

Mr. Eric Winston  
President  
NFL Players Association  
1133 20 Street NW  
Washington, DC 20036

Re: Prospective Candidacy – Request for Information

February 18, 2015

Dear Eric,

I am considering running for Executive Director of the NFL Players Association. As a founder of the NFLPA Mackey-White TBI Committee and member of the Executive Committee, I have experience dealing with complex matters while advocating for the health, safety, and welfare of all NFL Players - past, present, and future.

The upcoming election is likely to be the most pivotal in the NFLPA's history. In order to make a reasoned decision, it is essential that I thoroughly understand the current state of the Union. Therefore, I am requesting that the Executive Committee order the preparation of a briefing book, to be delivered in ten days, containing information necessary to ascertain whether I may be capable of righting this ship. Finally, I've made several suggestions to help ensure that our Board of Players Representatives are afforded an informed and fair election.

This exercise is necessary so that every candidate may have the ability to tailor their platforms in a way that strengthens the NFLPA, allowing us to move forward in unison and without delay to address the serious matters affecting all NFL players and their families.

I'd like to thank you in advance, as well as the entire NFLPA Executive Committee, for your decisive action.

The viability of our health, business, and game is at stake.

Sincerely,

Sean J. Morey  
14 Riverside Drive  
Princeton, NJ 08540

## **REQUEST FOR INFORMATION**

### **PERSONNEL & FINANCIAL DETAILS**

Please provide:

- A comprehensive list of the search criteria used to fill the Executive Director Position in 2008.
- The NFLPA Organizational Chart.
- A list of all non-profit entities controlled by the NFLPA.
- A list of all research partners, surveys, and health reports from 2009-2015.
- A summary of all revenue and expenses for each year from 2009-2015.
- A summary table of contributions and disbursements for each non-profit for each year from 2009-2015.
- A list of the 10 highest-paid NFLPA employees, including deferred compensation, for each year from 2009-2015.
- A list of the 10 highest-paid NFLPA vendors for each year from 2009-2015.
- A list of the 20 highest-paid NFL Players (through NFLPA sponsorship & licensing agreements).

#### Questions

1. Who developed the search criteria for the Executive Director position in 2008?
2. Who first identified and selected DeMaurice Smith as a candidate in 2008?
3. Which qualifications did Mr. Smith satisfy as part of the search criteria?
4. Did a working relationship and/or any conflicts of interest exist between Mr. Smith, affiliated law firms, and the NFL or NFLPA prior to August 2008? If so, please list.
5. Who negotiated the contracts for the highest-paid employees at the NFLPA?

### **LEGAL MATTERS**

Please provide:

- A complete list of attorneys and their respective law firms retained from 2009-2015.
- A complete list of legal actions initiated by the NFLPA from 2009-2015.
- A summary of legal briefs written on behalf of NFL Players from 2009-2015.
- A complete list of donations made to lobbyists, governmental agencies, and/or campaigns.

#### Questions

1. How many legal actions has the NFLPA been party to from 2009-2015?
2. What did each case cost?
3. What law firms were retained in each case?
4. What was the outcome of each case?
5. Why didn't the union guide active players regarding the concussion lawsuit or other former player lawsuits against the NFL?
6. What current lawsuits are pending?
7. What are their projected costs?
8. What cases are anticipated or being contemplated?
9. What explanation has Executive Director Smith made for providing the NFL with a covenant not to sue as a condition to access medical care with the Neuro-Cognitive Disability Benefit?
10. What explanation has Executive Director Smith made for permitting Susan Cassidy, partner at Covington & Burling LLP (Tagliabue's firm), to restrict the standard so as to optimize the exclusion of symptomatic former NFL Players exhibiting signature neurobehavioral syndromes from the Neuro-Cognitive Disability Benefit?

## **PENSIONS**

### Please provide:

- A complete table listing the assets, liabilities, contributions, payments, and investment growth for each year from 2009-2015.

### Questions

1. What is the status of the current financial improvement plan?
2. Does Mr. Smith contemplate implementing any adjustments to the pension plan that would reduce future payments to retirees?
3. Given the terms of the NFL Concussion Settlement, how does the NFLPA propose to offset the massive increase in disability costs jointly shared with the league?

## **DISCIPLINE**

### Please provide:

- A complete list of all league fines and disciplinary actions from 2009-2015.
- A complete list of grievances filed by the NFLPA from 2009-2015.

