We talk in terms of what
11 the Big Ten requirements for grade point as well as hours
12 earned that they have to achieve for each year of residence.

13 We also present to them the Big Ten statement of
14 financial support as well as the Big Ten student athlete
15 statement and the NCAA student athlete statement, where they
16 must go through the rules and regulations on a sheet of paper
17 that we read to them.

18 Q. You actually read to them and have them follow along on the
19 regulation sheet; is that right?

20 A. Correct.

21 And then at the conclusion of that, they are given a
22 chance to ask questions. We have staff members involved in the
23 process who are around the room and are there to answer
24 questions. If a student doesn't want to raise their hand to
25 have me address it directly, then they are there to answer.

1 Q. Do you also include anything in the players' play book?

2 A. Yes, we do.

3 Q. Just so you can refresh your recollection, would you
4 describe what the play book is that's handed out the players?

5 A. The play book is a book that has all the plays that the
6 team will be using during the course of the year, as well as
7 any rules or procedures that have been established by that
8 team, as well as pertinent rules they feel need to be there in
9 regards to NCAA or Big Ten guidelines.

10 Q. Let me show you what's previously been admitted in evidence
11 as Government Exhibit 4, University of Iowa, and ask if
12 everyone would turn to that please. It's the last one before
13 the B tab.

14 Those are the -- that's the sheet that appears in the
15 play book; is that correct?

16 A. That's correct.

17 Q. What are the rules there that pertain to signing with
18 athletes -- I'm sorry -- athletes signing with agents and
19 receiving money from agents?

20 A. The rule indicates that it's forbidden to do that, with the
21 penalty being ineligibility. And our interpretation and the
22 way we apply it is that it's ineligible for financial aid as
23 well as competition.

24 Q. And those are not the actual rules. That's a summary of
25 the rules; is that right?

1 A. Correct. Correct.

2 Q. How do the rules there that you have, the NCAA rules,
3 compare to the Big Ten rules?

4 A. They are similar.

5 Q. Basically, they are the same; is that right?

6 A. Correct.

7 Q. In order to receive an athletic scholarship at the
8 University of Iowa, is a student required to fill out any
9 forms?

10 A. Yes, they are.

11 Q. Must those forms be filled out before the student receives
12 their athletic scholarship?

13 A. Yes, it is.

14 MR. PEARL: May I have a moment, your Honor?

15 THE COURT: Yes.

16 BY MR. PEARL:

17 Q. You have before you what's been admitted as Government
18 Exhibit 3-A. And that's in the tabs between B and C.

19 What is that document?

20 A. Statement of Financial Report, Big Ten conference.

21 Q. For whom?

22 A. Ronnie Harmon.

23 Q. And when did Mr. Harmon fill out that form?

24 A. This was done in August of 1985.

25 Q. Where was that form filled out?

1 A. At the University of Iowa. And we conduct this in the
2 football classroom.

3 Q. At the team meetings that you described?

4 A. Yes.

5 Q. For how many years has the University of Iowa required its
6 student athletes to file certifications?

7 A. Each year that I've been there. And I assume each year
8 they've been involved in the Big Ten Conference. Whenever this
9 form was adopted.

10 Q. You have before you on the other side of that, Government
11 Exhibit Harmon 3- B; is that correct?

12 A. That's correct. I may have have been looking at this on
13 the flip version, because 3-B is the Statement of Financial
14 Support. 3-A is a Statement of Eligibility. And I was
15 referring to 3-B earlier.

16 Q. And they were both filled out at the same time?

17 A. At the same time, correct.

18 Q. And on the original, it's actually one page with two sides;
19 is that correct?

20 A. Correct.

21 Q. And what is the purpose of the Statement of Financial
22 Support?

23 A. To determine the student's aid for that year. To make sure
24 that they stay within prescribed guidelines that are
25 established by the NCAA and Big Ten.

1 Q. What happens to these forms after the players fill them
2 out?

3 A. They are reviewed for any answers that may render the
4 student athlete ineligible. Then at the conclusion of that
5 academic year, we do forward them to the Big Ten Conference.

6 Q. Let me focus your attention first on Question 3. If the
7 student answered that "yes," is that one of the things you
8 would focus on?

9 A. Yes.

10 Q. Let me focus your attention next on Question 7. If a
11 student answered that "yes," is that one of the things you
12 would focus on?

13 A. Yes.

14 Q. And you say they're forwarded to the Big Ten after that; is
15 that correct?

16 A. Yes.

17 Q. Let me ask you, if you would, to look at the exhibit before
18 you as Harmon 1, which is at the beginning of the tab. Is that
19 Mr. Harmon's NCAA student athlete statement?

20 A. Yes, it is.

21 Q. What's the purpose of that statement?

22 A. To insure that he meets the rules and regulations of the
23 NCAA in regards to eligibility to compete in intercollegiate
24 athletes for this given year. The statement here verifies that
25 the pertinent rules have been gone over with him and he has had

1 a chance to respond or ask questions and that he's verified
2 everything that -- verified that he's eligible for competition.

3 Q. And is that a form that Mr. Harmon completed at the team
4 meeting in August 1985?

5 A. Yes, it was.

6 Q. Let me ask you, if you would, to turn next to Government
7 Exhibit Harmon-2. Would you please identify that document.

8 A. This is a student athlete affidavit regarding financial aid
9 that was signed during this same period of time.

10 Q. What is the purpose of that form?

11 A. This was submitted by the NCAA to just verify where the
12 financial aid that students receive are coming from. And
13 they're asked to swear to the fact that they are disclosing all
14 aid that they are receiving.

15 Q. And that's all sources of funds other than the -- or
16 including the university; is that right?

17 A. Correct.

18 Q. What happened -- and that's filled out at the same team
19 meeting?

20 A. Correct.

21 Q. What does the University of Iowa do with the NCAA student
22 athlete statement, Harmon 1, and the financial aid affidavit,
23 which you just identified as Harmon 2?

24 A. The student athlete affidavit, No. 2, we retain in our
25 office for review by the NCAA. The Big Ten forms, a copy is

1 retained in the student's file and a copy is sent to the Big
2 Ten Conference.

3 The Big Ten forms are done in duplicate.

4 Q. Now, with respect to the NCAA certifications, is that
5 something that's unique to the University of Iowa or is that
6 done at NCAA schools across the country?

7 A. I can't speak for all the schools across the country. But
8 a similar process is entertained, from my understanding.

9 Q. We have now focused on these three certifications that
10 relate to the individual student athlete.

11 Does the University of Iowa itself each year make
12 certain certifications to the Big Ten Conference concerning
13 eligibility of its students to participate in athletics and to
14 receive athletic scholarships?

15 A. Yes, we do.

16 Q. Let me ask you to turn to what's been marked as Government
17 Exhibit University of Iowa-2. What is that document?

18 A. This is a certification of eligibility list that we're
19 certifying that these students on this list are eligible for
20 athletic competition for this given period of time.

21 Q. How is that list compiled?

22 A. That list is compiled from a listing of those students who
23 fill out the NCAA certification forms as well as the Big Ten
24 student athlete forms.

25 Q. So in compiling that list, you rely on Harmon 1, Harmon 2

1 and Harmon 3, the NCAA documents and the Big Ten eligibility
2 documents?

3 A. Correct.

4 Q. Is the university permitted to include the name of a
5 student athlete on its certified eligibility list if it has not
6 obtained those documents that you just described from the
7 student athlete?

8 A. No, we're not.

9 Q. You're the one who actually compiles that list; is that
10 correct?

11 A. I have the responsibility for my office to do this. I
12 personally do not. I have an assistant who works closely with
13 me in compiling the names for the list.

14 Q. What's the routine practiced at the University of Iowa for
15 compiling that list?

16 A. We go through the student athlete statements and statements
17 of financial support to determine if the student has met all
18 the requirements. Then we will place their names on this list
19 to be forwarded over to the registrar's office for verification
20 that they meet the academic requirements to the Big Ten
21 Conference as well as the university.

22 And then that is signed by them and forwarded to our
23 faculty representative who will verify that the student also
24 meets these requirements and is progressing towards a degree.

25 Q. What about if the University of Iowa does not file that

1 certification with the Big Ten Conference?

2 A. The student athletes will not be eligible to complete in
3 intercollegiate athletics.

4 Q. And the university couldn't field the team in the Big Ten
5 games; is that right?

6 A. That's correct.

7 Q. Let me ask you, if you would, to turn to -- well, let me
8 ask you this. Does the university also file the various
9 certifications with the NCAA?

10 A. We file certifications for post-season competition or NCAA
11 championships.

12 Q. At the beginning of the each season, do you file a
13 certification also?

14 A. With the NCAA for student athletes we do not.

15 Q. For the institution itself?

16 A. For the institution we do.

17 Q. Let me ask you, do you have before you a document marked as
18 Government Exhibit University of Iowa 1-A?

19 A. Yes, I do.

20 Q. What is that document?

21 That's the beginning of the first tab, is that right?

22 A. Right. This document verifies that the university is
23 eligible to compete in intercollegiate athletics, that they
24 disclosed any knowledge of any rules violations, and that they
25 are in good standing.

1 Q. And on what does the university base its certification that
2 its student athletes are in compliance?

3 A. Based on the forms that they have filled out and the
4 information they provide to the university, as well as any
5 other knowledge that may have come to the university in regards
6 to their eligibility.

7 MR. PEARL: Your Honor, the Government moves
8 admission of Government Exhibit 1-A.

9 MR. WEBB: No objection.

10 THE COURT: It will be received.

11 MR. PEARL: I'm not sure of the numbers of the other
12 ones, but why don't I also move them in evidence.

13 THE COURT: This is marked Iowa 1-A, is it?

14 MR. PEARL: Yes, your Honor.

15 (Government Exhibit University of Iowa 1-A received
16 in evidence.)

17 BY MR. PEARL:

18 Q. What is the marking on the certified eligibility list?

19 THE COURT: I don't know that they're in your book.

20 These things are -- they're looking through the
21 book.

22 Everything that they refer to isn't necessarily in
23 that book.

24 MR. PEARL: Okay. Government moves the admission of
25 Government University of Iowa 2, as well.

1 MR. WEBB: No objection.

2 MR. GOLD: No objection.

3 THE COURT: They will be admitted.

4 (Government Exhibit University of Iowa 2 received in
5 evidence.)

6 BY MR. PEARL:

7 Q. You mentioned that the university also files a post-season
8 form with the NCAA; is that correct?

9 A. That is correct.

10 Q. At the end of the 1985 football season, did the University
11 of Iowa go to the Rose Bowl?

12 A. Yes, we did.

13 Q. I ask you turn to Government Exhibit 1-B University of
14 Iowa. Do you have that before you?

15 A. Yes, I do.

16 Q. What is that document?

17 A. This is the NCAA certification form verifying that the
18 student athletes listed are eligible to compete in post-season
19 play.

20 Q. Does this pertain to a particular post-season event?

21 A. The Rose Bowl.

22 Q. And is this the form that's sent to the NCAA prior to the
23 time that the Rose Bowl actually takes place?

24 A. Yes, it is.

25 Q. On what does the university base the representation that

1 the student athletes meet all the requirements pertaining to
2 eligibility?

3 A. Based on the information they provided to us on the forms
4 they filled out at the beginning of the academic year.

5 Q. What would happen to the University of Iowa had the
6 University of Iowa not filed this form with the NCAA?

7 A. We would not have been able to compete in the post-season
8 contest, that is, the Rose Bowl.

9 Q. Did the University of Iowa award Ronald Harmon a football
10 scholarship for the academic year 1985-1986?

11 A. Yes.

12 Q. And on what did the university rely in deciding to award
13 that football scholarship?

14 A. The fact that he was eligible for competition during that
15 year and eligible to receive an athletic scholarship and that
16 he also met the other requirements that are bestowed upon them
17 by the NCAA and Big Ten.

18 Q. That would include the certification that he made on forms
19 Harmon 1, 2, 3-A and 3-B?

20 A. Correct.

21 Q. Is a student athlete who signs an agreement to be
22 represented by an agent and takes money from the agent eligible
23 to compete and to receive their scholarship?

24 A. No, they are not.

25 Q. Had you known in March of 1985 that Ronald Harmon signed an

1 agreement with Mr. Bloom and Walters to be represented by them
2 in football and that he had taken money from Mr. Bloom and Mr.
3 Walters, would the University of Iowa have granted an athletic
4 scholarship to Mr. Harmon?

5 MR. WEBB: I object -- I have no objection to the
6 question. I missed the first part of it. Was there a date?
7 Did you say a date? I'm sorry.

8 THE COURT: Want him to repeat?

9 MR. WEBB: That's all I'm asking.

10 BY MR. PEARL:

11 Q. Had the University of Iowa known that in March of 1985, Mr.
12 Harmon signed a representation agreement with Mr. Bloom and
13 with Mr. Walters and that he had taken money from Mr. Bloom and
14 Mr. Walters, would the University of Iowa have granted Mr.
15 Harmon his athletic scholarship for the year 1985-1986?

16 A. No, we wouldn't. He would have been ruled ineligible and
17 we would not have granted him a scholarship or placed his name
18 on our certification list.

19 Q. Did the University of Iowa award Devon Mitchell an athletic
20 scholarship for the academic year 1985-1986?

21 A. Yes, we did.

22 Q. On what did the University of Iowa rely in granting that
23 scholarship?

24 A. Based on his verification that he was eligible for
25 competition under the rules that he had signed on the student

1 athlete statement.

2 Q. Now, I won't take you through his forms, but is it correct
3 that Mr. Mitchell filed forms that are similar to the ones
4 filed by Mr. Harmon, that is, Harmon 1, the NCAA Student
5 Athlete Statement, Harmon 2, NCAA Affidavit of Financial Aid,
6 and 3-A and 3-B, the Statement of Eligibility and Financial
7 Support?

8 A. That is correct.

9 Q. Had you known that in June 1985, Mr. Mitchell signed the
10 representation agreement with Mr. Walters and Mr. Bloom and had
11 taken money from Mr. Walters and Mr. Bloom, would the
12 University of Iowa have certified him and placed him on their
13 certified eligibility list?

14 A. No, he would not have been. Nor would he have received
15 financial aid.

16 MR. PEARL: May I have a moment, your Honor?

17 THE COURT: Yes.

18 MR. PEARL: Your Honor, if this is an appropriate
19 time, may we have a break?

20 THE COURT: Is this going to conclude your --

21 MR. PEARL: I believe it will. I'd like to go
22 through --

23 THE COURT: We will break until eleven-thirty. We
24 will start promptly at that time.

25 MR. PEARL: Thank you, your Honor.

1 THE COURT: If there is any matter that you think or
2 you anticipate needs discussion with the Court, now would be an
3 appropriate time, as well, gentlemen.

4 (A short recess was had.)

5 THE COURT: If we are ready for the jury, we will
6 have them brought in.

7 (JURY IN.)

