

Office of General Counsel

February 22, 2007

Mr. Scott Fontaine 6146 S. Cushman Ave. Tacoma, WA 98408 VIA U.S. MAIL

Dear Mr. Fontaine:

We received your request for records containing information regarding drug testing of Mississippi State University athletes. Among other things, you seek documentation of all positive test results. The records responsive to this item in your request are educational records protected by the Family Educational Rights and Privacy Act (FERPA), and therefore are exempt from disclosure pursuant to Mississippi Code §25-61-11.

The Mississippi State University athletic department has identified 18 pages of non-exempt records that are responsive to your request. The cost to locate, identify and copy these records was \$18.00. Upon receipt of your certified check or money order payable to Mississippi State University in the amount of \$18.00 to cover the reproduction costs, we will forward the copies to you.

Thank you for your interest in Mississippi State University.

Sincerely,

Jennifer († Rush

Assistant General Counsel



Office of General Counsel

May 4, 2007

Mr. Scott Fontaine 6146 S. Cushman Avenue Tacoma, WA 98408 VIA U.S. MAIL

RE: Your Letter of April 20, 2007 requesting reconsideration

Dear Mr. Fontaine:

AL GRADINE NY MILA

I serve as the Deputy General Counsel for the University. I, of course, cannot speak for the other universities with whom you have dealt which you say have complied with your requests.

I have looked again at your request and considered your assessment that the records requested are somehow not covered by the federal statute cited by Ms. Rush in her letter of February 22, 2007.

I do not agree with your assessment. Disclosure of the records that you identified in your request, except for the portions mentioned to you by Ms. Rush in her letter of February 22^{nd} , are exempt from release under state law and are prohibited from disclosure by federal law.

In addition, the University is not permitted to waive the fees imposed for public records requests.

Sincerely,

Johnnie M. Haley

Deputy General Counsel

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Office of General Counsel July 10, 2007

Mr. Scott Fontaine 6146 S. Cushman Ave. Tacoma, WA 98408 VIA U.S. MAIL

RE: Public Records Request dated January 24, 2007

Dear Mr. Fontaine:

We received your certified check in the amount of \$18.00 and have enclosed the records responsive to your request.

Thank you for your interest in Mississippi State University.

Sincerely,

Charles L. Guest General Counsel

GLG/mlb

Enclosures

MISSISSIPPI STATE UNIVERSITY DEPARTMENT OF INTERCOLLEGIATE ATHLETICS DRUG EDUCATION PROGRAM AND PROCEDURES

I. PURPOSE

Mississippi State University's Department of Intercollegiate Athletics desires for the environment within the Department to be a wholesome environment wherein students have the opportunity to excel in their academic and athletic endeavors. To that end, the Department, through the inherent authority of the Athletic Director, has adopted a comprehensive drug education and screening program.

The abuse of chemical substances (including diuretics and masking agents) poses a serious threat to the physical and psychological well being of student-athletes.

The following drug education program guidelines have been established:

- 1. EDUCATION: Education guidance will be provided to the student-athlete to ensure his/her awareness of the physiological, psychological, and legal ramifications of controlled drug abuse.
- 2. PREVENTION: The drug screening program has been developed with the intent of preventing any student-athlete from drug experimentation, possible drug abuse, and chemical dependency.
- 3. REHABILITATION: The Department of Intercollegiate Athletics will assist student-athletes who want or need a rehabilitation program through referral to the appropriate university program.

II. METHODS, PROCEDURES, AND TESTING

- 1. The Head Athletic Trainer will coordinate the drug screening program and follow-up action from positive drug screens.
- 2. All student-athletes (scholarship and non-scholarship recipients), student coaches (graduate and undergraduate) and all students working as student trainers, student managers, or other students working in the Mississippi State University Department of Intercollegiate Athletics, will participate in testing. Each individual will be required to sign a notification form stating they understand that they are consenting to drug testing and that the results will be provided to their Head Coach, the Athletic Director, their parent or guardian and other appropriate University officials. All individuals must realize that they are susceptible to testing as long as they are actively

