

**From:** Gene Marsh <gmarsh@lightfootlaw.com>  
**Sent:** Wednesday, July 18, 2012 7:50 AM  
**To:** Guadagnino, Frank T. <FGuadagnino@ReedSmith.com>  
**Cc:** William H. King, III <wking@lightfootlaw.com>  
**Subject:** FW: PSU  
**Attach:** Ifwlogo

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I wrote this email to myself very late last night until I found out about open records. If it is protected as to Steve, please forward to him. I understand from you it is protected as to you.

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**From:** Gene Marsh  
**Sent:** Wednesday, July 18, 2012 1:22 AM  
**To:** Gene Marsh  
**Subject:** RE: PSU

I am finally back in place after travel all day so here is something that may help. These notes are from my two conversations with Donald Remy and then another one where David Berst from the NCAA joined us - on Monday, 7/16 and Tuesday, 7/17. They had some general observations/comments/points, and then 4 penalties/corrective measures they wanted to put on the table. It's late, so excuse any style errors.

The tone of the conversations was good and constructive. I have known David Berst since the 1980's. Donald Remy has been GC at the NCAA for only a few years - was coming on at about the time I was going off the COI. We get along just fine.

#### THEIR GENERAL POINTS/OBSERVATIONS/WISHES

1. This is a very fluid situation with Mark Emmert dealing with his board of directors. Lots of energy and strong feelings. Their conversations are frequent and ongoing.
2. In PSU's response they would like to see a passage on how PSU responded to Freeh's interim recommendations - those made before the final Freeh Report.
3. They expect MUCH MORE (their words) from PSU, regarding corrective measures and penalties, beyond the measures identified in the Freeh Report.
4. NCAA wants to move forward as expeditiously as possible.
5. Would like PSU to consider accepting the Freeh Report's findings of fact(s), failures and recommendations for change.
6. NCAA's preference is that this matter be resolved without a traditional enforcement case or proceeding, hearing, etc. No director would be assigned to the case. That's why the discussions are with Donald Remy and not Julie Roe. They expect and want an active discussion with PSU in the days ahead on what is being considered re corrective actions and penalties.
7. They would like PSU's written response ASAP so the NCAA Board of Directors could review the agreement (approve it) at the meeting on August 2.
8. They see this case as being without precedent, so they don't seem interested in comparing it to any other or having nit arguments on the usual defenses in these cases. This matter to them is about 50 percent substance and 50 percent politics/pressure for the NCAA and Penn State to do something.

#### PENALTIES/CORRECTIVE MEASURES

1. PSU would enter into what DR called an "Institutional Athletic Integrity Monitoring Agreement" with an outside entity - total independence from PSU. There would be monitoring of process and procedures on campus, site visits. A multi-year effort - focus on transparency, independence and monitoring. Issue a public report annually. Make sure there is a system of checks and balances in place between the academic mission and athletics. It should cover all of athletics - not just football. Try to promote "diffusion of power" in decisions related to athletics. Might also include faculty involvement in trying to achieve those goals.
2. The cost of such an undertaking would be funded by proceeds from the football program ... another "penalty" or penance.
3. A major financial penalty to fund efforts to assist victims of sexual predators. Not specific to the Sandusky victims. Funding would come from football. On 7/17 they pitched a number of \$30 million dollars, payable over time. Perhaps an endowment concept. They came up with the number based on their study of PSU football revenue generation.
4. Post-season ban. Donald Remy mentioned only one year. We had a back and forth on this idea. They understand the negative impact on student-athletes who had nothing to do with the Sandusky matter. Some in their circle think the penalty is appropriate based on the idea that there was a cover up of the Sandusky matter that would have had a negative impact on recruiting and the football program. Remy briefly mentioned the death penalty.

#### ADDITIONAL ISSUES

1. Probation?
2. Application of repeat violator provision going forward?

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**From:** Dunham, Stephen [ssd13@psu.edu]  
**Sent:** Tuesday, July 17, 2012 8:53 PM  
**To:** Gene Marsh  
**Cc:** Guadagnino, Frank T.  
**Subject:** Re: PSU

Gene - I got it. Thanks. Look forward to talking at 9 tomorrow. Steve

Sent from my iPad

On Jul 17, 2012, at 9:07 PM, "Gene Marsh" <[gmarsh@lightfootlaw.com](mailto:gmarsh@lightfootlaw.com)> wrote:

I forgot to include Steve a minute ago. I think it would be helpful for me to talk with Dr Erickson ASAP. Will call in at 9 Eastern. Just landed.

Sent from my iPhone

On Jul 17, 2012, at 6:57 PM, "Guadagnino, Frank T." <[FGuadagnino@ReedSmith.com](mailto:FGuadagnino@ReedSmith.com)> wrote:

> Gene: Things are moving quickly. Would you be able to call Steve and me tomorrow at 9? We have been asked by Dr. Erickson to get together with you and then speak to Don Remy. This is to follow up on a call he had with Mark Emmert this evening.

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> Please let me know.

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> The dial in number is [REDACTED] Code [REDACTED]

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> Thanks.

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