8 THE COURT: Please be seated.

9 Mr. Pearl, do you have any more questions of Mr.
10 Mims?

11 MR. PEARL: I just want to clarify a few things.

12 BY MR. WEBB:

13 Q. Mr. Mims, when I asked you about if you had known certain
14 facts with respect to Ronald Harmon, would the university have
15 granted him his athletic scholarship for 1985-1986, I was
16 focusing your attention on the day those forms were filled out,
17 if you had known at that time. Is that how you understood it?

18 A. Yes.

19 Q. And the same with respect to Mr. Mitchell?

20 A. Correct.

21 Q. And, finally, let me ask you, with respect to the certified
22 eligibility lists, you testified those were forwarded to the
23 Big Ten.

24 Does the University of Iowa have a routine practice
25 with respect to how it forwards those certified eligibility

1 lists to the Big Ten Conference?

2 A. Correct. Once we obtain the necessary signatures, it's
3 forwarded out that day or the next day by U.S. mail.

4 Q. And where is the Big Ten Conference headquarters located?

5 A. Schaumburg, Illinois.

6 Q. Is that where the form is sent?

7 A. Yes.

8 MR. PEARL: Nothing further, your Honor.

9 THE COURT: Mr. Webb or Mr. Gold?

10 CROSS EXAMINATION

11 BY MR. WEBB:

12 Q. Mr. Mims, my name is Dan Webb. I represent Lloyd Bloom. I
13 don't believe we've ever met before, have we, sir?

14 A. No, we haven't.

15 Q. Mr. Mims, I'd like to ask you a few questions about your
16 testimony. Did I understand you correctly that, actually, as
17 far as the academic requirements as applied to your football
18 players, Iowa actually has stiffer academic requirements than
19 even is required by the NCAA?

20 A. Yes.

21 Q. Is that correct? Okay.

22 And one of the requirements of the NCAA that has to
23 be met before Iowa can allow one of these student athletes to
24 play football is that the student athlete must be a
25 degree-seeking student who is satisfactorily progressing

1 towards his degree; is that correct?

2 A. As determined by the institution, which is the dean of the
3 college, yes.

4 Q. And it says in the NCAA rules that you are supposed to
5 apply the same type of standards that you apply to the general
6 student body so you don't give any special treatment to
7 athletes; is that correct?

8 A. They look at things that are done on university campus in
9 regards to what type of extra benefits, if you -- so-called,
10 that a student athlete can or cannot receive.

11 Q. As far as determining whether someone is satisfactorily
12 progressing toward their degree or whether they're
13 degree-seeking and whether they're academically eligible, the
14 NCAA says you're supposed to apply the same standard that is
15 applied to the rest of the students body; am I correct?

16 A. That's right. The dean makes the decision, yes.

17 Q. Applying the standards applied to everybody else. No
18 special standards for students on that; am I correct?

19 A. My understanding, yes.

20 Q. Now, the reason why you, you and the NCAA, want to make
21 sure that the student is progressing, and I think you used the
22 term, he must be progressing quantitatively and qualitatively
23 toward his degree?

24 A. Correct.

25 Q. The reason you want to be sure of that is the University of

1 Iowa sure doesn't want to just have student athletes on their
2 campus playing you the football that aren't getting an
3 education; is that correct?

4 A. That's the intent.

5 Q. And, in fact, the NCAA rules themselves actually set forth
6 on their face that the reason that -- that while these student
7 athlete are on campus, they can play football, but that
8 athletics is supposed to a hobby, or what they call an
9 avocation; isn't that correct?

10 A. It's an extra-curricular activity.

11 Q. The main focus is supposed to be on the education; am I
12 correct?

13 A. That's assumption.

14 Q. Did you say it was an assumption?

15 A. That is the assumption that that we all entertain.

16 Q. Okay. And I take it at Iowa it was very important to you
17 to make certain that these football players were able to get
18 their education, and football would remain kind of an
19 extra-curricular hobby type of activity; is that correct?

20 A. That's correct.

21 Q. Now, I believe you indicated that -- let's take -- I
22 believe you indicated that you have reviewed the transcripts of
23 both Ronnie Harmon and Devon Mitchell; is that correct?

24 A. That's correct.

25 Q. The jury doesn't know about Mr. Mitchell yet. He hasn't

1 testified. But Mr. Devon Mitchell was another football player
2 that played on Iowa's team during the same time period Ronnie
3 Harmon was there; am I correct?

4 A. Correct.

5 Q. In fact, they both played together on the -- on the last
6 year they were together, which would be the 1985-86 season
7 where you went to the Rose Bowl; am I correct?

8 A. Right.

9 Q. Now, you've reviewed both Mr. Harmon's -- strike the
10 question.

11 From the university's standpoint, for example, if
12 after the first year that a student athlete is on campus, if he
13 is not satisfactorily progressing towards his degree, he can't
14 play a second year; is that correct?

15 A. If he's not met the academic requirements, the student will
16 not be eligible for competition the second year.

17 Q. That's correct. And one of those requirements is he must
18 be satisfactorily progressing qualitatively and quantitatively,
19 to use your words, toward his degree.

20 A. As determined by the dean of that particular college, yes.

21 Q. Now, and if he is not eligible, then you can't put him on
22 the eligibility list and he can't play football the next year;
23 is that correct?

24 A. That's correct.

25 Q. Now, in reviewing the transcripts, I believe you indicated,

1 of both Mr. Harmon and Mr. Devon Mitchell, you testified a
2 little bit ago that at all times they were always academically
3 eligible to play; is that correct?

4 A. For competition, yes.

5 Q. In fact, every year the University of Iowa so certified to
6 the Big Ten and NCAA that these two young men were academically
7 eligible to play; is that true?

8 A. Correct.

9 Q. Now, and during the time that Mr. Harmon and Mr. Mitchell
10 were at the university, you knew both of them, I take it?

11 A. Correct.

12 Q. Did you know them well?

13 A. Fairly well.

14 Q. Did you say fairly well or very well?

15 A. Fairly.

16 Q. Fairly well. Okay.

17 Now, in knowing those two young men while they were
18 on campus, were aware at any time of the athletic department
19 kind of bending the rules a little bit either with Harmon or
20 Mitchell to keep them academically eligible so that you could
21 put them on the football field on Saturday afternoon?

22 A. Not at any time.

23 Q. All right. Now, let's start with Mr. Harmon, if you will.
24 I'll give you a copy of his transcript as we proceed. It was
25 marked yesterday as Bloom Exhibit 4. I will hand that to you,

1 sir.

2 Apparently, I take it from your testimony that in the
3 last few days you had a chance to review that transcript; is
4 that correct?

5 A. I have reviewed it, yes.

6 Q. Okay. Now, when Mr. Harmon came to Iowa to play football,
7 he enrolled in a major of being in computer science; is that
8 correct? That was his major?

9 A. That's what he indicated, yes.

10 Q. And at that time, he started in the first year -- he played
11 football that first year he was at Iowa; is that correct?

12 A. That's correct.

13 Q. On the varsity team?

14 A. Correct.

15 Q. Now, I notice -- by the way, if you will look on his
16 transcript, in order for him to work towards his degree, he
17 needed to get 4 hours of physical education. Do you see that
18 under the general requirements at the bottom?

19 A. Yes.

20 Q. I notice in his first semester at Iowa that the among the
21 courses he took were Teaching of Gym, Officiating Football,
22 Baseball and Basketball, Coaching Basketball, Soccer and
23 Bowling. Do you see that?

24 A. Correct.

25 Q. Okay. He appears to have at least successfully satisfied

1 his physical education requirements fairly early on.

2 A. He was pursuing them, yes.

3 Q. Well, he had his four hours in?

4 A. No.

5 Q. I'm sorry?

6 A. Incorrect.

7 Q. Okay. Tell me. You know more than I about these
8 transcripts.

9 A. Right. We call it general education requirements. The
10 Soccer and Bowling are general PE skills which fall in that
11 category. The gymnastics and the officiating class do not fall
12 in that category, nor does the coaching of basketball.

13 Q. So those don't have anything to do with physical education?

14 A. Those don't have anything to do with his GER's, his general
15 education requirements.

16 Q. Okay. Do they appear to have anything to do with his major
17 of computer science?

18 A. They're electives.

19 Q. Do they appear to have anything to do -- are any of those
20 courses related to use of computers?

21 A. No, they are not.

22 Q. Will any of those courses give him credit towards his
23 major?

24 A. Yes. Towards his degree, I should say.

25 Q. How many hours does he have to have in his major, Computer

1 Sciences?

2 A. I don't know.

3 Q. Well, just give us a general estimate, based on your --

4 A. Estimate? Probably 30, 32 hours.

5 Q. Okay.

6 A. To be completed in 4 or 5-year period.

7 Q. And at that point in time, he's got to get those 32 hours
8 or whatever it is in before the end of his fourth year if he's
9 going to graduate in four years, or by the end of his fifth
10 year career if he's going to graduate in five years?

11 A. Correct.

12 Q. Now, I notice -- we go on with his education at Iowa. When
13 he went into his second semester, he took courses including
14 Coaching Football and Billiards. Do you see that?

15 A. Correct.

16 Q. Now, he didn't have a good semester, and his grade point
17 average was 1.62; is that correct?

18 A. Right.

19 Q. For that semester?

20 A. For that semester.

21 Q. Now, were you acting as his academic advisor at that time?

22 A. No, I was not.

23 Q. At any time did you act as his academic advisor?

24 A. No, I did not. I'm director of students services. The
25 academic advisors work for me. I do assign them for various

1 sports. I do get involved when there's a time they have
2 questions or concerns.

3 I also get to know the students on a personal basis
4 in order to give them some direction in regards to blending
5 into the university community and so forth. I'm an advocate of
6 the students, therefore, I do have contact from that
7 standpoint.

8 Q. And did you in fact have conversations with Mr. Harmon in
9 that first year about his academic progress towards his degree?

10 A. I do talk to them about doing the things they need to do to
11 achieve academic excellence at the university.

12 Q. Was there someone else working under your direction that
13 was assigned to be his academic advisor?

14 A. I have another person in my office who were assigned to
15 work as an athletic counselor. In regards to academic advisor
16 for that student, that is a faculty or university-assigned
17 official.

18 Q. Who was the person you had, the other person?

19 A. Yes. Susan Walker.

20 Q. Now, during this first, did you talk to Mr. Harmon about
21 how -- whether he was making quantitative and qualitative
22 satisfactory progress towards his degree?

23 A. We do discuss where they are, hour-wise, and so forth. I
24 do that with almost every student I come in contact with.

25 Q. I'm asking about Mr. Harmon in particular.

1 A. I did visit with him.

2 Q. And after the end of his first full year, he had no courses
3 at all directed towards his major; is that correct?

4 A. Specific courses in computer science, no. But courses
5 towards his degree, yes.

6 Q. Okay. But he has no courses yet to apply to the 32 hours
7 of computer science or whatever that number is yet?

8 A. I guess you need to look at this in regards to what other
9 general education requirements they must fulfill in connection
10 with the specific requirements of that given discipline. And
11 then I would have to say that would be incorrect. I would say
12 the Introduction to Human Geography, the Basic Math, the
13 Introduction to Sociological Principles, all those play into
14 him achieving his degree in computer science.

15 Q. I'll ask you the question then. In his first full year,
16 did he take any courses that would be applied or credited
17 against those 32 hours?

18 A. No.

19 Q. Thank you.

20 Now, because his grade point dropped pretty -- 1.62
21 is a fairly low grade point; is that correct?

22 A. The -- if I recall correctly, for the student at the
23 university to -- at this particular time to be in good standing
24 at the University of Iowa, I think a 1.6 would put him on
25 probation. So as far as the university is concerned, 1.62

1 would be beyond that 1.6 requirement.

2 Q. I thought -- I'm sorry. I thought you had to carry a 2
3 point average?

4 A. For the University of Iowa guidelines, they go by the grade
5 point in conjunction with the number of earned hours you have
6 earned in a given period of time. So up until 28 hours, at
7 this particular time, I think I'm just recalling here, 1.6 was
8 the grade point requirement that the student needs to obtain in
9 order to be in good standing.

10 Q. So at Iowa, the students at Iowa did not have to maintain a
11 C average, a 2 point average, to be in good standing; am I
12 correct?

13 A. Correct. It goes by the number of earned hours. And then
14 they have a grade point that's associated with the earned
15 hours. That's for all students.

16 Q. Okay. That summer, Mr. Harmon was -- took a course called
17 the Fundamentals of Military Organization?

18 A. Correct.

19 Q. Is that a ROTC course?

20 A. It's an ROTC course. They use it for recruiting students
21 into the ROTC program.

22 Q. Mr. Harmon, was he member of the ROTC?

23 A. He was not.

24 Q. Did you help make arrangements for him to take that course?

25 A. That course was available to all students, and the student

1 did choose to take that course that summer.

2 Q. Actually, a number of your football players happened to
3 choose to take that course that summer; is that correct?

4 A. Football as well as other athletes, yes.

5 Q. How many football players took that course that summer?

6 A. I could not tell you.

7 Q. You notice from the transcript of Devon Mitchell, the other
8 player we're talking about, he took that course that summer; is
9 that correct?

10 A. Correct. May I add that the military science department
11 came to athletics and other departments recruiting students,
12 because they were looking to increase their numbers. And all
13 they wanted to do was get them exposed to this and hope they
14 would entertain the idea of joining up into their program.

15 Q. This didn't appear to relate to his major of Computer
16 Sciences; did it?

17 A. That's an elective.

18 Q. So is the answer to my -- does it appear to relate to his
19 -- is that going to be applied against his 32 hours that he
20 needs to meet?

21 A. No.

22 Q. Now, he got a B for 4 credit hours that summer; is that
23 correct?

24 A. That's correct.

25 Q. And that helped bring his grade point average up; is that

1 correct?

2 A. Yes.

3 Q. And he played football in his second year, is that correct,
4 at Iowa?

5 A. He did.

6 Q. On the varsity team?

7 A. That's correct.

8 Q. He was certified as eligible?

9 A. Correct.

10 Q. Certified as having been making quantitative and
11 qualitative satisfactory progress towards his degree; is that
12 correct?

13 A. Correct.

14 Q. He's still a degree-seeking student; isn't he?

15 A. Correct.

16 Q. Okay. Now, I notice in his second year, each semester of
17 his second year he takes one football course in each semester;
18 is that correct?

19 A. That's correct.

20 Q. And he gets an A in each of those courses; is that correct?

21 A. That's correct.

22 Q. And in fact, that's the only A that he gets; is that
23 correct?

24 A. That's correct.

25 Q. The rest are C's and D's?

1 A. Correct.

2 Q. Who teaches those football courses at Iowa?

3 A. The intercollegiate athletic footballs you see here in the
4 transcript is not for class, it's for participating in the
5 extra-curricular activity. So credit is given for
6 participation, such as they do in band, music and areas in the
7 university.

8 Q. And that counts towards his grade point average?

9 A. Yes, it does.

10 Q. Now, in that semester, first semester of his second year,
11 at the end of the semester, he had a grade point average of
12 1.93. And then for his second semester he has a grade point
13 average of 1.86; is that correct?