- enrolled at Mississippi State University and participating in athletic department functions.
- **3.** Any individual susceptible to drug testing may be selected in the following ways:
 - a. Random Selection computer generated
 - b. Reasonable suspicion or "for cause" in the sole opinion of the Head Athletic Trainer and/or Athletic Director
 - c. Group testing by team, position, etc.
- 4. The testing will initiate with the collection of a urine sample from each individual under the supervision of representatives of LabCorp of Burlington, North Carolina, or another company selected by the athletic department. The collection and coding of these samples will be completed in a manner that will ensure proper identification and total confidentiality of the sample from analysis personnel. The following collection and transportation procedures, or similar procedures adopted/approved by the athletic department as time goes by, will be used:
 - a. Individuals will be given a collection cup that has been previously sealed in a plastic bag by the cups manufacturer
 - b. An observed urine sample will be provided by the selected individual. The LabCorp observer will require the individual to remove enough clothing as to allow a clear view of the sample given.
 - c. The collection cup will be closed, sealed, and initialed
 - d. The individual will then complete and sign the proper documentation for shipment to a LabCorp testing facility
 - e. The sample and documentation will be transported to a LabCorp facility by a LabCorp courier.
- 4. All specimens will undergo urinalysis screening. Positive drug analysis will be confirmed by the GCMS method. Testing will be performed by experienced and qualified personnel.
- 5. Detection of alcohol, amphetamines, barbiturates, benzodiazepine, cannabinoids (marijuana), opiates, Ecstasy, cocaine, and anabolic steroids will be sought in the screening process.

- 6. Mississippi State will use the following sample screen cut off levels: Amphetamines (500ng), barbiturates (200ng), cannabinoids (20ng), opiates (100ng.), Ecstasy, cocaine (100ng), alcohol 0.020%. These levels will be updated as new information becomes available.
- 7. A student-athlete's refusal, failure to report, or inability to void for testing will be considered a "possible positive" and subject the student-athlete to disciplinary actions and/or appropriate evaluation.
- 8. The analysis results will be returned initially to the Head Athletic Trainer.

III SANCTIONS PROCEDURES

All student-athletes whose test results are positive will be subject to, but not limited to the following sanctions. These actions are required throughout the Athletic Department and are not intended to replace or affect normal disciplinary measures of coaches in their respective sports. Sanctions related to alcohol will be treated in a separate section.

Phase I Sanctions (1st positive for marijuana, no void, or no show)

- 1. The Head Athletic Trainer will notify in writing the following of the sanctions:
 - a. Student-athlete
 - b. Head Coach
 - c. Athletic Director
 - d. Student-athlete's parent(s)/guardian(s) (under signature of the Head Coach)
- 2. A Drug Abuse Evaluation by a certified mental health professional is mandatory and attendance will be monitored by the Head Athletic Trainer. The athlete must attend an evaluation session within two weeks of notification by the Head Athletic Trainer. Allowances will be made when there is a conflict with the University Calendar. If the athlete fails to attend the evaluation, a 10% game suspension will be added. The counselor will assess the student-athlete and make treatment recommendations to the Head Athletic Trainer. The student-athlete is expected to comply with treatment until released by the counselor.
- 3. The individual must complete the C.A.D.E. program, an alcohol and drug abuse education program sponsored through the Mississippi State University Student Health Center.
- 4. Follow-up drug testing will be mandatory for a period of at least six months.

5. If a team completes its competition schedule while a student-athlete is under Phase I sanctions, the student-athlete's requirements will be carried over into next season's competition.

Phase II Sanctions (2nd positive for marijuana; 1st positive for other drugs)

