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## Time has come for sports agents to clean up their profession

A recent article in Forbes magazine penned by Florida sports and entertainment attorney Darren Heitner predicted that the North American sports market will reach a value of approximately \$73.5 billion by the year 2019.

This projection is mainly fueled by the anticipated substantial increase in national sports media rights contracts over the next few years. However, this expected revenue windfall for professional teams could very well spawn an unintended ancillary uptick in a problem that has plagued the sports agent industry for many years: unprofessionalism among its members.

It naturally progresses that as teams make more money, player unions and agents will work hard to ensure that their members and clients receive a fair share of club revenues in the form of higher playing salaries. In turn, increased player salaries create larger commissions for the agents who negotiate the contracts.

Higher commissions will ignite and intensify the cutthroat competition among agents to land prize sports clients. The aftermath of this cycle will be a precipitous drop in ethics and professionalism within an industry not known for its high ethical standards and morals.

The concept of professionalism is one with which we in the legal community are intimately familiar. As licensed attorneys, we must adhere to the Illinois Supreme Court Rules of Professional Conduct. Indeed, a portion of our Continuing Legal Education requirements must be comprised of a specific number of Professional Responsibility hours, to wit professionalism is one of five areas encompassed in this category.

When Robert R. Thomas was the Illinois Supreme Court's chief justice, he felt so passionately about the necessity and importance of professionalism among the bar and judiciary that he recommended the establishment of the Commission on Professionalism to promote a more professional legal culture within the state. His belief was shared by his fellow justices and their recommendation was subsequently adopted under Supreme Court Rule 799.

Perhaps it's time for the sports agent profession to take a long, hard look in the mirror and follow in the footsteps of the Illinois Supreme Court. For far too long, many agents have personified the profession's stereotype of being sleazy and unethical. As far back as 2002, the Sports Business Journal reported that "agents have filed what is believed to be an unprecedented number of lawsuits, charging one another with stealing clients, fraud, extortion and slander."

It has only worsened in the past 13 years. As an agent in the business, I can't begin to relay all of the stories of agents engaging in unprofessional behavior, the most common of which is stealing, or attempting to steal, players who have contractual relationships with other agents.

I have even witnessed agents relegating to fisticuffs over this issue. It is truly incredible the amount and substance of lies that are told by some agents in order to lure athletes into their client stable. Perhaps at least part of the blame for the Wild West environment can be attributable to the athletes themselves.

Their disloyalty and penchant for falling for the lies only serves to perpetuate the cycle of unethical behavior and reward those who engage in such improper acts. But

### AGENT OF CHANGE



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make no mistake, the problem of rampant unprofessionalism starts and ends with the agents.

Each of the four major sports players' associations has their own versions of regulations governing player agents as well as grievance procedures that agents may pursue as against other agents if they feel victimized.

However, these regulations often fail to adequately address the ongoing problem of unprofessional behavior and fall significantly short of promulgating appropriate standards of conduct.

More needs to be done in this area in order to curb this untoward behavior. If not, it could very well cause the more ethical and professional agents to flee the business, tired of the drama, stress and added expenses of constantly having to stay close to their clients to keep other agents at a distance.

If fact, the Sports Business Journal once wrote that the late NFL Players Association executive director Gene Upshaw

often lamented "that reputable agents might leave the business because they feel they can't be honest and compete effectively." The fact that this was, and remains, a valid concern is a sad and pathetic commentary on the state of the sports agent profession as a whole.

But what can be done? One idea is for each (or collectively) of the major sports players' associations to enact a code of conduct for certified agents based on the Illinois Supreme Court's Rules of Professional Conduct. This code would govern both non-attorney agents and attorney-agents.

Any violations of this code which are subsequently proved would result in the immediate and indefinite loss of the agent's certification for all sports. In addition to losing certification in the particular sport in which the transgression took place, the agent would also lose the privilege of becoming (or remaining) a certified player agent in other sports as well.

An alternative idea is to only allow licensed attorneys to act as sports agents. Each of the major sports should amend their rules governing agents to state that going forward only licensed attorneys will be considered for agent certification.

Will this completely stop and prevent all unethical and unprofessional behavior among agents? Probably not. But I believe it will keep the sordid behavior to a trickle (which, by the way, will be in the best interest of the player-clients), and will cause attorney-agents to stop and pause before engaging in unsuitable behavior toward each other knowing that they are bound by a professional code of conduct, the transgression of which could not only result in loss of certification, but more importantly, disbarment.