14 A. Correct.

15 Q. Now, he is not on academic probation yet, though, is he?

16 A. No, he is not.

17 Q. We go into his junior year at Iowa, into his third year.
18 Well, let's look at the end of his second year. At the end of
19 his second year, sir, did you have conversations with him
20 towards the end of his second year about how he was making
21 satisfactory progress towards earning his degree?

22 A. I can't recall if I did or not.

23 Q. Okay. Well, looking at the courses that he took during
24 that year, sir, does he appear to have taken any courses that
25 would be applied against his major, the 32 hours for computer

1 science?

2 A. It you do not include general education requirements, there
3 are no computer science being taken at that time.

4 Q. That's what I was asking you about. Does he get to apply
5 anything against the 32 hours yet?

6 A. No.

7 Q. Okay. Is it unusual at Iowa for a student to have declared
8 his major when he came in and not to have taken any courses in
9 his major at the end of his second year?

10 A. In some fields it's not unusual. For example, a student
11 comes to the University of Iowa wishing to be a business
12 student. You're in the pre-business sequence, and you're
13 taking your general education requirements and other courses in
14 order to be reviewed and see if you have the necessary grade
15 point and aptitude to get into that particular major.

16 Q. So at the end of this year, the University of Iowa
17 certified him to the Big Ten and NCAA as meeting all
18 requirements including that he was satisfactorily progressing
19 towards his degree; is that correct?

20 A. That's correct.

21 Q. Now, when we get into his third year, he played varsity
22 football that third year.

23 A. Correct.

24 Q. In fact, he had a great year that year. He was -- at least
25 thought maybe he was going to get the Heisman Trophy; is that

1 correct?

2 A. I can't tell you. I don't get that involved into their
3 performances.

4 Q. Okay. That's fine. You're more interested in monitoring
5 their academic performance?

6 A. I'm more interested in seeing they come to the university
7 and pertaining to their education and do the things they can to
8 be a viable member of society, in general.

9 Q. Okay. Now, Mr. Harmon, in his third year, at the end of
10 his -- he ran into some academic problems in this year; is that
11 correct? If you look there, his grade point average drops down
12 to the point where at the end of the year, his second semester
13 of his junior year, he gets a 1.69, and the school actually
14 puts him on academic probation in May of 1985; is that correct?

15 A. He was on academic probation, correct.

16 Q. Okay. Does he take any courses -- do you see any courses
17 there in his third year at all that applied to his computer
18 science major? I'm talking about the 32 hours.

19 A. I do not see at this stage that there were.

20 Q. Okay.

21 A. Now, can I reflect one thing?

22 Q. Well, I'll ask -- let me -- I'll put another question to
23 you. Okay?

24 At the end of his third year when he is on academic
25 probation, in May of 1985, he stays and takes a summer course;

1 is that correct? Do you see that there?

2 A. Yes.

3 Q. Okay. He took a course called Water Color Painting?

4 A. Correct.

5 Q. And Elementary Spanish, but then he dropped that course.

6 A. Correct.

7 Q. And got a D in Water Color Painting?

8 A. Correct.

9 Q. That didn't help much in bringing his grade point average
10 up, and so he was still on academic probation in August 1985 as
11 we start the football season.

12 A. Correct.

13 Q. Now -- by the way, at the end of his third year where he
14 gets put on academic probation, did you start having
15 conversations with him about whether he was satisfactorily
16 progressing as a degree-seeking student towards his degree?

17 A. What -- the conversation took place was that he needed to
18 make sure that he is progressing towards achieving the
19 necessary prerequisite to get into the given major and to
20 achieve a degree in that major.

21 Q. Did it concern you at all at the end of his third year that
22 he had now spent three full years at college playing football
23 and had not yet taken one course in his major?

24 MR. PEARL: Objection, Judge. That's a
25 mischaracterization. At this point, his major is not computer

1 science.

2 THE WITNESS: That's right.

3 THE COURT: Maybe you can rephrase it, Mr. Webb.

4 BY MR. WEBB:

5 Q. Did it concern you that he did not appear to have taken any
6 courses in his major at the end of his third full year?

7 A. At this particular time, I can't tell you what his major
8 emphasis was. I know at this time he was looking at
9 communication studies. That's why, if you look back into the
10 second semester there. He was taking communication courses.

11 Ronnie came in with the desire to be in computer
12 science. After going through and taking the introduction
13 course, Survey of Computing, which I was trying to correct
14 earlier, in the first semester of '83-84, he did take a Survey
15 of Computing class, which is an introductory class to computer
16 science. And they get a feel if they have the aptitude or be
17 able to handle the kind of work that's required for a computer
18 science major. And from that standpoint he was starting to
19 feel for other majors, because at this point he received a D in
20 that.

21 Q. A D in what?

22 A. Survey of Computing.

23 Q. Where is that, just so I make sure --

24 A. That's in the first semester of 1983-84 academic year.

25 Q. Okay.

1 A. And now he's looking for another area to go into, and so,
2 therefore, he's looking at computers -- I mean communication
3 studies where he's taking History of Broadcasting, Theory and
4 Practice of Argument, Persuasion in Society, Sex Roles in
5 Communication.

6 He was taking that because he was desiring to look
7 into the communications area as a major at that time.

8 Q. So he switched -- did he switch majors at that time?

9 A. At that time he was in the process of switching. I don't
10 know if he formally filed the papers or not. But he was
11 looking into communications as a major.

12 Q. Because -- you have seen the file. The only thing in the
13 file -- did you see anything in the file that indicated he had
14 switched majors?

15 A. No, I did not.

16 Q. Okay. In order to switch majors, you have to file a
17 document with the school; am I correct?

18 A. That's correct.

19 Q. Okay. You didn't see one of those; did you?

20 A. No.

21 Q. Okay. But just so I understand, are you telling me that,
22 based on your conversations with him, he was thinking about
23 switching majors at that time?

24 A. That is what he's doing, yes, sir.

25 Q. Now, but at that point in time then at the end of his third

1 year, -- by the time he's got his full third year done and he
2 didn't -- and he got a D in Water Color Painting and he's on
3 academic probation in August of 1985, did the university
4 certify him to the Big Ten in August of 1985 as being
5 academically eligible?

6 A. Yes, sir.

7 Q. Now, as far as this academic eligibility, we got two
8 different things we're talking about. One is to progress
9 towards your degree and the other is your grade, the grade
10 point; is that correct?

11 A. Correct.

12 Q. By being put on academic probation, he was put on academic
13 probation by the school using the same standards they apply to
14 all the other students in the student body; is that correct?

15 A. Correct.

16 Q. Under the NCAA rules, which state that you must be in good
17 standing using the same standard applied to the other students,
18 he was not in good standing; was he?

19 A. In regards to how -- as applied to other students, I would
20 have to say he was on probation as with other students who find
21 themselves in difficulty such as he was in.

22 Q. You would at least acknowledge that when you're on
23 probation, you are not in good academic standing at that point,
24 anyway?

25 When they put down "academic probation," at least at

1 that point, you are are not in good academic standing at the
2 school at that point?

3 MR. PEARL: I object, Judge, unless he defines "good
4 academic standing."

5 THE COURT: Maybe you can define it. I don't know
6 that that you did.

7 BY MR. WEBB:

8 Q. Was he -- was he in good academic standing at this time?

9 A. He was on academic probation.

10 Q. So was he in good academic standing?

11 A. No.

12 MR. PEARL: Are we talking about --

13 MR. WEBB: Judge, then I don't know the rules at the
14 school.

15 THE COURT: Leave me see you, and at least I'll share
16 a thought with you.

17 (Sidebar conference.)

18 THE COURT: Whatever is it that you are talking
19 about, Mr. Webb, this thing has relevance if you are trying to
20 establish that the University of Iowa was in violation of some
21 Big Ten or NCAA rule when they certified him as eligible.

22 I don't want to get involved in any semantics, and I
23 can elaborate this for a whole bunch. But you are laying a
24 foundation here for an inference that, whether they will make
25 the quantum jump or not, says they are violating this rule and

1 it is reasonable for you to infer that they are going to ignore
2 whether they had an agent or not. But in order to make that
3 foundation, you've got to establish that they are violating
4 some NCAA rule or I am not going to let you go any further.

5 And I do know the distinction that you said. And
6 I've been mulling this over since the first word about this was
7 said yesterday. And I know that you've got a two-pronged deal
8 here. One has to do with GPA and the other has to do with
9 working towards a degree. If it was just GPA, I would have sat
10 you down a long time ago, and I will tell you that, too.

11 MR. WEBB: The reason I asked this question on GPA is
12 that under the NCAA rules, it says he must be -- they use the
13 term in the rule.

14 THE COURT: I understand all that, Dan, and let's not
15 be dancing around the flag pole or I'm going to be jumping in
16 here in about two minutes. When you ask what is the only
17 relevant thing, was he in violation of the some NCAA rule, and
18 pursue that tack with him.

19 (End of sidebar conference.)

20 BY MR. WEBB:

21 Q. As Mr. Harmon started his fourth year at the University of
22 Iowa, he was certified to be eligible; is that correct?

23 A. Correct.

24 Q. Were there people connected to you and your staff in the
25 athletic department at that time that recognized that he was

1 not at that time working towards progress towards his degree?

2 A. He was not taking the courses that would insure that he
3 would have a degree in what he was declared at that time. So
4 he was being discussed with to either change his degree into
5 the area he was seeking or to start taking more courses in
6 reliance to his particular degree that he signed up for. The
7 reason being is that, here again, we were working on a
8 four-and-a-half-year graduation pace, and we wanted that
9 student to be as close as he possibly could to meeting all
10 requirements for that degree at the end of that 4-year period
11 and hopefully within that four-and-a-half-year period would be
12 completed that degree.

13 We knew that Ronnie was an individual who would have
14 a potential to go professional sports. And we try to encourage
15 student athletes in all sports to be as close to that degree as
16 they can at the end of the four years.

17 Q. Is the answer to my question yes?

18 A. Rephrase your question. I lost my train of thought.

19 Q. I will. In the fall of 1985, when the president of your
20 university and the athletic director certified Harmon to the
21 Big Ten and NCAA as being eligible, my question is, were there
22 people on your staff that stated in writing that he was not
23 working towards his degree?

24 MR. PEARL: Objection, Judge. Asked and answer.

25 THE COURT: No, it has not.

1 BY THE WITNESS:

2 A. There were people on my staff who had indicated to Ronnie
3 Harmon that he needed to start progressing more towards his
4 degree.

5 BY MR. WEBB:

6 Q. Is the answer to my question "yes?"

7 A. Yes, sir. The people who contacted him.

8 Q. Have you recently reviewed this document I showed Mr.
9 Harmon yesterday, which is a log of contacts by people in the
10 athletic department with Mr. Harmon?

11 A. I have not reviewed it.

12 Q. You have not reviewed this? Okay.

13 Let me show you a document which is marked as Bloom
14 Exhibit 3. First of all, let me ask you, are you familiar with
15 this form from the athletic academic advising office?

16 A. This is a form used by our counseling staff or tutors, yes.

17 Q. They work under your direction?

18 A. Yes, they do.

19 Q. Now, I was going to call your attention if I could here to
20 a meeting that your academic counselor had with Mr. Harmon on
21 September 20, 1985. You see where I'm referring?

22 A. Yes, I do.

23 MR. PEARL: I'm going to object if he is going to be
24 asked to read from a document not in evidence.

25 MR. WEBB: I'll offer the document.

1 MR. PEARL: No objection.

2 THE COURT: Fine. What is the document, Mr. Webb?

3 MR. PEARL: If he can lay a foundation for it.

4 THE COURT: You just said no objection. Which is
5 it?

6 MR. PEARL: I'm sorry, Judge. I'd ask him if he
7 would lay a foundation for it.

8 MR. WEBB: Defendant Exhibit Bloom 3. I'll ask
9 questions.

10 THE COURT: All right.

11 BY MR. WEBB:

12 Q. You're familiar with this form?

13 A. Yes.

14 Q. Okay. This form is a form that is prepared in the regular
15 course of business at the university?

16 A. In regards to the work of student athletes, yes.

17 Q. And you are -- and, in fact, this particular form is filled
18 out by people working under your direction and supervision?

19 A. Correct.

20 MR. WEBB: I offer the form, Judge.

21 THE COURT: Any objection?

22 MR. PEARL: No objection.

23 THE COURT: Thank you.

24 (Bloom Exhibit 4 received in evidence.)

25 BY MR. WEBB:

1 Q. Now, on this date, 9/20/85, in the meeting that Mr. Harmon
2 had with the academic advisor at Iowa, just to put things in
3 perspective, your school has just certified him to the Big Ten
4 to be academically eligible for the 1985-86 season; is that
5 correct?

6 A. Correct.

7 Q. And in so doing, they certified to the Big Ten and to the
8 NCAA that among other things he was making quantitative and
9 qualitative advancement towards a degree; is that correct?

10 A. Correct.

11 Q. And he is now going into his senior year, his fourth year
12 of college; is that correct?

13 A. Correct.

14 Q. Now, at that time, at the same time that the university is
15 certifying him to the Big Ten, your academic advisor sets forth
16 that at this point in time he is still not working towards a
17 degree. Do you see that?

18 A. I see he says, "Still not working towards a degree." Make
19 can. "Towards degree."

20 Q. Towards degree?

21 A. Correct.

22 Q. Now, that's what we are talking about, the degree; correct?

23 A. Correct.

24 Q. In fact, they go on say he's the got no hundred-level -- is
25 that -- what is a hundred-level? Is that a type of course?

1 A. That's upper-level courses both graduate students and
2 undergraduates can take.

3 Q. And you have to have so many of those in order to graduate,
4 to get a degree; am I correct?

5 A. Depends on if you're majoring in general studies, yes.
6 That's the point I want to make here.

7 Taking this notation without knowing the parameters
8 around it does not give you what you're seeking. Basically,
9 what she's referring to here, Ronnie is in the process of
10 changing --

11 Q. I'm not going to ask you to speculate on what she was
12 thinking.

13 MR. PEARL: Objection, Judge. He qualified him with
14 respect to the record.

15 THE COURT: Gentlemen, please. You ask him about
16 facts and we will save opinions for other days. And that's a
17 two-way street that applies to both of you.

18 The testimony that has been adduced here and that has
19 been received is that they certified him as academically
20 eligible. At the same time that that certification was made,
21 that there were other people at that university who were
22 concerned about the progress he was making towards a degree.
23 Those are the facts that you just elicited.

24 MR. WEBB: That's correct.

25 THE COURT: What else do you need to get out of

1 this?

2 MR. WEBB: I'll move on.

3 THE COURT: Thank you.

4 BY MR. WEBB:

5 Q. In that meeting, your academic advisor stated to you or to
6 whoever reviews these forms that this semester is a disaster
7 and that they've now stamped him dropping out of the mass media
8 course; is that correct?