- 1. Suspension: The student-athlete is to be suspended immediately from competition.
 - a. The length of the suspension is equal to 50% of the team's season schedule where the athlete represents Mississippi State University. The suspended events will be the next consecutive events in the schedule. Post-season events are also included in the suspension (e.g., SEC Championships, NCAA Championships, Bowl Games, Post-season Invitational events).
 - b. Although the student-athlete may practice, he/she may not participate in any other activities surrounding competition.
 - i. May not "dress out"
 - ii. May not travel (home or away)
 - iii. May not gain admission to "team area" on competition days (pre-event meal, post-game locker room visits included)
- 2. The Head Athletic Trainer will notify the following, in writing, of the sanctions:
 - a. Student-athlete
 - b. Head Coach
 - c. Athletic Director
 - c. Student-athlete's parent(s)/guardian(s) (under signature of the Head Coach)
 - d. Team physician
- 3. A Drug Abuse Evaluation by a certified mental health professional is mandatory and will be monitored by the Head Athletic Trainer. The athlete must attend an evaluation session within two weeks of notification by the Head Athletic Trainer. Allowances will be made when there is a conflict with the University Calendar. If the athlete fails to attend the evaluation, an additional 10% game suspension will be added. The counselor will assess the student-athlete and make treatment recommendations to the Head Athletic

Trainer. The student-athlete is expected to comply with treatment until released from counseling.

- 4. Follow-up drug testing will be mandatory for a period of at least six months.
- 5. If a team completes its competition schedule while a student-athlete is under Phase II sanctions, the student-athlete's suspension will be <u>carried over</u> into next season's competition. If an individual is positive during a red-shirt year, the student suspension will begin during next season's competition. Game suspension will not be applied during a red shirt season or during a medical hardship.

Phase III Sanctions (3rd positive for marijuana; 2nd positive for other drugs)

- 1. Suspension: The student-athlete is to be suspended immediately from competition.
 - a. The length of the suspension is equal to one calendar year from the test date of the positive drug test. The suspended events will be the next consecutive event (including practice, weight workouts, etc.) in the schedule. Post-season events are also included in the suspension (e.g., SEC Championships, NCAA Championships, Bowl Games, Post-season Invitational events).
 - b. The student-athlete will be charged with the loss of one season of competition; a "red shirt" season or medical hardship cannot be used to substitute for the loss of the season of competition.
 - c. Although the student-athlete may practice, he/she may not participate in any other activities surrounding competition.
 - i. May not "dress out"
 - ii. May not travel (home or away)
 - iii. May not gain admission to "team area" on competition days (preevent meals, post-game locker room visits included)
- 2. The Head Athletic Trainer will notify in writing the following of the sanctions:
 - a. Student-athlete
 - b. Head Coach
 - c.Athletic Director
 - d.Student-athlete's parent(s)/guardian(s) (under signature of Head Coach)

- e. Team physician
- 6. A Drug Abuse Evaluation by a certified mental health professional is mandatory and attendance will be monitored by the Head Athletic Trainer. The athlete must attend an evaluation session within two weeks of notification by the Head Athletic Trainer. Allowances will be made when there is a conflict with the University Calendar. If the athlete fails to attend the evaluation, an additional 10% game suspension will be added. The counselor will assess the student-athlete and make treatment recommendations to the Head Athletic Trainer. The student-athlete is expected to comply with treatment until released from counseling.
- 7. Follow-up drug testing will be mandatory for a period of at least six months.
- 8. If a team completes its competition schedule while a student-athlete is under Phase III sanctions, the student-athlete's suspension will be <u>carried over</u> into next season's competition. If an individual is positive during a red-shirt year, the student suspension will begin during next season's competition. Game suspension will no be applied during a red-shirt season or during a medical hardship.

Phase IV Sanctions (4th positive for marijuana; 3rd positive for other drugs)

- 1. Suspension: The student-athlete is immediately suspended and the Mississippi State University Department of Intercollegiate Athletics revokes all privileges of participating in the athletic activities or of using athletic facilities.
- 2. The Head Athletic Trainer will notify the following, in writing, of the sanctions:
 - a. Student-athlete
 - b. Head Coach
 - c. Athletic Director
 - d. Student-athlete's parent(s)/guardian(s) (under signature of Athletic Director)
- 3. Evaluation for further services will be determined by the Head Athletic Trainer and Athletic Director. Further counseling and/or treatment sessions may be required for the student-athlete on an individual basis.
- 4. The Athletic Director will determine if financial aid is maintained or revoked.

