

Truth of the Removal of the Fighting Sioux One Man's Opinion

As there has been a somewhat blackout on the truth behind the removal of not just the Fighting Sioux name and image from the University of North Dakota but all those who lost their identity, a factual account is needed. As with everything there are two sides to a story and this paper will attempt to be fair in the assessment and final conclusions.

The old adage "The Straw That Broke the Camel's Back" I will start there with the adoption of a "Policy" by the 20-member NCAA Executive Committee focused on Native names and Images in August 5th, 2005. (Att. 1-19)

Regardless of the motive (which can be seen as very suspect) the "Policy" itself violates a number of "Articles and Amendments" contained in the NCAA Association Constitution (over 1200 member Institutions). The "Policy" originated in 2004 focusing on 33 institutions and was instantly reduced to 18 Institutions with sanctions to be implemented against if they did not capitulate to the Executive Committee's demands. (att.3&4)

Within Days the Executive Committee was forced to modify the "Policy" and produced a Standard for exemption from sanctions; do to threats of Lawsuits coming from a number of High Profile Institutions. After being threatened by Florida State "a high profile and prestigious University", and told by the Saginaw Chippewa Tribe to "Stay out of our business" the Executive Committee adopted a Standard of "Approval of a Namesake Tribe". Even with the new set of Standards (August 23rd, 2005) they choose to ignore them in certain cases based on their ultimate desire for control and the standard was not applied consistently. (att. 5,6, &7)

But through this so-called standard, 6 of the 8 Universities choosing to fight were given exemptions as the other 10 choose to knuckle under. Only the Fighting Sioux choose to fight all the way for the University of Illinois Fighting Illini had agreed to remove the logo and most of the Indian identity in hopes of appeasing the Executive Committee yet keep some pride.

As the University of North Dakota after using the name and image of the Sioux for over eighty years chose to stand on principal rather than cave, first asked for exemption under the same standard the other 6 were given, where the Executive Committee choosing to disregard the mountain of evidence supporting UND, they denied exemption late in 2005. This denial cause UND to appeal the decision with added evidence, which was again denied in 2006 through a biased NCAA sub-committee under the control of the Executive Committee.

Unlike any of the others targeted, UND is the only University in the State recognized Nationally as well as inter-Nationally. This intimidation was forecast to harm the institution greatly but more than that it violated the NCAA Constitution as well as Federal and State Law.

Through private donations the University began legal proceedings against the NCAA “by and through the North Dakota State Board of Higher Education”. The Lawsuit focused on the Executive Committee’s lack of authority to even adopt what many believe to be a “Racist” Policy as it focuses on one race of people. “Case No. 06-C-1333 att. 20-28” (att. 20&21)

The Executive Committee from the onset sought and relied on selective voices in making their decisions. In 2004 they requested 33 institutions to do an honest evaluation of conditions on their campus concern their name and image. This UND Official evaluation involved numerous individuals with different points of view, but the consensus was “The University did not have a hostile or abusive environment” as suggested by the Executive Committee. This finding followed the exact result found by the Office of Civil Rights in 2001 in their investigation. We have found that an un-official evaluation was requested by the NCAA sub-committee MOIC from two individuals at UND who had been fighting for years for its removal. As we have not put much focus on other Universities but can only assume the same process was followed for others. (att. 8)

One thing we know to be true is in the case of UND, the NCAA Executive Committee not finding the results they desired choose to request an evaluation from two individuals extremely hostile to the name and image for a more favorable evaluation along their desire. We also know that they received three letters one from a Standing Rock Council member on April 26th, 2006 another from the University President on April 27th, 2006, and a third from the Standing Rock Tribal Chairman on April 28th, 2006 and made their decision on April 28th, 2006 to deny UND’s appeal again.

The Standing Rock Council member stated that of the eight Standing Rock Districts six had voted to support the continued use of the Fighting Sioux name and image and the other two had not voted. This was a vote by Tribal members. The UND President in his letter on April 27th, 2006 state in response to the NCAA request for an updates that the letter from Standing Rock, combined with the fact that the entire Spirit Lake Tribal Council had recently visited the University reaffirming their support of the Spirit Lake 2000 Official Tribal Resolution (att. 9&10) giving support for the continued use of the name and image. So at that point the two

Sioux Tribes members are on record of supporting the continued use of the name and image. This was much more than any other Institution was required to have.

The Standing Rock Tribal Chairman's letter on April 28th, 2006 appears to have come in response to an Executive Committee's request as it addresses the council member's exact language. The Chairman could not have known this without receiving a copy. Within hours on April 28th, 2006 a statement was issued denying UND a second time. Unfortunately we have not been able to acquire a copy of his letter. (att.18&19)

Another troubling aspect comes from some University staff in the February of 2006 letter to then Chancellor Potts, how and why a letter of this type was written and how did it end up in the NCAA Executive Committee hands shortly after or maybe the same day. Did the Executive Committee request this in some form another also? This letter condemning use of the Fighting Sioux name and imager and was signed by 120 staff and professors at UND. That number is out of 940 full time teachers and staffs all are in the Liberal Arts Department of UND, which may say something as well. (att.11-17)

But in any case, the University of North Dakota by and Through the North Dakota State Board Higher Education filed an Injunction stopping the NCAA Executive Committee from imposing sanctions on the University on October 6th, 2006.