9 A. That's what her notation indicates.

10 Q. Because he never attended the class. Is that what it says?

11 A. That's what it says.

12 Q. The mass media, I guess that's his major now. Is -- has he
13 switched -- strike that.

14 At this point, as far as you know, he hadn't formally
15 switched to a new major; had he?

16 A. What's what I'm referring to here. He's in the process of
17 making up his mind which way he wants to go. And he declared a
18 bachelor of general studies, and that's where the hundred-level
19 courses come into play.

20 Q. Okay. And during that football season, which is Mr.
21 Harmon's fourth football season, Iowa had a great team, went on
22 to the Rose Bowl; is that correct?

23 A. We did fairly well, yes.

24 Q. I guess going to the Rose Bowl is pretty good. You would
25 acknowledge that, anyway?

1 A. We didn't win, so it wasn't that great.

2 Q. The -- Mr. Harmon, as soon as the -- you can look at
3 transcript. As soon as the football season ended, he didn't
4 seem to progress much towards his degree; did he?

5 A. No, he didn't.

6 Q. He stopped classes. He stopped attending the university
7 and he withdrew from every course but one; didn't he?

8 A. Yes.

9 Q. And he left the school and joined the National Football
10 League?

11 A. At the end of the semester, yes.

12 Q. Now that we have gone through this and you have seen these
13 records, sir, I'm going to ask you the question I started
14 with.

15 Does it now appear to you that the University of Iowa
16 was bending the rules concerning his satisfactory progress
17 towards a degree in order to certify him to play football?

18 A. Not at all or in any instance whatsoever.

19 Q. At the end of four years of college, how many courses did
20 he have in his major, Computer Science?

21 MR. PEARL: Objection, Judge. That wasn't his major.

22 MR. WEBB: He just said he didn't switch it. I'll
23 ask the question.

24 BY MR. WEBB:

25 Q. He didn't switch his major; am I correct?

1 A. He did switch his major.

2 Q. When did he switch his major?

3 A. Around the fourth year, to a bachelor of General Studies,
4 where the hundred-level -- around the fourth year when he
5 declared a bachelor of General Studies where the hundred-level
6 courses started to come into play. That is what the counselor
7 is referring to in trying to encourage him to take more
8 hundred-level hours.

9 And when he dropped that, she was concerned that he
10 would not be progressing, because we still must show that the
11 student can graduate in the five-year period. And if Ronnie
12 Harmon came to school tomorrow, he could graduate in two
13 semesters, which would still be within five years.

14 Q. Okay. I guess my question is -- so did you see some file
15 or document showing that he had switched his major? I thought
16 you told me you did not.

17 A. On this particular document, no. But on his transcript --
18 well -- I'm trying to recall here. Give me a second.

19 On his transcript, one of the transcripts that I've
20 entertained indicated he was a BGS major, which is a Bachelor
21 of General Studies degree. And I can't recall which one that
22 is, but it indicates he was a Bachelor of General Studies
23 degree candidate.

24 Q. A moment ago you told me you hadn't seen any document to
25 indicate that he had switched --

1 A. At that particular time at the end of three years.

2 Q. So he switched his major in his fourth year?

3 A. Sometime around -- I can't give you a specific -- a precise
4 date or time.

5 Q. What you can tell me, I guess, is that you know that at all
6 times he was always progressing towards his degree under the
7 NCAA rules; is that correct?

8 A. Correct.

9 Q. Okay. Now, let me move on to Devon Mitchell.

10 Q. You reviewed Mr. Mitchell's transcript, sir?

11 A. Yes.

12 Q. Mr. Mitchell actually attended the university for five full
13 years; is that correct?

14 A. That's correct.

15 Q. And he played -- what happened is he was a walk-on. He
16 came to campus in his freshman year, and he was red-shirted his
17 freshman year and practiced but didn't play football; is that
18 correct?

19 A. Correct.

20 Q. The jury hasn't heard much about that yet. "Red-shirted"
21 means that the football player gets to practice with the team
22 but he can't play in games, and then it doesn't count against
23 his four years of eligibility. Is that essentially correct?

24 A. Correct.

25 Q. So Mr. Devon Mitchell then after his first -- after his

1 first year at Iowa, he then played football for the next four
2 years and therefore was in your educational program taking
3 courses for a total of five years?

4 A. Correct.

5 Q. Now, as far as Mr. Mitchell satisfactorily progressing
6 towards his degree, I believe you indicated earlier that under
7 the NCAA rules that you must be able to be a degree -- to be
8 able to get the degree at least within five years; is that
9 correct?

10 A. That's correct.

11 Q. We know that Mr. --

12 A. No. That is not correct. Let me correct myself.

13 Under the Big Ten guidelines, the student needs to be
14 able to obtain a degree in a five-year period.

15 Q. And we know that Mr. Harmon, after spending five -- strike
16 that -- Mr. Mitchell, after spending five years at the
17 university, playing football for four, he did not get his
18 degree. We know that, don't we, from looking at his
19 transcript?

20 A. That's correct.

21 Q. In fact, he also, after five years, the moment that the
22 football season ended and the Rose Bowl was over, he also
23 dropped out of Iowa; didn't he?

24 A. He dropped down, yes.

25 Q. He dropped six courses in his second semester of his fifth

1 year, didn't he?

2 A. I don't have the transcript in front of me.

3 Q. I'm sorry. Let me show you what has been marked as Bloom
4 Exhibit 5.

5 You've reviewed this recently, sir?

6 A. I've looked through it, yes.

7 Q. Okay. The second page refers to his fifth year, I
8 believe.

9 A. He dropped all but one hour.

10 Q. I thought -- I'm sorry. What does the "I" mean?

11 A. Incomplete.

12 Q. Okay. So he withdraw from four courses and got an
13 incomplete in the fifth. Is that -- am I correct?

14 A. Correct.

15 Q. Now, every year that Devon Mitchell was at the University
16 of Iowa, from the end of his first year forward, he was
17 certified every year to be eligible to play on the football
18 team as a student who was seeking his degree; is that correct?

19 A. Correct.

20 Q. Now, what was Mr. Mitchell's major?

21 A. General Studies.

22 Q. And please tell the jury what that means, what the general
23 studies major is?

24 A. General Studies major is a degree that allows the student
25 to specialize in a certain area while taking courses in any

1 other department within the university they so wish. They must
2 accumulate 45 hours of hundred-level course work and achieve a
3 2 point grade point average overall and a 2 point cumulative
4 average in order to graduate.

5 Q. And at the time Mr. Mitchell left the university, he did
6 not meet those requirements; did he?

7 A. No, he didn't.

8 Q. Now -- at the end of five years. At the conclusion of five
9 years, he had not met the requirements?

10 A. Correct.

11 Q. Now, I believe you indicated in response to one of Mr.
12 Pearl's questions that one of the requirements -- one of the
13 academic requirements is that a student must be -- am I
14 correct, sir, the student must, you indicated, average out so
15 that each year he has 24 credit hours that he's earned?

16 A. I don't think I indicated that. I think I indicated that
17 the Big Ten quantitative requirements require the student to
18 have fulfilled 24 hours at the end of their first year going to
19 into their second year of residence, 51 at the conclusion of
20 the second year, going to the third year of residence, 78 going
21 to the fourth, and 105 going to the fifth year.

22 Q. At the end of the first year, they have to have earned 24
23 hours.

24 A. Correct.

25 Q. Is that correct?

1 A. Correct.

2 Q. I was looking at Mr. Mitchell's transcript. At the end of
3 his first semester, he earned 9 credit hours; is that correct?

4 A. That is not correct.

5 Q. Well, let me ask, does the transcript reflect that he has 9
6 hours? Is that what it reflects there?

7 A. No. It reflects that 9 hours are figured into his grade --
8 into his earned hour total or point total. The satisfactories
9 here also are earned hours that you -- is not figured into the
10 grade point average but is given credit towards the 124 he
11 needs for a bachelor of general studies degree in the liberal
12 arts college.

13 Q. I'm sorry. You're saying that the courses he took in
14 Karate, in Billiards and Bowling were courses that added up to
15 his twelve -- or were added into the number of hours?

16 A. He had earned for that semester. They are general
17 education requirements, yes.

18 Q. Karate, Billiards and Bowling?

19 A. They are general education requirements, yes.

20 Q. So when it says he's got 9 hours, that doesn't mean --
21 you're saying that that does not mean that he earned 9 hours,
22 he actually earned 12 hours?

23 A. He earned -- for this given semester, he had earned 14
24 hours.

25 Q. And when it says 9 hours, what does that mean, just so I

1 know?

2 A. 9 grade hours are figured into the grade point average.

3 Q. So even though these other courses are not allowed to be
4 used to figure his grade point, they are added in to determine
5 if he's a full-time student?

6 A. That's correct.

7 Q. Now, he also at the end of his second semester got a 1.88
8 at the end of his second semester of his first year; is that
9 correct?

10 A. The semester grade point was 1.88, yes.

11 Q. And he got credit for 8 hours for his GPA?

12 A. 8 hours was figured into his grade point average.

13 Now, I must also indicate to you that the cent sign
14 outside 4 hours there shows that 4 hours has been taken second
15 grade option not figured in to this particular transcript.
16 There's a lot of notations here that reflect the transcript.

17 Q. The courses that he took in Jogging and in Tennis, did
18 those get to count in?

19 A. Jogging, no. Tennis, yes.

20 Q. Jogging didn't count because he withdrew from that course;
21 is that correct?

22 A. Correct.

23 Q. That summer, he was given the opportunity to take this same
24 course that Harmon had, called Fundamentals of Military
25 Organization; is that correct?

1 A. That's correct.

2 Q. For 4 credit hours?

3 A. Correct.

4 Q. And he got an A?

5 A. Correct. Now, I don't know, and I need to review this as
6 to whether this is -- Devon and Ronnie came in two separate
7 years, so they weren't in the course together.

8 Q. I see. The course was taught two different years; is that
9 correct?

10 A. Yes, as a recruitment tool for the ROTC program.

11 Q. Okay. Now, when he came back, his first -- the first
12 season he actually played football would be his second year at
13 Iowa?

14 A. Correct.

15 Q. That semester, he had -- he took 15 hours and got a grade
16 point average of 1?

17 A. Correct.

18 Q. 3 F's, a D and a C, but then he was fortunate enough to get
19 an A in football; is that correct?

20 A. For participation, yes.

21 Q. Now, eventually, Mr. Mitchell actually was found by the
22 university to be academically ineligible under the NCAA rules;
23 is that correct?

24 A. Not for competition. He had been certified for
25 participation actually all five years that he was in the

1 institution. But he only competed four years of that five.

2 Q. But at some point in time, did the university determine --
3 there was a point in time when they actually made a
4 determination -- you made the determination, didn't you, that
5 he actually was academically ineligible under the NCAA rules?

6 A. He was ineligible at the end of a semester, but we don't
7 certify eligibility for a competition until opening day of
8 classes of that term that you're going to compete. So in
9 actuality, when we certified him, he was not ineligible because
10 a student in the sport of football, for example, can compete in
11 the fall, flunk everything and can make that up before the
12 start of their second season, because they have the second
13 semester as well as a summer session to get themselves
14 academically eligible to compete for the second year.

15 Q. And the reason you do that is because you're trying as hard
16 as you can to keep these kids eligible to play football; aren't
17 you?

18 A. Well, to keep them on financial aid to me is more important
19 than to play football.

20 Q. But they do get to play football, though, don't they?

21 A. That's the stipulation of coming in on a scholarship.

22 Q. And your university make millions of dollars each year off
23 this program; is that correct?

24 A. I can't say what they make.

25 Q. How much do they make?

1 A. I don't know.

2 MR. PEARL: Objection, Judge. He said he can't say.

3 THE COURT: He says he doesn't know. Move on, Mr.
4 Webb.

5 BY MR. WEBB:

6 Q. I can show you the letter if you want, but have you seen it
7 recently? At the end of his fourth year, you sent him a letter
8 --

9 A. Correct.

10 Q. -- indicating that he was ineligible to play football next
11 year and to come in and see you.

12 A. He was ineligible because he had 101 earned hours. He
13 needed 105 earned hours. And we do that to every student
14 receiving financial aid. In order to renew the scholarship, we
15 have to meet the progress requirements for the upcoming year,
16 correct.

17 Q. So he was -- at that point, he was ineligible. If he -- if
18 it didn't improve, he could not come back and play football in
19 the fall.

20 A. He could not receive his scholarship, yes.

21 Q. Could he play football?

22 A. If he wasn't eligible, no.

23 Q. You sent him a letter telling him he was going to be
24 ineligible, didn't you?

25 A. Ineligible, correct.

1 Q. That means he can't play football; doesn't it?

2 A. And also not receive his financial aid, yes.

3 Q. Okay. And you said in your letter, you told him to come
4 and see you; didn't you?

5 A. Correct.

6 Q. And did he come in and see you?

7 A. He either saw me or somebody in the office, yes.

8 Q. Okay. And did you arrange for him to take a course that
9 summer called -- I'm looking at the bottom of the transcript.
10 You can probably tell me what it is. That summer he was
11 fortunate enough to take a course called Skilled (something)
12 Physical Education? Can you tell me what course that is?

13 A. Skills Component, Physical Education is a course that's
14 offered by the physical education department for those students
15 who wish to have intensified training in teaching skills of
16 physical education, yes.

17 Q. I thought -- this man was not a physical education major,
18 was he?

19 A. He had a desire to work with students or young kids.

20 Q. Was he a physical education major, sir?

21 A. No. And the course isn't restricted for physical education
22 majors.

23 Q. He already had satisfied his physical education requirements
24 long earlier, had he not?

25 A. For skill requirements, yes, he did.

1 Q. If you look at his transcript, he was there for ten
2 semesters, and every one of those ten semesters he took a
3 football course; didn't he?

4 A. I -- let me review this a second.

5 Q. Look at it.

6 A. He had taken a course that were either for participation
7 or he had taken a course for conditioning.

8 Q. Every semester?

9 A. Yes.

10 Q. And he got an A all ten times; didn't he?

11 MR. PEARL: Objection, Judge. I think we are
12 confused here. It's nine semesters.

13 THE COURT: I don't know.

14 BY MR. WEBB:

15 Q. I'll say nine.

16 A. Nine semesters.

17 Q. Nine semesters. I'll take that.

18 A. Yes. He received an A.

19 Q. When he took that physical education course, that was at
20 the end of his fourth year, coming back for his last year of
21 eligibility; is that correct?

22 A. Correct.

23 Q. And he got a B for 4 credit hours; didn't he?

24 A. That's correct.

25 Q. And I think you already indicated that Devon Mitchell

1 played in the Rose Bowl and dropped out of school and went into
2 the NFL; is that correct?

3 A. Correct.

4 MR. WEBB: Your Honor, that concludes on this point.
5 There were other points that were gone into this morning which
6 -- I'm prepared to stop right now.

7 THE COURT: All right. You will have further cross?

8 MR. WEBB: I will have on these other additional
9 points.

10 THE COURT: Then, ladies and gentlemen, we will
11 excuse you for lunch. We will see you back here promptly at
12 two.

13 Do not discuss the case or rush out and buy the paper
14 or watch television, either.

15 I'd like to see counsel in my chambers probably about
16 quarter to two, and maybe we can clarify a thing or two before
17 we progress.