Non-Athlete Sanctions

- 1. Students working as student coaches (graduate and undergraduate) and all students working as student trainers, student managers, or other students working in the Mississippi State University athletic department is subject to testing.
- 2. The type of participation level that these students engage in does not make removal from participation a deterrent or penalty for drug use.
- 3. Students working as student coaches (graduate and undergraduate), student trainers, student managers, or other students working in the Mississippi State University athletic department testing positive for alcohol, amphetamines, barbiturates, benzodiazepine, cannabinoids (marijuana), opiates, Ecstasy, cocaine, and anabolic steroids will be subject to the following sanctions:

1st Offense -

- A. The Head Athletic Trainer will notify the following, in writing, of the recommended plan and sanctions:
 - 1. Student worker
 - 2. Supervisor
 - 3. Athletic Director
 - 4. Student's parent(s)/guardian(s) (under signature of their supervisor)
- **B.** A Drug Abuse Evaluation by a certified mental health professional is mandatory and attendance will be monitored by the Head Athletic Trainer. The student must attend an evaluation session within two weeks of notification by the Head Athletic Trainer. Allowances will be made when there is a conflict with the University Calendar. The counselor will assess the student and make treatment recommendations to the Head Athletic Trainer. **The student is expected to comply with treatment until released by the counselor.**
- C. The individual must complete the C.A.D.E. program, an alcohol and drug abuse education program sponsored through the Mississippi State University Health Center.
- D. Follow-up drug testing will be mandatory for a period of at least six months.

2nd Offense -

- A. The Head Athletic Trainer will notify the following, in writing, of the recommended plan and sanctions:
 - 1. Student Worker
 - 2. Supervisor
 - 3. Athletic Director
 - 4. Student's parent(s)/guardian(s) (under signature of their supervisor
- B. A Drug Abuse Evaluation by a certified mental health professional is mandatory and attendance will be monitored by the Head Athletic Trainer. The student must attend an evaluation session within two weeks of notification by the Head Athletic Trainer. Allowances will be made when there is a conflict with the University Calendar. The counselor will assess the student and make treatment recommendations to the Head Athletic Trainer. The student is expected to comply with treatment until released by the counselor.
- C. The individual must complete the C.A.D.E. program, an alcohol and drug abuse education program sponsored through the Mississippi State University Student Health Center.
 - D. Follow-up drug testing will be mandatory for a period of at least six months.
 - E. Removal from any athletic department financial aid.
 - 3rd Offense Dismissal from any position in the athletic department.

IV. ALCOHOL ABUSE STATEMENT

The Mississippi State University Department of Intercollegiate Athletics does not condone abuse of alcohol by any individual, nor does it condone underage drinking. Alcohol, including beer and wine, is clearly the nation's most common drug of abuse. Some of the signs of alcohol abuse include binge drinking, memory loss, missed classes, driving while intoxicated, changing friends since drinking started, drinking more than their friends, drinking alone, and drinking until the bottle is empty. Another sign of problem drinking is the need to drink on a regular basis (e.g. every weekend). Alcohol related problems of concern are violence, public drunkenness, sexual harassment/abuse. These signs or others (e.g., arrest for a drinking related incident) that arouse concern, may be considered just cause for testing or counseling.

V. ALCOHOL ABUSE PROCEDURES

Should a student-athlete or worker test positive for alcohol or be involved in an alcohol-related incident, the following sanctions will apply:

- 1. The Head Athletic Trainer will notify the following, in writing, of the positive test:
 - a. Student-athlete or student-worker
 - b. Head Coach
 - c. Athletic Director
 - d. Student's parent(s)/guardian(s) (under signature of Athletic Director)
- 2. Follow-up drug and alcohol testing will be mandatory.
- 3. A Drug Abuse Evaluation by a certified mental health professional is mandatory and attendance will be monitored by the Head Athletic Trainer. The athlete must attend a counseling session within two weeks of notification by the Head Athletic Trainer. Allowances will be made when there is a conflict with the University Calendar. If an athlete fails to attend the evaluation, a 10% game suspension will be applied. The counselor will assess the student-athlete/student-worker and make treatment recommendations to the Head Athletic Trainer. Should the outcome of the assessment of the student indicate an alcohol abuse or dependence problem, the student will be expected to comply with treatment until released from counseling.
- 4. Should a student-athlete/student-worker test positive a second time for alcohol or be arrested a second time for an alcohol related incident, the Phase I sanctions will be implemented.
- 5. Should a student-athlete/student-worker test positive a third time for alcohol or be arrested a third time for an alcohol related incident, then Phase II sanctions will be implemented.
- 6. Should a student-athlete/student-worker test positive a fourth time for alcohol or be arrested a fourth time for an alcohol related incident, the Phase IV sanctions will be implemented. **Phase III sanctions will not be imposed.**