Again to be fair it must be pointed out that the Standing Rock Tribal Council took upon themselves to speak independently of the tribal members, in opposition to the name and image from 1992 on. They were challenged numerous times by members that they had no right to speak over the people or to violate a Sacred Ceremony performed in 1969 giving the name and image forever through a Pipe Ceremony the most Sacred of all Traditional Ceremonies. It must also be pointed out that other Tribal Governments with the exception of Spirit Lake located in the State also objected to the name and image but none were authorized by their tribal members and did it on their own.

By the end of June 2007 it was clear North Dakota was about to win the Lawsuit, but a turn of events happened and a new Chancellor of the State Board was seated on July 1st, 2007. With this new Chancellor of the State Board on July 2nd, 2007 in place, he and attorneys from both sides as well as the Judge met at the Minneapolis Airport where the Judge instructed them to keep discussions within the scope of the Lawsuit and to steer clear of "Hostile or Abusive" for that issue was not part of the case. (att. 22&23)

One of the interesting points of the process comes in the form of “Discovery” and records request beginning in 2006. North Dakota had subpoenaed NCAA Executive Committee and sub-committee records and discussion containing who, what, when, and just how did they reach their decision for denying UND exemption. As this is a standard practice in court proceeding for civil cases as well as criminal cases where plaintiffs have every right to know the answers to these questions and face their accusers.

The NCAA Executive Committee chooses every legal maneuver to deny and delay producing these documents. As late as March 8th of 2007 they are in court where Court decision later required them to turn over a number of the documents requested but the Plaintiffs would have to show relevance for others. (att.24&25)

But here we are in July of 2007 and none of the documents have been provided and the Executive Committee could have been held in “Contempt of Court”. With this new Chancellor an apparent change had taken place where the goal was no longer to save and keep the name and image but to remove it and blame Indians in general and the Sioux more specifically for the change.

As meetings took place in the coming months in out of State accommodations, North Dakota Open Records” law did not apply so Plaintiffs who actually the 1.27 million dollars for the Lawsuit came from are still in the dark as to just what was discussed. In August of 2007 the Court ordered attorneys from both sides to stop the documents requests and seal all documents, to which the State Attorney General who headed the Lawsuit voice little objection to. It must be pointed out the State Attorney General had to be acting as a private attorney through the case and his client should have been those that paid for the Lawsuit but was instead the State Board of Higher Education with the Chancellor in charge were his client.

October 26th, 2007 a Settlement/Agreement is signed by the NCAA Executive Committee and North Dakota giving North Dakota and UND 3 years to get not one but two Sioux Tribes in two States to give Approval of the use of the name and image. It also bars North Dakota from any future legal proceeding on the issue. It forfeits any financial damages already caused by either party. (Settlement 30-37)

As not only has the NCAA Executive Standard of “Approval of a Namesake Tribe” been doubled to two Tribes, in two States, the Settlement also has two different Standards for those Tribes fulfillment requirements. For Spirit Lake “By an individual duly authorized to bind or

speak on behalf of Spirit Lake” and for Standing Rock “adopted by any means allowed in the tribe’s Constitution” the significance of this wording will show up later. (att. 13 approval requirements)

Upon signing the Settlement/Agreement the Senior Vice President of the NCAA states “The Settlement confirms the Sioux people and no one should decide how and when their name should be used” (att. 14) which he will later refuse to hear.

The Attorney General told the State Board “we would have won a court room battle with the NCAA if the case had gone to trial, (Scheduled for December 2007) but it may not have brought the issue to an end” he went on to say “one element of UND’s legal argument against the NCAA is that the association violated its own bylaws by passing the 2005 American Indian nickname ban with only a vote of its Executive Committee, not the entire membership” which they promise to do at the next NCAA Convention. (att.15&16)

In summary:

A summary to this point, for things are about to get worse and will be addressed in the next instalment. Although the records have been sealed, we have since learned the Settlement signing could easily be described as a “Conspiracy”. We have learned that the movement to retire the Sioux name and image from UND actually began within the “Liberal Arts Department of UND dating back to the mid 70’s and not by American Indians but by non-Indian Progressive Professors. What we have seen so far, this type of movement was taking place on almost all University Campuses beginning in the 70’s.

Behind everything happening at UND certain names of professors also appear. These professors are the educators of the Native American UND population which steadily increased after the 1969 Ceremony performed by the two Sioux Tribes in North Dakota giving the name and image forever. We saw the Indian population grow from around 20 individuals in the 60’s to around 400 by the 90’s thanks to the 69 gift exchange. We saw the expansion of Indian Studies Programs grow from 3 or 4 in the 60’s to over 29 by 2000 (which some have fallen by the wayside now). We have learned of the “Time Out Spring Pow-Wow” which began in 1972 and lasts yet today is funded in part by the University (which is being decreased now). We learned of the creation of the UND Indian Center and of the building housing funded in part by the University.

We have seen the formation of UND Indian Association created in 1972, and the Indian Grievance Task Force created in the mid-70's coming strictly from Indian voices and as late as 1989 the name and image was never on their radar or mentioned.

Through Google searches we have found the NCAA Executive Committee reaching out to anti-Indian name and image activists beginning well before 2000. We have seen staged events taking place just as the NCAA Executive Committee is about to announce some major policy or plan. The coincidences are remarkable without forehand knowledge of what future plans were suggesting collaboration.

In coming days we will examine in detain the many events that took place leading up to and beyond the 2005 NCAA Policy.