18 MR. WEBB: Certainly.

19 (Luncheon recess to 1:45 p.m.)
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2 (The following proceedings were had in Chambers.)

3 THE COURT: There are just a couple of things I
4 wanted to discuss with you.

5 First of all, Dan, when we were having this exchange
6 with Ronnie Harmon about who got defrauded or whatever, you and
7 I had some dialogue on the record. I didn't intend to make
8 this a complicated situation. Certainly I think that you can
9 ask any witness up there factual questions, including, "Did you
10 intend to defraud," is a factual question that is relevant as
11 to his state of mind. And sometimes we lose sight of the
12 relationship of these people. You know, Harmon, now, Harmon,
13 nobody is putting up as the victim. They are unindicted or
14 deferred, or whatever, co-conspirators. I don't suppose
15 anybody has lost sight of that, although I had some doubts
16 about it a couple of times as to the way certain things were
17 going in.

18 But in any event, what his state of mind was is a
19 question. Certainly, as part of this pretrial diversion, "Did
20 you agree to plead guilty?" That's a question. "Did they ask
21 you to?" That's a question. "But did you commit fraud?" That
22 is not a proper question, that is a legal conclusion. And I
23 don't think that that is the -- a proper matter for you to ask
24 him or anybody else.

25 It took me seven days down in Marco Island to decide

1 whether or not that's a possibility, Mr. Harmon, with an
2 educational background that you people at least like to think
3 is not an expert on it. And I'm not going to let that question
4 be asked of him. And that's what I was trying to get at.

5 And you ask him any factual questions about it, but
6 whether or not he did in fact commit a crime is not something
7 that I think he's qualified to give an opinion about.

8 MR. WEBB: Let me make sure I'm clear, because there
9 will be other players that will hit the witness stand.

10 THE COURT: That's why I'm telling you now.

11 MR. WEBB: I thought I was asking him -- I started
12 off asking him if he intended to cheat the university out of
13 the scholarship, which I thought was appropriate.

14 THE COURT: I think it is, too.

15 MR. WEBB: And I think it got answered in the
16 record. But because of the way he answered it, that he did not
17 intend to cheat them, his pretrial diversion agreement in
18 Paragraph 1 states that he did participate in a scheme to
19 defraud them. That's on the face of his pretrial diversion
20 agreement which he signed and executed.

21 What I was trying to cross examine on was the
22 inconsistency between that statement that he made and the
23 statement he made in court today to show that -- well, to show
24 the inconsistency.

25 THE COURT: And it may be a point, and it is such a

1 nebulous one that I don't know that it's worth all that effort
2 is one of the things. I mean, you can ask him, as I
3 indicated: Did you say this now, did you say that then? But
4 the question that I objected to is the way you phrased it.
5 "Then you lied."

6 I am not ready to allow you to put that conclusion
7 before the jury. That's the question.

8 MR. WEBB: I won't ask it again.

9 THE COURT: That's how I it got. "Then you lied,"
10 was the question.

11 MR. LEVIN-EPSTEIN: That's related to another point
12 raised with a question that Bob asked earlier of Mr. Harmon.
13 That's when he was inquiring as to whether or not during the
14 course of the so-called team meeting where the NCAA rules and
15 the like were explained, whether or not there was ever the
16 issue addressed of whether or not -- what violation of these
17 rules might mean other than some administrative ineligibility.
18 And you ruled, and I accept your ruling, of course, that this
19 was not relevant as to whether or not it might have been a
20 crime or whether or not they were told that. But judging from
21 what you are saying now, that's also a factual question.

22 THE COURT: I'm not sure of the context in which it
23 came in.

24 MNR. LEVIN-EPSTEIN: As I remember, it was sort of
25 towards the end of the examination.

1 MR. GOLD: I remember exactly. I was putting a
2 question to Ronnie Harmon in connection with I think is Exhibit
3 4, the summary of the rule sheet that was in the team meeting.
4 And I asked him about that particular document, whether at the
5 team meeting any of the coaches advised the team that breach of
6 any of those, in addition to loss of scholarship and loss of
7 eligibility, if it could lead to prosecution for a crime.

8 MR. PEARL: And/or jail.

9 MR. GOLD: Howard made a relevance objection, which
10 you sustained.

11 THE COURT: Sometimes you confuse relevance and
12 materiality, and they are not the same thing. And I don't know
13 that that's worth all the asking, either. Whether or not the
14 coaches thought it was a crime or not a crime isn't an issue
15 here.

16 MNR. LEVIN-EPSTEIN: That's right. And I certainly
17 subscribe to that. But the reason I asked the question and
18 raised the issue is because, as your Honor pointed out, the
19 state of mind of the student athlete was an issue. And
20 following along with Dan's point or his argument that there was
21 an inconsistency between the state of mind when the alleged
22 criminal act supposedly occurred and what he answered in his
23 pretrial diversion agreement, that's a reasonable source of
24 inquiry on cross.

25 THE COURT: I still don't know that what the coaches

1 said is all that relevant. It's not what the coaches thought,
2 it was what's in -- what was the athlete's state of mind.

3 Very frankly, and I am not so sure that in the grand
4 scheme of this five or six-week trial that it is any more
5 important than how many fairies dance on the head of a pin. If
6 I'm in error on that thing, I'll stake my life if not my
7 reputation that it's going to be harmless.

8 MR. WEBB: Do your reputation first.

9 THE COURT: The second thing is about this business
10 with -- and now I want to address also the business of
11 relevance and materiality. Materiality says to me -- saying
12 something to me has some relevance over and over again until it
13 gets redundant and is not worth all the effort you are taking.
14 Let the record clearly indicate that my idea is not to have to
15 show somebody how fast a trial we can have. My idea is to see
16 how fair a trial I can give you both. That's my goal.

17 With this business of the grades, that's certainly
18 generated a lot of interest in the case. It's relevance hangs
19 on a rather thin thread, in my judgment. What we are talking
20 about as far as these grades are concerned is in the area of
21 whether or not something that the university themselves have
22 done was in violation of these rules, thereby making it
23 impossible for them to be defrauded. That is part one.

24 And the second part of Mr. Webb's theory, and I know
25 I'm paraphrasing him, is that if they are kind of winking at

1 this rule, then can they make the argument that they are not
2 too much concerned about whether they lie or tell the truth
3 when they say they have not signed with agents.

4 Now, just to come out of the blue and say student
5 athletes take snap courses and therefore you can infer from
6 that and make the quantum leap to the very speculative
7 suggestion that they would have ignored this breach of the rule
8 that had to do with signing with agents and receiving all this
9 money, which in addition to being a \$2500 promissory note is
10 fifty some thousand bucks worth of other stuff, that is one
11 hell of a leap.

12 I don't want to take any of your defenses away from
13 you, or any argument, but there's got to be some predicate for
14 it, i mean, some basis for making the argument. And I left
15 these proceedings yesterday evening after Ronnie Harmon or
16 whoever it was was on the stand with the opinion that when they
17 said that he was on academic probation, I mean, that he was
18 ineligible to play football. I don't have that opinion after
19 listening to Mr. Mims.

20 The grade point that he has and all the rest of that
21 stuff led Mr. Mims to the conclusion that as far as that prong
22 of it, I mean, they were not in violation of any of the rules
23 and he was eligible and they were not in error when they
24 certified.

25 Now, you've got a second prong to that thing that

1 says that addition to the grade point average, these people are
2 supposed to be students at least progressing towards a degree.
3 And I think that what has come to pass as far as the testimony
4 so far has relevance in that, you know, this is the rule that
5 says you have to be working towards a degree, and the
6 university says: Yes, he is. And I think that it is
7 appropriate to cross examine him on, you know, how you go about
8 figuring this up. And the university says he is working toward
9 a degree, and yet let me see where there is anything that's got
10 anything to do with being a counselor, or in the case of Devon
11 Mitchell, let me see where there is anywhere close to the 45
12 hours of one hundred-level courses that's going to get you your
13 general studies degree.

14 So, I mean, to that point I can see that there is
15 some predicate. I mean, to say, yes, they know about the rules
16 and they know that he is going -- that he has to be working
17 towards a degree, and when they are deciding whether the rules
18 are good or bad, leave me show you how they figure things. I
19 don't have any problem with that.

20 But, I do now have two problems. Are we going to go
21 through that ritual with everybody that is going to come on
22 this stand? Because it is going to start to get a little bit
23 redundant, in my opinion.

24 And the second, unless -- I am not going to let you
25 just go ahead and show that they are taking snap courses unless

1 you can do with these other people what you have done with
2 Harmon and Devon, and that's the thing you are hanging your hat
3 on. And if you are not prepared to show it, I am not going to
4 say, well, college football players take snap courses.

5 Now, you guys can argue this evidence six ways
6 against the middle. And let me acknowledge something to you.
7 There are some great debates that are going on right now
8 whether that is good, bad or indifferent, the controversy about
9 Proposition 48 and whether these kids should have to sit out or
10 whether or not they should forget about the ordinary athletic
11 standards.

12 That's not what we are going to decide out here. And
13 God knows that the NCAA feels this way and the NAACP feels
14 another way. And there's black and white things going on, and
15 we are not going to decide those things, either.

16 I mean, we are having a criminal case here. We know
17 that we are talking about grade point average that includes
18 your fitness training for football and your this and that. And
19 I suppose that there is going to be argument that people who
20 are music majors take band courses and they get credit marching
21 up on down on Saturday. That's argument.

22 We are talking about what it is this jury is going to
23 hear. And I just want you to know that unless you are going to
24 lay this predicate that I indicated, that they are really
25 winking at this requirement and you can demonstrate that

1 through his transcript, I am not going to let you bring it in
2 for the business of saying they don't take such tough courses.

3 MR. WEBB: I'm not sure it's going to be a problem.

4 THE COURT: I don't know.

5 MR. WEBB: Let me address your issue, and I won't
6 take long.

7 I accept what the Court said. As far as I can see in
8 looking at the transcript of these players, it probably is an
9 issue, obviously, with Devon Mitchell, who is going to go on
10 the stand.

11 THE COURT: And you have already laid that out there.

12 MR. WEBB: Number two, the way it comes up with a
13 couple of others based on your predicate, your foundational
14 requirement, but with many of these players, I don't think the
15 issues is there, or if it's there, it's small enough that it
16 will be a very short examination, and we will clear it with you
17 in advance before we do.

18 THE COURT: We all know what we are talking about
19 here.

20 MR. VALUKAS: May I respond in part?

21 THE COURT: Yes.

22 MR. VALUKAS: Let me suggest that in connection with
23 this, when this issue was raised yesterday, I pointed out to
24 the Court, which had been my good-faith belief based on what I
25 have been told by the school officials, that they were all at

1 all points conforming to the quantitative grade point, which is
2 exactly what Mims proved.

3 THE COURT: That's what he testified.

4 MR. VALUKAS: That's what Mims testified to
5 yesterday. And Harmon did. If we look at just transcripts, we
6 would never have been able to figure it out.

7 In connection with the second point, what I suggest
8 to the Court is that the rule very specifically says that the
9 dean of the university makes a determination whether or not
10 they are progressing in good faith. And what is happening here
11 is two things, and it will continue to happen. That's why I
12 argue it's irrelevant.

13 We are now going to have to make the -- the jury will
14 have to make the judgment as to whether or not Iowa's system of
15 determining whether or not he was progressing towards a degree,
16 an area which I think requires some expertise which may not be
17 possessed by everybody, myself included, that that somehow is a
18 relevant issue as to Walters and Bloom engaged in a scheme to
19 defraud. And it merely becomes an issue of whether or not the
20 jury makes the determination that they think these individuals
21 are worthy of being defrauded.

22 THE COURT: I don't know that that's true and it's
23 not where I'm coming from, in any event. I think if there is
24 any confusion in the eyes of the jury, articulate lawyers like
25 yourself are going to give them your spin on it. I don't know

1 that the proposition is as you state it.

2 I will put it in more colloquial terms. It's like
3 being a little bit pregnant. If somebody is charged with it,
4 guilty, they can't be charged if somebody already had done the
5 duty if these people are already ineligible for other reasons
6 or -- which is clearly relevant stuff.

7 MR. VALUKAS: Is there -- I'm sorry. Let me, if I
8 may.

9 On the record that exists right now, is there any
10 basis that, though? No, there is not.

11 THE COURT: There is a conclusion that at least can
12 be argued -- whether it is capable of being sold is not my
13 judgment call -- and that is, you know, here is a rule that has
14 to do with academic standards and this is how they interpret
15 whether they are certified academically eligible and whether
16 they knew all the facts having to do with this being a
17 promissory note. They might have. I'm not -- that's your
18 argument. I'm not going to take it away from you.

19 MR. WEBB: On the satisfactory progress towards the
20 degree, I feel very strongly about that, but let me -- on the
21 good academic standing, the Court ruled on this morning, and I
22 want to make my point.

23 I accept that. But even Harmon yesterday testified
24 that when he went on academic probation he was not in good
25 academic standing at the school. I directly asked Mims that on

1 the stand this morning, because the NCAA rule which the
2 Government has pled in this indictment on its face says that
3 you have to determine if someone is in good academic standing
4 based on the same criteria you apply to the rest of the student
5 body.

6 I kept asking him: "When you are on academic
7 probation, are you in good academic standing?" He would not
8 answer that question, and eventually you sustained the
9 objection, and I accepted it.

10 But the reason I point it out, I believe I
11 established -- regardless of what the Government or Mims says,
12 I think I have established that they actually violated the rule
13 on its face, not even getting to Point 2. But I'm just --

14 THE COURT: Argue to your heart's content, but I sure
15 as hell didn't take it away from you.

16 MR. WEBB: I agree.

17 THE COURT: But the point is that sometimes you are
18 trying to get out stuff that is beyond definition. I mean, I
19 don't know that you established in asking the question what is
20 good academic standing.

21 When I was at the University of Illinois, or
22 someplace, I mean, maybe good academic standing was a C to the
23 dean, but it wasn't to father Marovich. And, you know, to who
24 is what the problem with the question was, very frankly. And
25 we are not talking about -- let's not be talking about apples

1 and defining oranges here. We're talking about eligibility.
2 And if you want to talk about and if you want to use a word,
3 use "eligibility" to see whether or not there had been a
4 violation.

5 MR. PEARL: If I may. I think one of the problems
6 you run into is, first, the academic eligibility rules aren't
7 pleaded in the indictment, but beyond that, Mr. Mims is sayings
8 that under the specific numbered rules of the Big Ten, these
9 guys were academically eligible.

10 THE COURT: You are going to tell that to the jury
11 sometime -- again sometime. I have faith in that.

12 MR. WEBB: Right.

13 THE COURT: And you're going to tell them something
14 else, but it's out there, and I don't know that you have to
15 tell it 42 times. And you are not going to get to tell it
16 again unless you lay the predicate is all I'm telling you.
17 Okay?