VI. ADDITIONAL POLICY INFORMATION

1. A student-athlete/student-worker may at any time, at their request, be entered in the athletic drug education procedures.

- 2. A student-athlete/student-worker who fails to appear for a drug screen will be considered a "possible positive" and may be referred to a university counselor to determine their need for further assessment. The student-athlete/student-worker will be required to participate in the next three drug screens. Student-athletes who appear, but are unable to provide a specimen, will be required to return no later that same day than 3:00 p.m. and may not participate in any athletic function until they have submitted a sample.
- 3. Substance abuse counseling may include personal and/or group counseling. It will also include drug education. Furthermore, community service projects may also be used if the counselor feels this would be helpful for the student-athlete.
- 4. The NCAA has imposed a year-round drug screening program. Student-athletes testing positive for NCAA banned drugs will be barred from competition for one year. Also, the NCAA bars a student-athlete from competition for another year, after having his or her eligibility restored, after a second positive drug test for use of a "street drug", and bars from competition for life an athlete whose second positive test is for use of a drug other than a "street drug". The NCAA definition of "street" and "banned" drugs is defined/identified and listed in the NCAA Sports Medicine Handbook as well as other NCAA publications.
- 5. Any athlete arrested for a drug or alcohol related incident will submit to an MSU drug/alcohol screen upon availability to the MSU Testing Procedures.
- 6. DIETARY SUPPLEMENTS: The NCAA position on the use of dietary supplements is one of caution. The Food and Drug Administration does not regulate these supplements, and even though they are legally required to disclose all ingredients, many of the supplements may contain substances that are not listed on the label. SOME OF THESE SUPPLEMENTS MAY CONTACIN SUBSTANCES THAT ARE BANNED BY THE NCAA. TAKING THEM MAY RESULT IN A POSITIVE DRUG TEST WITH A PENALTY OF A LOSS OF ONE YEAR ELIGIBILITY. IGNORANCE IS NO EXCUSE FOR A POSITIVE DRUG TEST. Before taking any dietary supplement, even if it is an over-the-counter supplement, consult your team physician or the Head Athletic Trainer.

MISSISSIPPI STATE UNIVERSITY

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REQUISITION

NO: R0265717

JR:

.o7-VR01

JHLY LABORATORIES INC. INDUSTRIAL PARK DRIVE OXFORD MS 38655

SHIPTO:

2

MISSISSIPPI STATE UNIVERSITY RECEIVING STATION 105 MILL STREET STARKVILLE MS 39759

DATE: 01-JUL-06

TERMS: NET SHIP VIA: BEST WAY

FOB:

BID BY:

STATE CONTRACT:

BID FILE:

QUANTITY

DESCRIPTION

UNIT PRICE

TOTAL PRICE

1.00 YR

PROVIDE DRUG SCREEN CONFIRMATION ANALYSES TO THE ATHLETIC DEPARTMENT FOR THE PERIOD JULY 1, 2006 THROUGH JUNE 30, 2007:

RATES.....@\$75.00/SPECIMEN PER DRUG ORIGINAL SCREENING FOR THE FIVE DRUGS OF ABUSE WILL BE \$30.00/SPECIMEN, PLUS \$75.00 TO CONFIRM EACH POSITIVE.

HOLD FOR QUOTE.