### Question

Mr. Smith is a noted white-collar criminal defense expert in tort liability, congressional investigation, corporate fraud, and deferred prosecution. What is his explanation for failing to foresee the threats posed by giving Commissioner Goodell a free hand in discipline?

## **HEALTH & SAFETY**

### Please provide:

- A comprehensive, HIPAA-compliant list of all Total & Permanent Disability Benefits awarded.
  - Include age, disabilities, position, and number of credited seasons.
- A comprehensive, HIPAA-compliant list of all Workers Compensation Benefits awarded.
  - Include state, age, duration of award, injury, denial rate, position, and number of credited seasons.
- A complete, HIPAA-compliant list of all 88 Plan participants since 2007.
  - Include age of onset, date of award, duration of benefits, reimbursed medical costs per participant, position, and number of credited seasons.
- A complete, HIPAA-compliant list of all Article 65 Neuro-Cognitive Disability Benefit Awards.
  - Include Mild or Moderate designation, age, date of award, position, and number of credited seasons.
  - Provide the written standard used to qualify for the Neuro-Cognitive Disability Benefit.
  - List qualifications for the neurological experts who helped determine awards for the Neuro-Cognitive Disability Benefit.
- A complete list of entities given access to player data through the Group Licensing Agreement.
  - Include a comprehensive list of “data,” as described in the GLA, being collected on players.
- A complete research proposal for the Harvard Study.
  - Include the Hypotheses, Design, Treatment Options, and Funding Mechanisms.
- A complete list of clinical research initiatives funded by the Trust.
  - Include all clinical care and treatment expenses incurred to date.
  - List all treatments provided to retirees through the Trust, as well as their respective costs.
  - List all medical providers and partners affiliated with the Trust.

### Questions

1. What is the status of the Harvard study?
2. How much has been spent on the Harvard study?
3. Why has the Harvard Study been delayed by more than two years?
4. Why hasn't the Harvard Study been filed with ClinicalTrials.gov?
5. Why hasn't the Union alerted NFL Players that the NFL has determined that 3 out of 10 players are dying from neurodegenerative disease?
6. How many Article 50 actions have been taken since 2011?
7. What were the outcomes of the Article 50 actions?
8. How many players have taken advantage of the 88 Plan in each year since its inception in 2007?
9. What has been the cost of the 88 Plan in each year since its inception?
10. How many players have completed the application process for the Neuro-Cognitive Disability Benefit in each year since its inception in 2011?
11. What is the rate of acceptance/denial for both Mild and Moderate Neuro-Cognitive Disability?
12. What has been the cost of the Neuro-Cognitive Disability Benefit in each year since its inception in 2011?
13. What was the outcome of the Toradol Grievance filed by the NFL Players Association?
14. Why are players still being exposed to this drug prophylactically?
15. Why have active NFL Players remained uninformed by Mr. Smith about their status with respect to the NFL Concussion Settlement?
16. Why have signature neurobehavioral syndromes associated with TBI sequelae remained unaccounted for in determining the Neuro-Cognitive Disability Benefit?
17. What treatments and/or pharmaceutical interventions have been approved to treat and/or manage the symptoms associated with Mild and/or Moderate Neuro-Cognitive Disability?
18. Has the 2012 NFLPA Health Report been distributed to the Board of Player Representatives?
19. What is the status of Resolution 15?

## **CONFLICTS OF INTEREST/RELATED PARTY TRANSACTIONS**

### Questions

1. During the period from 2009-2015, have any waivers been granted by the NFLPA for any conflict of interest between any employees or agents of the NFLPA?
2. During the period from 2009-2015, have any related party transactions taken place between any employee or agent and the NFLPA?
3. Did Ned Ehrlich receive a waiver, since he was an agent for the NFLPA (Workers Compensation Panel of Attorneys) while also recruiting NFL Retirees to sue the NFL in the concussion class action?
4. Since Ehrlich's conduct was known to the NFL and a clear violation of the CBA, did the NFLPA implicitly or explicitly receive a waiver from the NFL?
5. If the NFLPA received a waiver for Ned Ehrlich to recruit former players to sue the NFL, what did the NFL receive in exchange? If nothing, then why nothing?
6. Were conversations between Executive Director Smith and Plaintiff attorneys involved in the NFL Concussion Settlement sanctioned by the NFLPA Executive Committee or President, either before, during, or after the class action lawsuit was filed in 2011?
7. Were any conflicts of interest or fraud identified by President Vincent, President Mawae, or President Foxworth between the period from 2009-2015? If so, please list.

## **SUGGESTED ELECTION OVERSIGHT**

I strongly suggest that the NFLPA Executive Committee vote to postpone the election until serious matters can be discussed and decided upon in a proper forum, without the added distraction of a tropical vacation. Although I applaud the decision to open a website for candidates to post their platforms while also commissioning an independent accounting firm to manage the voting during the election, these measures still pose insufficient conditions for conducting a fair election. NFLPA lawyers have a vested interest in maintaining the status quo.

In light of this, it is prudent to take the following steps:

1. Retain an independent, outside law firm to oversee the election.
2. Post a copy of the election rules on the NFLPA website.
3. Institute an event plan to be instituted if DeMaurice Smith is not re-elected, to allow for a smooth transition.
4. Distribute a memo to all employees instructing them to preserve all documents, computer files, emails, or anything else that could be construed in the broadest sense as the property of the NFLPA.
5. Inform all employees that the removal, disposal, or destruction of NFLPA property in any way, without the express written consent of President Winston, is grounds for termination.
6. Instruct the Information Systems Department to record the serial numbers of all cell phones, computers, tablets, and other devices used by NFLPA employees.
7. Inform all union employees that promoting a candidate will result in immediate termination with cause.

**Cc:**

### **Executive Committee of the NFLPA:**

Lorenzo Alexander  
Ryan Clark  
Zak DeOssie  
Jay Feely  
Matt Hasselbeck

Mark Herzlich  
Adam Vinatieri  
Brian Waters  
Benjamin Watson  
Scott Wells

### **Candidates:**

James R. Acho  
Sean Gilbert  
Andrew M. Smith

DeMaurice F. Smith  
John "Boomer" Stufflebeem

### **Board of Player Representatives:**

Sam Acho  
Dwayne Allen  
Johnson Bademosi  
Dan Bailey  
Alan Ball  
Michael Bennett  
Chase Blackburn  
Justin Blalock

Clint Boling  
Alex Boone  
Dwayne Bowe  
David Bruton  
Joseph "Red" Bryant  
Matt Bryant  
Chris Canty  
Don Carey

John Carlson  
Brandon Carr  
Ryan Clady  
Colin Cole  
Jed Collins  
Kirk Cousins  
Chase Daniel  
Owen Daniels  
Thomas Davis  
Quintin Demps  
John Denney  
Patrick DiMarco  
D'Brickashaw Ferguson  
Brandon Fields  
Ryan Fitzpatrick  
Nick Foles  
Nick Folk  
Ramon Foster  
Kedric Golston  
Stephen Gostkowski  
Robbie Gould  
Corey Graham  
Chad Greenway  
Cory Harkey  
Adam Hayward  
Gerald Hodges  
Micah Hyde  
Fred Jackson  
D'Qwell Jackson  
Vincent Jackson  
Malcolm Jenkins  
Rashad Jennings  
Rashad Johnson  
Johnathan Joseph  
Paul Kruger  
Jake Long  
Nick Mangold  
Tim Masthay  
Jason McCourty  
Josh McCown  
Luke McCown  
Gerald McCoy

Bruce Miller  
Von Miller  
Zach Miller  
Thomas Morstead  
Ryan Mundy  
Chris Myers  
Jordy Nelson  
Rich Ohrnberger  
Kyle Orton  
Cedric Peerman  
Maurkice Pouncey  
Mike Pouncey  
Justin Pugh  
Glover Quin  
Eric Reid  
Darrelle Revis  
Vincent Rey  
Chad Rinehart  
Craig Robertson  
DeMeco Ryans  
Matt Schaub  
Richard Sherman  
Cecil Shorts  
Matt Slater  
Antonio Smith  
Torrey Smith  
Zach Strief  
Darrell Stuckey  
Andy Studebaker  
Shaun Suisham  
John Sullivan  
Jacob Tamme  
Charles Tillman  
Kevin Vickerson  
Leon Washington  
Scott Wells  
Ryan Wendell  
Kyle Williams  
Jason Witten  
Wesley Woodyard  
Usama Young