18 MR. WEBB: I understand.

19 (Next page follows.)
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1 (Following proceedings were had in court.)

2 THE COURT: Please be seated.

3 Mr. Webb, I think you had some further questions.

4 Did you, sir?

5 MR. WEBB: Thank you, your Honor.

6 THE COURT: You're welcome.

7 CONTINUED CROSS EXAMINATION

8 BY MR. WEBB:

9 Q. Mr. Mims, I left behind the academic issue and I'd like
10 to ask you some questions now about your testimony regarding
11 the scholarship of Mr. Harmon and Mr. Mitchell.

12 As I understand your testimony this morning -- well,
13 maybe first, let me direct your attention -- do you have the
14 Government Exhibits there in front of you?

15 A. Exhibit 4.

16 Q. Well, I was going to refer to Exhibit 3A which is that
17 form from the Big Ten Conference that you examined this
18 morning.

19 A. No, I do not.

20 MR. WEBB: Devon Mitchell.

21 MR. PEARL: Harmon's?

22 MR. WEBB: Mitchell's certificate and Harmon's
23 certificate, 3A, in both your exhibits.

24 BY MR. WEBB:

25 Q. Let me show you, I think, two exhibits that Mr. Pearl

1 showed you this morning which are marked as Mitchell Exhibit 3
2 and Harmon Exhibit 3 and ask you if you'd examine those forms
3 at this time.

4 Those are the certificate of eligibility which I
5 believe you testified this morning are Big Ten forms, is that
6 correct?

7 A. Yes, they are Big Ten statements of eligibility and
8 financial security.

9 Q. Okay. And if I understood your testimony this morning --
10 by the way, also you might look -- you got both Mr. Harmon and
11 Mr. Mitchell there in front of you, sir?

12 A. Yes.

13 Q. Okay. My question to you is, you told us, I believe,
14 this morning that you would not have awarded scholarships or
15 the university would not have awarded scholarships to these
16 two individuals if you had known that in completing these
17 forms, Mr. Mitchell and Mr. Harmon in answering questions
18 concealed that they had been -- had signed agent agreements
19 with Bloom and Walters?

20 A. That is correct, if they have signed an agent agreement,
21 they would not have played.

22 Q. And you would not have awarded them a scholarship at that
23 time?

24 A. Correct.

25 Q. I notice that the date on those two certificates is both

1 the same, August 25th, 1985, is that correct?

2 A. Correct.

3 Q. The truth is, that the scholarships that you're talking
4 about to Mr. Harmon and Mr. Mithcell, they had already been
5 awarded several months earlier by the university, is that
6 correct?

7 A. The scholarships were presented to the students earlier,
8 correct.

9 Q. Okay. And at the time that the scholarships were
10 presented to the students earlier, there was a signed and
11 written contract entered into between the university and the
12 student regarding the scholarship and the terms of that
13 scholarship, is that correct?

14 A. Yes, it is.

15 Q. Okay. That written contract between the university of
16 Iowa and Mr. Harmon and Mr. Mitchell appears in a contract or
17 document called a Tender of Financial Aid, is that correct?

18 A. Correct.

19 MR. WEBB: Do we have those for Mitchell and Harmon?

20 BY MR. WEBB:

21 Q. Let me show you two documents, one was marked earlier as
22 Bloom 1 and I will mark the second one as Bloom 6, which is
23 the Tender of the Financial Aid for Devon Mitchell, and I'll
24 show you both of them at this time.

25 The Government -- do you have a copy so I can look at

1 it -- the Government, several months before the statement of
2 eligibility in August, several months earlier, in May of 1985,
3 the Government had entered into these agreements with these
4 two football players, is that correct?

5 A. Please repeat the question.

6 Q. I'm sorry. I was looking -- the Tender of Financial Aid
7 documents that are marked as Bloom 1 and Bloom 6 reflect that
8 long before August of '85, in fact after May of 1985, on May
9 10th of 1985, the university had entered into these contracts
10 regarding the scholarship with these two people, Mitchell and
11 Harmon, is that correct?

12 A. Yes, the Tenders were signed.

13 Q. And do you notice that on both of them, the university
14 officials who signed those contracts are Mr. C. W. Elliot and
15 the financial aid's director, Mr. John Moore? Am I correct?

16 A. Correct.

17 Q. And and in each case, Mr. Mitchell and Mr. Harmon signed
18 those contracts, is that correct?

19 A. Correct.

20 Q. Now, that contract that was entered into between the
21 football players and the university in connection with the
22 scholarship, does have a provision in it that deals with the
23 issue of when can the school actually cancel or terminate the
24 scholarship, is that correct?

25 A. Yes, it does.

1 Q. And the document you have in front of you, the provision
2 that relates to that is reflected in Paragraph D of the
3 contract, is that correct?

4 A. Yes, unless you refer to Number 1, which we utilize, to
5 see, to determine if the tender is violated or not.

6 Q. Does Paragraph D of the contract set forth the specific
7 terms under which the university can cancel the scholarship of
8 Mr. Harmon and Mr. Mitchell?

9 A. No.

10 Q. Does Paragraph D set forth that:

11 "The aid provided in this tender will be cancelled if
12 I sign a professional sports contract or accept
13 money for playing in an athletic contest."

14 Does it say that?

15 A. Yes, it does.

16 Q. Okay. I want you to tell the jury, reading over the
17 entire document, is there any other paragraph or provision
18 that deals with the specific issue of under what circumstances
19 the university can cancel the scholarship?

20 A. We look at Number 1, where it states:

21 "This tender is subject to your fulfillment of the
22 admissions requirements of this university and its
23 academic requirements for athletic competition and
24 financial aid."

25 That refers to the Big Ten and NCAA manual in regard

1 to specific legislation that we can also utilize to see if the
2 student is eligible.

3 Q. Okay. I think my question to you was: Do you see on the
4 face of the contract any other paragraph that deals with the
5 subject matter of the cancellation of the scholarship?

6 MR. PEARL: Objection. Asked and answered.

7 MR. WEBB: Judge, he didn't answer that question. He
8 gave me another answer.

9 THE COURT: I don't know what the answer was, if he
10 gave it. Mr. Mims, possibly -- you are speaking rather
11 rapidly. If you slowed down, it might be a little bit better
12 for everyone.

13 BY MR. WEBB:

14 Q. I'm not sure you're understanding my question. I'm
15 asking you, on the face of this contract that was signed, is
16 there -- other than the provision that I just read off to the
17 jury, is there any other specific provision in the contract
18 that addresses or deals with the subject matter as to when the
19 university can cancel or terminate the scholarship?

20 A. I would say not.

21 Q. The paragraph that you alluded to a moment ago, Paragraph
22 1, reads as follows:

23 "This tender is subject to your fulfillment of the
24 admissions requirement of this university and its
25 academic requirements for athletic competition and

1 financial aid."

2 Is that correct?

3 A. That's correct.

4 Q. It is talking about academic requirements for athletic
5 competition and financial aid, is that correct?

6 A. It refers to academic requirements, yes.

7 Q. Now, recognizing that -- you do agree with me, sir, that
8 if we take the contract that I just showed you, that there
9 would be no -- your university would not have the authority
10 under this contract to cancel the scholarship of Mr. Harmon
11 and Mr. Mitchell because they signed with an agent on the face
12 of the contract that you entered into, is that correct?

13 MR. PEARL: Objection as to his interpretation, the
14 authority of the university under the contract.

15 THE COURT: Well, you just read the phrases and I
16 suppose that answers the questions. Okay?

17 BY MR. WEBB:

18 Q. Now, based on your experience, sir -- Strike that.

19 How many years have you been associated with the
20 University of Iowa?

21 A. 13.

22 Q. Okay. Has it been your experience in working at the
23 University of Iowa that when the University of Iowa enters
24 into a contract, that they normally live up to the terms of
25 the contract?

1 A. In regard to my involvement, what I've seen, yes.

2 Q. Thank you. Now, as far as your testimony that -- about
3 the scholarship and this issue of the signing of this contract
4 with Norby Walters and Lloyd Bloom, the Big Ten rules that you
5 told us about here today, on the face of the Big Ten rules,
6 they actually address in the rules the circumstances under
7 which a Big Ten school such as Iowa can actually modify or
8 terminate a scholarship after it's awarded, an athletic
9 scholarship, am I correct?

10 A. Correct.

11 Q. Okay. And if you need the rules, I'll get them for
12 you -- let me ask you a couple of questions, make sure -- you
13 can ask me for the rules, and I've got them over here on the
14 table.

15 In that section of the Big Ten rules, it sets forth
16 some circumstances under which you can never revoke or
17 terminate or modify a scholarship such as that the player
18 doesn't play very well, am I correct?

19 A. For the term of that award, yes.

20 Q. For the the term of the award. The term of the award
21 goes for one year, is that correct?

22 A. Correct.

23 Q. All these scholarship, are only awarded for one year, and
24 then the university can renew it if they want to?

25 A. Right.

1 Q. In this particular case, the documents I just showed you
2 of Mr. Harmon and Mr. Mitchell, these were renewals of
3 scholarships that had been granted in earlier years, am I
4 correct?

5 A. Correct.

6 Q. Okay. In fact, under the Big Ten rules, if Devon
7 Mitchell or Ronnie Harmon, in their senior year, the year you
8 went to the Rose Bowl, if after a couple of games, Harmon and
9 Mitchell said, "We don't even want to play football. We're
10 tired of playing football, we'd rather practice, do something
11 else," under the face of the rules, you still can't cancel
12 their scholarship after it's been awarded, until the end of
13 the term, is that correct?

14 A. If it's been put into effect, meaning if the semester has
15 started, they started receiving aid, then no, we could not.
16 But if during the course of the summer, they decide not to
17 report, then we could, or fraudulently misrepresent their
18 intent for coming out for this sport.

19 Q. Well, I don't want to argue over that point, that's not
20 my point. Anyway, I'll leave that alone.

21 In any event -- but the Big Ten actually says on the
22 face of the rules that if they actually decide, as I say,
23 after a couple of games that they didn't want to play
24 football, you're still required to pay them till the end of
25 the term, is that correct?

1 A. Correct.

2 Q. And one of the other provisions in that -- specifically,
3 the Big Ten decided to address the issue about the scholarship
4 that would have been given to a player who signed with an
5 agent, and whether that could be terminated or not, is that
6 correct?

7 A. Correct.

8 Q. There is a specific provision in the rules that deals
9 with that issue, is that correct?

10 A. There are rules there, yes.

11 Q. And the rule says that your school, the university, even
12 though the player has signed with an agent which makes him
13 ineligible -- am I correct, it would make him ineligible if he
14 signed with an agent?

15 A. Correct.

16 Q. But even if under the Big Ten rules, even if the player
17 has signed with an agent, you can still continue his
18 scholarship until the end of the term? It says that right on
19 the face of the rule, doesn't it?

20 A. Yes, if a student does not receive compensation.

21 Q. Right. And we talked about that with Mr. Harmon
22 yesterday. You recognize that the definition of compensation,
23 in Webster's or just based on your own educational background,
24 compensation is defined as being paid for doing -- performing
25 some service or rendering some benefit, is that correct? Is

1 that your understanding anyway of the word?

2 A. Correct.

3 Q. You recognize that compensation and the word "loan" are
4 not synonyms, are they?

5 A. Correct.

6 Q. They don't mean the same, do they? I'm correct, they
7 don't mean the same?

8 A. Okay.

9 Q. As you understand, as you understood what the Government
10 has communicated to you, or what you've learned about what
11 Harmon and what Mitchell did, is it your understanding that
12 what Harmon and Mitchell did is that they signed contracts to
13 be represented by agents, Walters and Bloom, and that they
14 also received cash and signed promissory notes to pay the cash
15 back after they signed their professional contracts in the
16 NFL?

17 MR. PEARL: Objection, that's not the evidence.

18 THE COURT: I don't think it is, Mr. Webb.

19 BY MR. WEBB:

20 Q. Well, was it your understanding that Mr. Bloom and Mr.
21 Walters signed contracts -- I'm sorry -- that Mr. Harmon and
22 Mr. Mitchell signed contracts to have Bloom and Walters
23 represent them as agents?

24 A. That is my understanding.

25 Q. Was it also your understanding that Mr. Mitchell -- let's

1 take Mr. Mitchell, that Mr. Mitchell, the day he signed,
2 signed a promissory note in which he received cash and agreed
3 to pay it back after he signed?

4 MR. PEARL: I object. There has been no testimony
5 about Mr. Mitchell.

6 THE COURT: If you're going to ask him a question
7 that is not consistent with the evidence, I don't care what
8 his understanding is, I'm not going to let you ask it, Mr.
9 Webb.

10 MR. WEBB: Judge, Mr. Mitchell hasn't testified, but
11 he said they were going to revoke his scholarship.

12 THE COURT: Mr. Webb, I don't think that I need to
13 see you at sidebar, but I'm not going to let you ask the
14 question.

15 MR. WEBB: I'll ask as far as Mr. Harmon is
16 concerned.

17 BY MR. WEBB:

18 Q. Was it your understanding with Mr. Harmon that on March
19 10th, 1985, when he accepted \$2,500 from Lloyd Bloom and Norby
20 Walters, that he signed a promissory note that the money was a
21 loan which would be paid back after he got into professional
22 football?

23 MR. PEARL: That's half the evidence.

24 THE COURT: Mr. Webb, there is more evidence than
25 that and I don't want to have you ask his opinion based on an

1 incomplete statement of what the evidence is. I think you
2 know what I'm talking about and if not, I'll enlighten you in
3 the presence of the jury in a minute.

4 MR. WEBB: I'll ask --

5 BY MR. WEBB:

6 Q. You stated that you were going to revoke their
7 scholarships, and my question to you is, doesn't that rule, on
8 its face, say that you should continue the scholarship?

9 A. The revocation of the scholarship was based on the fact
10 that they rendered themselves ineligible and if they entered
11 into an agreement to be represented by an agent or receive
12 compensation, they would be ineligible.

13 Q. Right. But just because they are ineligible, doesn't
14 mean that you cancel their scholarship, does it?

15 A. If I recall correctly, if they receive funding from other
16 sources than was laid out in the Big Ten or NCA manual, then
17 they, yes, they would be ineligible for financial aid at that
18 point in time.

19 Q. The rule that we're talking about, the rule says that if
20 they've signed with an agent, you can still continue their
21 scholarship, that rule I just asked you about, okay?

22 You recognize that if they sign with an agent, they
23 are going to be ineligible, is that correct?

24 A. Correct.

25 Q. But the rule says, even though they're ineligible, you

1 can still pay the scholarship money -- is that what the rule
2 says?

3 A. We may.

4 Q. And so is it your testimony here that even though there
5 is that Big Ten rule there, it's your testimony that here the
6 university would simply have revoked or terminated the
7 scholarships had they found this out?

8 A. If they received compensation, then we had no choice
9 under the guidance of the Big Ten and NCA rules and
10 regulations but to withdraw the scholarship at that time, if
11 they rendered themselves ineligible.