TOTAL **FUND ORG ACCT** PROG. ACTV ORDER AMOUNT 209019 890119 405772 113000 AD5772 CONTACT: NAME: Ray Tamela Y. TELEPHONE: 662 325-3637

DEPARTMENT:

ATHLETICS/TRAINING ROOM SHIRA FIELD HOUSE PAUL MOCK MS 9851

COLUMN CHUCH LUKICO

PAGE 02

Johly Laboratories, Incorporated

5 Industrial Park Drive Oxford, MS 38655 TEL 662-236-2609 FAX 662-234-0253



www.elsohlv.com

May 17, 2006

Mr. Paul Mock Head Athletic Trainer Mississippi State University P.O. Box 5327 Mississippi State, MS 39762

Fax 662-325-5145

Dear Mr. Mock:

This is to advise that ElSohly Laboratories, Inc. (ELI) will be glad to perform GC/MS confirmation analyses on urine specimens that have been reported as presumptive positives at the rate of \$75/per specimen per drug. For example, a GC/MS confirmation for THC would be \$75, but GC/MS confirmation for both THC and cocaine in the same sample would be \$150.00 because two different confirmations would be required for the two drugs.

Should you need immunoassay analyses (screening) services, we will screen for the five drugs of abuse (marijuana, cocaine, opiates, amphetamines, and PCP) for \$30 per sample plus \$75 to confirm each presumptive positive.

If you have any questions, or if we can be of service in any way, please do not hesitate to call.

With best regards,

Mahmoud A. El\$ohly, Ph.D., BCFE, BCFM

President

Laboratory Director

Denise

MISSISSIPPI STATE UNIVERSITY

NCOMPLETE **

REQUISITION

NO: R0267050

STED VENDOR:

914-757-870-VP02

SHIPTO:

2

LABORATORY CORPORATION OF AMERICA HOLDINGS 1801 1ST AVENUE NORTH BIRMINGHAM AL 35233

MISSISSIPPI STATE UNIVERSITY RECEIVING STATION 105 MILL STREET

UNIT PRICE

STARKVILLE MS 39759

ATE: 01-JUL-06

TERMS: NET

SHIP VIA: BEST WAY

FOB:

ID BY:

FATE CONTRACT:

BID FILE:

QUANTITY

DESCRIPTION

TOTAL PRICE

1.00 YR

PROVIDE DRUG ABUSE SCREENING TO THE ATHLETIC DEPARTMENT ACCORDING TO PROPOSAL ON FILE FOR THE PERIOD JULY 1, 2006 THROUGH JUNE 30, 2007.

THE FOLLOWING TESTS ARE CHARGED AS LISTED: 788976 DRUG SCREEN \$ 20.00 \$ 14.00

\$ 20.00 \$ 14.00 \$ 11.00

722117 ECSTASY 803007 STEROIDS

\$ 128.40

HOLD FOR PROPOSAL.

TOTAL

JND ORG

890119

019

ACCT

405772

PROG 113000

AD5772

ACTV ORDER AMOUNT

CONTACT:

NAME:

TELEPHONE:

Ray Tamela Y.

662 325-3637

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DEPARTMENT:

ATHLETICS/TRAINING ROOM SHIRA/HOLLIMAN COMPLEX PAUL MOCK MS 9851



MSU Athletic Department Attn: Tammy Ray PO Drawer 5327 Mississippi State, MS 39762

June 6, 2006

Tammy,

Here are the prices you requested. If you need anything else please let myself or Jennifer Smith know.

788976	Drug Screen	\$20.00
007237	Urine Alcohol	\$14.00
722117	Ecstasy	\$11.00
803007	Steroids	\$128.40

If you need anything else, please let me know

Sincerely,

John Drinkwater Laboratory Supervisor 601.693.6638 Ext 7635

Mississippi State University

Page: 248

Dump Date/Time: 24-AUG-2006/09:14:37

Expenditures Listing Report of Org by AD# 2005-2006 Fiscal Year Athletic Department

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Mississippi State University

Page: 244

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Athletic Department 2004-2005 Fiscal Year Expenditures Listing Report of Org by AD#

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Voucher Number

Athletic Department 2003-2004 Fiscal Year Expenditures Listing Report of Org by AD#

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	350.00	476.39 334.40 259.40 37.25 98.25 35.48 16.72 11.66	397.60 681.60 216.40 1,876.80 424.80 2,061.00 1,404.00 23.40 352.80 7,438.40	26,623.13		*
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