12 Q. Would you have done it just immediately on the spot?

13 A. No, we would have to look into the situation and make
14 sure, indeed, it happened and give the students an opportunity
15 for a fair and prompt hearing.

16 Q. He's entitled to, under the Big Ten Rules and I think
17 NCAA rules, he's entitled to a hearing, is that correct?

18 A. And in regards to our university policy, yes.

19 Q. And so you'd look into all the facts and review the
20 facts, I take it, is that correct?

21 A. Correct.

22 Q. Compare those facts to the Big Ten rule to find out if in
23 fact there really was compensation as that word is defined,
24 correct?

25 A. I would say Big Ten rules, not just one. There is a

1 number of intertwining rules that we would have to look into.

2 Q. And you would then make a decision, is that correct?

3 A. Yes.

4 Q. Actually, I think the NCAA rules says -- who actually
5 awards the scholarships at your school?

6 A. The awarding agency here, Financial Aid Office.

7 Q. Financial Aid Office does it?

8 A. They authorize it and it actually comes through our
9 business office.

10 Q. Who makes the decision as to which football players are
11 to be awarded scholarships?

12 A. The recommendation is made by the coach.

13 Q. Okay. The NCAA rule says that if you're going to
14 terminate or modify or cancel a scholarship, that it has to be
15 done by the disciplinary authority or the scholarship awarding
16 authority at the university, is that correct?

17 A. That is correct.

18 Q. Are you a member of the scholarship awarding committee?

19 A. No, I'm not.

20 Q. Are you a member of the disciplinary authority committee
21 at the university?

22 A. Officially, I guess not. In regards to the university
23 structure, correct.

24 Q. The reason I ask you is that if you're not on those
25 authorities for committees, how is it that you know that the

1 university was going to revoke the scholarship?

2 A. This is in regards to our practice. We make a referral
3 to the agency that awards, which is the financial aid
4 director, and he will notify the students from that
5 standpoint. This is based on the information they are
6 receiving from the various parties involved.

7 Q. So the testimony, so I understand the testimony -- this
8 morning, you gave your opinion, did you not, that the -- if
9 you -- if the university had known these things, that they
10 signed with agents, that they would have revoked or terminated
11 the scholarship, that was your opinion, am I correct?

12 A. They would not have issued a scholarship, correct.

13 Q. That's your opinion, correct?

14 A. Correct.

15 Q. As to what the university would do?

16 A. Correct.

17 Q. But am I correct, you tell me that you can't say for
18 certain what the actual disciplinary authority or scholarship
19 authority would actually do, can you?

20 A. If it's a violation of the Big Ten NCAA rules, yes, I
21 would say they would not renew it, but I cannot speak for
22 them.

23 Q. That's all. You cannot speak for them, can you?

24 A. Correct.

25 Q. Now, you mentioned -- you corrected me a moment ago when

1 you said there were a lot of intertwining rules of the NCAA
2 and Big Ten?

3 A. Big Ten that we would look into, yes.

4 Q. Would you agree -- where are the rules?

5 Let me have the rules, both of them. NCAA and Big
6 Ten.

7 I just want to show him the books.

8 Do these have exhibit numbers on them?

9 I'm not going to ask you to read all these rules.

10 I'm going to show you what I marked as Bloom 8 and Bloom 7.

11 These rules, both the NCAA and the Big Ten, they are
12 actually -- there is literally hundreds of rules in those
13 books, is that correct?

14 A. Correct.

15 Q. And would you agree with the following statement that in
16 many ways, they are very complicated and difficult to
17 understand?

18 MR. PEARL: Objection, Judge.

19 THE COURT: What is the basis?

20 MR. WEBB: Judge, I'm going to the issue of whether
21 or not people like Bloom and Walters would ever have known the
22 content of these rules and he's the one that's told me how --

23 THE COURT: Why don't you ask Bloom and Walters if
24 you have the opportunity, I suppose.

25 MR. WEBB: Well, Judge, but I'm trying to find out,

1 since he's the one that said they would revoke the
2 scholarship -- I'm not going to belabor it but --

3 THE COURT: I suppose you could ask it quicker than
4 we could have this repartee, can't we?

5 MR. WEBB: Yes.

6 THE COURT: Then why don't you go ahead and ask it on
7 that basis alone.

8 BY MR. WEBB:

9 Q. Let me summarize it. Let me ask it this way: I have
10 recently looked at a NCAA study committee report which was in
11 the process of rewriting those rules.

12 MR. PEARL: Objection, Judge. That's an interesting
13 commentary, but --

14 THE COURT: There are a number of interesting things
15 that are going on in intercollegiate sports that we are not
16 going to --

17 MR. WEBB: This deals with rules, that's all I'm
18 going to ask him about.

19 THE COURT: All right. I thought I made that
20 abundantly clear. Ask a question that I think is more
21 appropriate, Mr. Webb, and is worthy of our time, would you,
22 please.

23 BY MR. WEBB:

24 Q. Sir, do you agree that the rules, that the rules of
25 the -- the rules of NCAA, in fact, in many cases, are hard to

1 understand, difficult to locate, and are too voluminous and
2 bulky? Do you agree with that?

3 A. Not totally. I work with them a great deal and I also
4 have the assistance of conversation with other people that
5 work with me.

6 Q. You told me a few moments ago, there is often a lot
7 intertwining?

8 A. They are.

9 Q. You've got to move from one rule to another to find out
10 whether something is right or wrong?

11 A. And they have case studies to have examples shown to you,
12 yes.

13 Q. Sometimes you have to go to the back of the book and look
14 at case studies, correct?

15 A. Correct.

16 Q. These NCAA rules apply to universities who are members of
17 the NCAA, is that correct?

18 A. Correct.

19 Q. The NCAA is a private organization in which the
20 universities can voluntarily join if they want to, is that
21 correct?

22 A. Correct.

23 Q. And the NCAA, as a private organization -- by the way,
24 just so the jury knows, most of the major universities in the
25 United States that have major athletic programs, do belong to

1 the NCAA, am I correct?

2 A. I suppose you are.

3 Q. Okay. And, for example, as far as the people involved in
4 this case, the university is a member of the NCAA and I take
5 it, is subject to the NCAA rules, is that correct?

6 A. Correct.

7 Q. The players themselves, because they play for a
8 university, that's a member of the NCAA, the players are
9 subject to the NCAA rules, am I correct about that?

10 A. Correct.

11 Q. Okay. For example, Mr. Bloom and Mr. Walters, as sports
12 agents, they are aren't allowed to join the NCAA, am I
13 correct?

14 A. I couldn't tell you.

15 Q. Well, is it your understanding that only universities can
16 join who have athletic programs?

17 A. I -- you have affiliate members and there is a whole
18 branch of things. I don't know, I can't get into that.

19 Q. Let me ask you, do you know if sports agents are allowed
20 to be members of the NCAA, if you know?

21 A. Not to my knowledge.

22 Q. Okay. Now, as far as you understand, in this case, that
23 your university is alleged to have been cheated or defrauded
24 out of Harmon and Mitchell's scholarship, do you understand
25 that?

1 A. Yes.

2 Q. The university, your university, is the victim of the
3 crime, and my question to you is: When did this crime occur
4 at the university?

5 MR. PEARL: Objection.

6 THE COURT: Mr. Webb, we went into that and I am not
7 going to allow you to pursue that line of questioning. Please
8 move on, sir.

9 MR. WEBB: Judge, I will move on. Can I just make a
10 record at some later point in time?

11 THE COURT: You can make it at a later point but not
12 now. Move on.

13 BY MR. WEBB:

14 Q. Did there come a time when the university, when your
15 university reported to somebody about this alleged fraud?

16 A. Yes.

17 Q. Am I correct that -- Strike that. When did the
18 university report to someone about this alleged fraud?

19 A. I could not give you a definite date.

20 Q. Just approximately, whatever your best recollection is.

21 A. Sometime in the spring of '86.

22 Q. Okay. And who did the university report the crime to?

23 A. I could not tell you definitely. I assume it was to the
24 Big Ten and NCAA. I did not conduct the investigation and
25 Central Administration handled that.

1 Q. The investigation you're talking about -- let me ask you
2 about that since you mentioned it then. On March 12th, 1987,
3 there was a newspaper story or series of stories about certain
4 lawsuits which involved Harmon and Mitchell.

5 MR. PEARL: Objection, Judge, that's absolutely
6 inaccurate and the relevance of that I think is just not
7 there, what they did in the spring and what the newspapers
8 were reporting and --

9 MR. WEBB: I'll strike the question.

10 THE COURT: Isn't it kind of hearsay, too?

11 MR. PEARL: Yes, your Honor.

12 THE COURT: When all else fails, Mr. Pearl, say
13 hearsay and most of the time you'll be right.

14 MR. PEARL: Thank you, Judge.

15 THE COURT: You're welcome.

16 BY MR. WEBB:

17 Q. On March 13 of 1987, did your university begin this
18 investigation you're talking about involving Mr. Harmon and
19 Mr. Mitchell?

20 MR. PEARL: Objection, I think he said he doesn't
21 know.

22 THE COURT: I don't know. At this stage of the game,
23 I don't remember what he said.

24 BY THE WITNESS:

25 A. I don't know.

1 THE COURT: He said, "I don't know," Mr. Webb.

2 BY MR. WEBB:

3 Q. They started an investigation at some point in time after
4 they found out about this, is that correct?

5 MR. PEARL: Judge, I think he's testified as to what
6 he knows with respect to that.

7 THE COURT: He said he doesn't know.

8 BY MR. WEBB:

9 Q. The investigation that was conducted -- where is the
10 investigation report?

11 MR. PEARL: Can we have a sidebar?

12 THE COURT: I suppose it might help.

13 (Sidebar conference.)

14 THE COURT: Where are you going with the question?

15 MR. WEBB: I will tell you Judge, I'm going to show
16 him the investigative report that he just alluded to in his
17 testimony, and I'm going to ask him a couple of question of
18 whether after they did a thorough investigation of this entire
19 thing, that at any time this university concluded or in any
20 way indicated that they had been defrauded out of the
21 scholarship -- let me just finish -- could I make my offer of
22 proof?

23 THE COURT: Are you going to go off stream of the
24 last question? You just put him on stand and he said he
25 doesn't know what they would do, and now you're going to take

1 the other side of the street? I'm not going to allow it.

2 Let's move on. You make a record later on, Mr. Webb.

3 Let's move.

4 (Sidebar conference ends.)

5 BY MR. WEBB:

6 Q. At some point in time, if you know, did your university
7 contact either Mr. Mitchell or Mr. Harmon to discuss with them
8 this fraud about the scholarship?

9 MR. PEARL: Objection, relevance, hearsay. I just --

10 THE COURT: Sustained.

11 MR. WEBB: Judge, I don't want to violate -- I'm not
12 going to try to go beyond what the Court is asking me.

13 THE COURT: I didn't give it as an option, Mr. Webb.

14 MR. WEBB: I know, I'm not quite sure if I'm
15 foreclosed --

16 THE COURT: I think that you do, and I'll give you
17 the opportunity to make the record and I will ask you most
18 respectfully to move on into another area if you'd be so kind.

19 MR. WEBB: Yes, your Honor.

20 BY MR. WEBB:

21 Q. Under NCAA rules, is your university limited to the
22 number of football scholarships that it is allowed to give out
23 each year?

24 A. Yes, they are.

25 Q. And am I correct that in each year, the university gives

1 out the maximum number it can?

2 A. No.

3 Q. Okay. Are there times when the university does not give
4 out the scholarships?

5 A. Correct.

6 Q. Okay. In this particular case, as far as Mr. Harmon and
7 Mr. Mitchell are concerned, what is the normal procedure of
8 the university, as far as if in fact the university had
9 cancelled their scholarship in August of 1985, what would have
10 happened to their scholarship?

11 MR. PEARL: Objection, Judge. You already ruled on
12 the legal relevance of that.

13 THE COURT: I think that I did, Mr. Webb, and I will
14 sustain.

15 BY WEBB:

16 Q. Now, Mr. Mims, these scholarships that are awarded to
17 these players, they are actually first awarded to the players
18 normally when they are in their senior year of high school, is
19 that correct?

20 A. Correct.

21 Q. Okay. And it's true, is it not, that your university, in
22 order to attract good football players, you send
23 representatives out to recruit high school football players
24 and try to get them interested in coming to your university,
25 is that correct?

1 A. We try to recruit the best talented students as well as
2 those who meet our admission requirements, yes.

3 Q. And are you sending out people to do the recruitment from
4 your athletic department?

5 A. As we do with all the programs in the university, yes.

6 Q. And these recruiters, the only thing that they can use to
7 entice or induce the high school player to come to your school
8 is to offer them a scholarship, is that correct?

9 A. That's not correct.

10 Q. Well, can you give the player any other form of
11 compensation other than the scholarship?

12 A. No, you can't.

13 Q. That's the only form of compensation, is that correct?

14 A. Correct.

15 Q. And these players, when you talked to them from your
16 university, they are usually, certainly the better ones, are
17 being recruited by a number of other schools, is that correct?

18 A. Correct.

19 Q. And the way the scholarship system functions is that the
20 school will award a scholarship to one of these high school
21 football stars on the condition that they sign a document
22 known as the National Letter of Intent, is that correct?

23 A. No, I don't think that's been correct.

24 Q. Okay. Let me ask you, maybe -- is it not normally the
25 practice that your university, that when you get the high

1 school football star to agree to come to your university, he
2 is required to sign what is called a National Letter of
3 Intent?

4 A. He is not required to sign that.

5 Q. Okay.

6 A. It's offered as an agreement that a student will come to
7 your school.

8 Q. And -- but if the -- do you ask a player to enter into
9 that type of agreement?

10 A. They are asked.

11 Q. Okay. And normally, on the same day that they sign the
12 National Letter of Intent, they are also awarded their first
13 scholarship for their first year at Iowa, is that correct?

14 A. Correct.

15 Q. That National Letter of Intent is a pretty strong
16 commitment from the player because he binds himself to
17 playing -- if he's going to play football, he must play at
18 Iowa and cannot play at any other university, is that correct?

19 A. Without suffering a penalty, correct.

20 Q. And normally, the benefit, the only form of compensation
21 that the school can give to this player to agree to come to
22 your school and agree to play at your school, as opposed to
23 all the other schools, is this scholarship, that's the only
24 form of compensation?

25 A. Correct.

1 Q. After the student comes to your school and on your
2 football scholarship, there is no question that that football
3 player actually earns his scholarship, is that correct?

4 MR. PEARL: Objection, Judge,

5 THE COURT: I'll let it be asked.

6 BY THE WITNESS:

7 A. By showing up and being there, that student is granted
8 the scholarship, yes.

9 BY MR. WEBB:

10 Q. It's clearly a football scholarship, is that correct?

11 A. It comes from the football budget, if you want to say
12 that, but the student is not bound to just be off for
13 football.

14 Q. Do these scholarships, do these Tender for Financial Aid,
15 do they say right on their face that they are for football
16 scholarships?

17 A. They are for football for accounting purposes, correct.

18 Q. The point is, these kids are supposed to be playing
19 football for their scholarships, is that correct?

20 A. They should be out for the sport of football.

21 Q. And when you play football at Iowa, it consists of a
22 significant commitment on behalf of the football player, the
23 student athlete, am I correct?

24 A. Correct.

25 Q. I'm not going to bore you or take you through all the

1 details, but they reported August, they have two weeks of
2 practice, through the season, they practice a couple of times
3 a day, even after the season is over, am I correct, even after
4 the season is over, you have winter training and winter
5 conditioning and even in the summer, there is something called
6 summer conditioning?

7 MR. PEARL: I object, your Honor. He's giving a
8 speech and I don't understand -- well, I do understand.

9 THE COURT: I suppose you think that he is giving a
10 speech and he thinks it's good lawyering and I really don't
11 care, just ask the question and answer it.

12 BY MR. WEBB:

13 Q. Did I essentially summarize -- essentially, did I say
14 anything incorrect as far as what is expected of the young
15 man?

16 A. Expect the person to be a part of the program and do
17 things that are required to be part of the program, correct.

18 Q. You actually, if I'm correct, you actually isolate these
19 athletes in their own dormitory, is that correct?

20 A. They have certain floors of the student athletes are on,
21 correct.

22 Q. They are isolated from the rest of the student body?

23 A. Not isolated, no.

24 THE COURT: Mr. Pearl.

25 MR. PEARL: Your Honor, I object.

1 THE COURT: Mr. Webb, as god is my judge, I think I'm
2 giving you a great deal of latitude. Please don't push it to
3 the outer limit.

4 MR. WEBB: I won't, your Honor.

5 THE COURT: Thank you.

6 BY MR. WEBB:

7 Q. Would you tell me to the best of your knowledge, is it a
8 true statement that these football players normally spend in
9 season approximately 30 hours a week in connection with their
10 football activity?

11 MR. PEARL: Again, Judge, I object. I don't
12 understand the relevance of the line of inquiry.

13 THE COURT: Let me just see you at sidebar, just so
14 we don't play jack in the box here, please.

15 (Sidebar conference.)

16 THE COURT: Without getting involved in a great deal
17 of explanation, I mean, I have ruled amongst other things that
18 we're talking about them being defrauded out of their right to
19 allocate these scholarships between eligible people. Whether
20 they lost money on the deal or whether they made money on the
21 deal, a number of other things are not relevant.

22 I meant it quite sincerely, I said I'm being generous
23 in giving you the latitude and I do, and I am asking you
24 again, not to abuse it by trying the outer limit.

25 Let us move on as far as who are and how many

1 hours --

2 MR. WEBB: I'm almost done, Judge. I'm not going to
3 violate any Court order. I never have. I have a theory that
4 these players earned their scholarship and they would not have
5 been revoked. This happened to be the question --

6 THE COURT: Then let us ask it.

7 MR. PEARL: You already ruled, on the underpaid, and
8 that's exactly the point of it.

9 MR. WEBB: No, I'm not saying underpaid.

10 THE COURT: I'm not going to allow questions as far
11 as who did what. You have got that evidence out.

12 MR. WEBB: Can I ask my last question?

13 THE COURT: Ask your last question.

14 MR. PEARL: The one about latitude?

15 MR. WEBB: That's my last question.

16 (Sidebar conference ends.)

17 THE COURT: You have one more question?

18 BY MR. WEBB:

19 Q. My question to you, sir, would you agree that during the
20 football season, the time commitment of these student athletes
21 that play football at Iowa is approximately 30 hours a week?

22 MR. PEARL: Objection.

23 THE COURT: Let that last question be asked.

24 BY THE WITNESS:

25 A. In all the involvements, including injuries and training

1 tables and so forth, I would say it comes to approximately
2 that.

3 MR. WEBB: Thank you. I have no more questions.

4 THE COURT: Mr. Gold, do you have some questions?

5 MR. KENNELLY: Your Honor, consistent with the
6 Court's ruling, we would want to join in the offer of proof.

7 THE COURT: Do you have any redirect, sir.

8 MR. PEARL: Very brief, your Honor.

9 MR. VALUKAS: One moment, your Honor.

10 REDIRECT EXAMINATION

11 BY MR. PEARL:

12 Q. Mr. Mims, I would ask you to turn to 3B, the financial
13 statement of financial support and ask that the jury look
14 along.

15 You testified previously that the purpose of that is
16 to determine the amount and the source of funds that a student
17 is getting each year, is that correct?

18 A. Correct.

19 Q. And on that form, it says, "loans" Is that right?

20 A. Correct.

21 Q. Do you think that there is anything complicated about
22 that?

23 A. No, only if they came from a reputable source.

24 Q. And you say that there are specific rules as to where you
25 can get a loan, is that correct?

1 A. Correct.

2 Q. Why don't you explain to the Ladies and Gentlemen of the
3 jury what those rules are?

4 A. The NCAA specifies that the loan should come from a
5 reputable source, a lending institution with a regular payment
6 plan or from parent or legal guardians.

7 Q. An interest-free loan from an agent that's given to
8 induce someone to sign a contract, is that a bona fide loan as
9 described in that form?

10 A. No, it's not.

11 Q. So that would render someone ineligible, is that right?

12 A. Correct.

13 Q. Particularly if the person getting it didn't have to pay
14 that back under certain circumstances?

15 A. Correct.

16 Q. And under the category, "Other", that's to list other
17 sources of income, is that right?

18 A. Correct.

19 Q. That's not particularly complex or interwoven with
20 anything else, is that right?

21 A. Correct.

22 Q. And then I'd ask you if you would to take a look at the
23 certification marked as Paragraph 5. It says right there:

24 "I certify upon penalty of ineligibility for
25 intercollegiate athletics and loss of athletic

1 financial aid that the above statements are complete
2 and accurate."

3 Is that right?

4 A. Correct.

5 Q. That's nothing -- that's not a complex certification, is
6 it?

7 A. No, it's not.

8 Q. Makes very clear what happens if you lie on the form,
9 right?

10 A. Correct.

11 Q. Now, Mr. Webb talked to you a lot about tenders. A
12 tender is an offer, is that right?

13 A. Correct.

14 Q. And it's an offer of financial aid at a particular time?

15 A. Correct.

16 Q. It's not the actual distribution of that aid; is that
17 right?

18 A. No, it's not.

19 Q. Could you explain the difference?

20 A. Well, the offer can be signed but is not in effect until
21 the open day of classes, at that time, the student would have
22 to meet the eligibility requirements to receive it.

23 Q. Right. So it's just a promise that if you meet certain
24 requirements when the time comes in the fall, you'll get the
25 scholarship?

1 A. That is correct.

2 Q. Well, let me show you what -- I'm not sure what exhibit
3 number that is, but I will show you mine, this is the Tender
4 Financial Aid for Ronnie Harmon, is that right?

5 A. Correct.

6 Q. It's actually marked as Defendant's Bloom Exhibit 6, is
7 that right?

8 A. Yes, I have a Tender for Ronnie Harmon here, correct.

9 Q. And were you involved in the process at all in preparing
10 that?

11 A. Yes, I was.

12 Q. What's the date that that was prepared?

13 A. 5/10/85.

14 Q. Now, that's the date that the university made the offer
15 to Ronnie Harmon that if he came back in the fall, and met
16 certain requirements, he would get a scholarship; is that
17 right?

18 A. That's correct.

19 Q. Ronnie Harmon signed that, is that correct?

20 A. Correct.

21 Q. He signed that but he didn't date it; is that right?

22 A. That is correct.

23 Q. He had until, what is it, August 28th to return that?

24 A. I think that was the first day of classes.

25 Q. It says right on there, doesn't it?

1 A. Yes.

2 Q. And certifications in this case were on August 25th,
3 right?

4 A. Correct.

5 Q. Prior to the time that he had to return that form?

6 A. Correct.

7 Q. You know that Ronnie Harmon didn't sign that on March
8 10th, 1985, right?

9 A. Correct.

10 Q. Okay. Did you know that at the time that that document
11 was being prepared on March 10th, 1985, Ronnie Harmon was in
12 New York with Mr. Walters and Mr. Bloom negotiating this deal
13 to be represented by them and to receive money from them?

14 A. Did I know?

15 Q. Yes.

16 A. No, I did not.

17 Q. If you had known, on the same day that you prepared that
18 tender, that Mr. Harmon was in New York meeting with these
19 agents, signing an agreement with them, agreeing to take money
20 from them, and receiving cash from them, would you have
21 prepared that document?

22 A. No, I wouldn't.

23 Q. Mr. Webb showed you a document that's been marked as
24 Government -- I'm sorry -- Defendant's Exhibit Bloom 3, that's
25 a record that he asked you about concerning academic

1 counseling; is that right?

2 A. Correct.

3 Q. Okay. And he drew your attention to a particular
4 reference, right, and Mr. Webb read to you and said, "Still
5 not working toward a degree," and you corrected him, right?

6 A. Correct.

7 Q. It says, "Still not working towards degree, no 100 level
8 semester." Is that right?

9 A. Right.

10 Q. Could you explain that?

11 MR. WEBB: Judge, he testified this morning that he
12 didn't prepare it and it was prepared by somebody else, so I
13 don't know that he can explain -- I don't mind if he asks the
14 question, but he cannot explain what someone else had in their
15 minds.

16 THE COURT: That's what you asked him. Go ahead.

17 MR. WEBB: I'll just note it.

18 BY THE WITNESS:

19 A. As I indicated, that this is a form from one of the
20 counselors, who has an advising session with the student and
21 she makes recommendation to the student in regards to where
22 they stand academically and her notes here is to encourage the
23 student to take courses that would be accountable to that
24 major that that person has declared at that time.

25 This particular excerpt is referring to the 100 level

1 courses which is in the field of Bachelor of Science studies
2 and she was encouraging this person to get on with taking
3 those 100 level courses so that person can be within that four
4 and a half year pace that we have for graduation.

5 BY MR. PEARL:

6 Q. And the notes there continue on and says, "January of
7 1986," is that correct?

8 A. Correct.

9 Q. And that's the time period after which Mr. Harmon's
10 eligibility timewise had expired with respect to his football
11 playing days; is that right?

12 A. Correct.

13 Q. And the university -- she still encourages him to go on
14 and graduate, is that right?

15 A. That's right. We have a program that we really encourage
16 students of any opportunity that comes up to finish their
17 degree, even if it's two or three years after the time they
18 complete a competition.

19 MR. PEARL: Nothing further.

20 THE COURT: Mr. Webb.

21 MR. WEBB: Just a couple of questions.

22 RE-CROSS EXAMINATION

23 BY MR. WEBB:

24 Q. On that last point, maybe I misunderstood. The words
25 "still not working to degree," just so I -- are you -- is it

1 your testimony that those words don't mean what they say on
2 their face?

3 MR. PEARL: Judge, I don't understand the question.

4 THE COURT: I'm going to leave the question be. What
5 do they mean to you?

6 BY THE WITNESS:

7 A. They mean -- I guess --

8 THE COURT: That's your question?

9 MR. WEBB: That's my question. You did it better
10 than I could.

11 THE COURT: Thank you.

12 BY THE WITNESS:

13 A. Can I preface my statement by saying, I worked very
14 closely with this counselor for a number of years, and it's
15 always her intent as well as mine to motivate the students
16 beyond the minimum, so what she's putting down here is that
17 he's not meeting our requirements, departmental requirements
18 with regards to progressing towards a degree, not that a
19 person is not satisfactorily progressing per what
20 institutional dean would certify on to.

21 BY MR. WEBB:

22 Q. So the words, "still not working towards degree," do not
23 mean what they say?

24 A. In this particular case not.

25 Q. Okay. Do you have Bloom Exhibit 6 there in front of you,

1 the Tender of Financial Aid? I think it's for Mr. Devon
2 Mitchell.

3 Here, I will give you this.

4 A. Yes.

5 Q. Okay. Did I understand in response to Mr. Pearl's
6 question that this Tender of Financial Aid is not actually a
7 contract between you and the student on or about that date?

8 MR. PEARL: Objection, to the contract.

9 MR. WEBB: He said it was an offer, that's all he
10 said it was.

11 THE COURT: Proceed.

12 MR. WEBB: Excuse me. I'm sorry.

13 THE COURT: Would you like to take a drink of water?

14 MR. WEBB: I'm all right, Judge. I'm just going to
15 be a second. Down and out. I'll move on. I know you want to
16 move on.

17 BY MR. WEBB:

18 Q. Do I understand that -- I thought you told me that you
19 agree, this is actually a written contract between you and the
20 student regarding his scholarship award, is that correct?

21 A. Correct.

22 Q. Okay. For example, on this particular one, Mr. Devon
23 Mitchell, it appears to have been executed on or about May
24 10th, 1985 by Mr. Elliot and Mr. Moore on behalf of the
25 university and then it was accepted and executed by Mr.

1 Mitchell a few days later on June 3rd, 1985, is that correct?

2 A. They had signed it. We don't put it into effect until
3 the obligations are met in regards to NCAA and Big Ten rules
4 and regulations, so a student is aware that this is not to be
5 put into effect until they are eligible to receive it.

6 Q. So this is not a contract -- on its face, this appears to
7 be a binding contract between you and the university, is
8 that -- between the university and the student, is that
9 correct?

10 MR. PEARL: Objection, Judge. Again, that's a legal
11 conclusion.

12 MR. WEBB: He said -- strike the question.

13 BY MR. WEBB:

14 Q. Where does it say on this contract that it's not
15 effective until some time in the fall?

16 A. You renew for academic years. You cannot put the tender
17 into effect until the student actually enrolls for classes.
18 If you do, take the money and go some place.

19 Q. Let me repeat my question so we will get out of here.

20 Where does it say on this contract that it's not
21 effective until the fall of 1985?

22 A. It goes in the college period of '85-'86 and the college
23 period begins with the opening day of classes of that fall
24 term.

25 Q. This document was executed in 1985?

1 A. For the college period, '85-'86.

2 Q. Okay. I'm just going to ask, does it say anywhere on the
3 face of the document that the contract does not become
4 effective until the fall of 1985, does it say that on the
5 document?

6 A. I read here where it says college period '85-'86 and
7 that's what I'm saying, it's not effective until '85-'86.

8 Q. But it doesn't say that. You're saying that's what
9 you're interpreting it to say, is that correct?

10 A. I guess so, yes.

11 MR. WEBB: You can keep it. I have no more
12 questions.

13 THE COURT: Counsel.

14 MR. KENNELLY: None, your Honor.

15 MR. PEARL: None, your Honor.

16 THE COURT: You may be excused, Mr. Mims. Thanks,
17 sir.

18 Call your next witness.

19 THE CLERK: Step this way Mr. Witness.

20 (Witness sworn.)

21 DEVON D. MITCHELL,

22 called as a witness by the Plaintiff, having been first duly
23 sworn, was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. PEARL: