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BUSINESS LAW UPDATE

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MERGERS & ACQUISITIONS

Five Years Ago, Five Years Ahead: M&A Post-COVID and Into the Next Decade

By Will Henry and Alyson Letsky

Do you remember where you were on March 11, 2020? Imagine this: the stock market nosedives, a major celebrity (Tom Hanks) announces a COVID-19 diagnosis, the NBA suspends its season indefinitely, and the World Health Organization declares COVID-19 a pandemic. That whirlwind day marked the beginning of five years of unprecedented uncertainty and volatility, and its reverberations have been profound, setting the stage for a transformative period in the global economy and the M&A landscape.

The M&A Market: A Roller Coaster Ride

In the days following March 11, 2020, M&A deal work nearly came to a halt. However, the market proved resilient for the rest of 2020 and 2021. According to PwC's Global M&A Industry Trends analysis, global deal volume increased by 18% and deal values surged by 94% in the second half of 2020 compared to the first half. Both metrics were also up compared to the second half of 2019. In 2021, global M&A hit record highs, exceeding $5 trillion according to Dealogic data.

Several factors fueled this boom: stimulus funding, lower interest rates, cheap borrowing, available capital, a healthy supply of companies looking to sell, and a desire to acquire innovative businesses with technological capabilities. Sectors like technology, telecom, digital media, financial, industrial and healthcare were particularly hot.

For more details on any of the topics covered in this *Business Law Update*, please contact the authors via the links at the end of each article or David R. Valz, editor-in-chief. For information on our Corporate Transactions & Securities practice, please contact Frank D. Chaiken, practice group leader.

But the deal world is cyclical. After the M&A boom of the early 2020s, we saw a decrease over the last few years in deal activity and valuations due to higher interest rates, inflation, geopolitical tensions, and companies reluctant to sell with multiples down.

Looking Ahead: Predictions for 2030

Artificial Intelligence at the Forefront

AI will continue to be a game-changer in M&A. The pandemic accelerated the adoption of AI, allowing for more strategic decision-making, increased efficiencies, and reduced human error. We have also become more aware of AI's limitations and the importance of human oversight. While there will be bumps along the way, AI will continue to affect, and possibly transform, all aspects of the M&A process, from sourcing and identifying potential targets to valuations, due diligence, and post-closing integration.

Further, data centers play a crucial role in the deployment and operation of AI technologies, housing the vast amounts of data and the powerful computing resources necessary to train and run AI models. As AI evolves, the demand for data centers will likely grow exponentially. The effects of this demand will be iterative, driving M&A activity in this space and leading to the development of new, more exciting technologies (which themselves may be bought).

The possibility of utilizing artificial general intelligence (AGI) by 2030 presents both exciting opportunities and areas of concern. That is, AGI will not merely play chess—it will be able to demonstrate human-like cognitive abilities across a wide range of activities. If achieved, AGI could revolutionize the M&A landscape—both the clients we advise and the way we do transactions—by providing unprecedented levels of insight and automation. AGI could potentially handle complex negotiations, predict market trends with high accuracy and optimize integration strategies post-acquisition. However, the development of AGI also raises important ethical and practical considerations, including the need for robust governance frameworks to ensure AGI systems are used responsibly and do not exacerbate existing inequalities or create new risks.

The Domestic Semiconductor Market: A Competitive Landscape

The pandemic exposed deficiencies in supply chain logistics, including our reliance on foreign chip production. In response, the United States pushed tax incentives, loans, and subsidies to boost the domestic semiconductor industry. However, many domestic projects face delays, indefinite postponements, and labor shortages, leaving the future of U.S. semiconductor manufacturing in flux.

The EU and China are also investing in their semiconductor industries. But delays, labor concerns, technological obsolescence, potential tariffs, and trade conflicts leave the U.S. semiconductor industry vulnerable to substantial costs, supply chain disruptions, and geopolitical risks. Any shortages and delays could slow down technological development and impact M&A in sectors that rely on semiconductors, such as consumer electronics, cloud computing, automotive, telecommunications, IoT, and AI.

Businesses have learned their lessons from supply chain and manufacturing issues in the early 2020s and are keen not to fall victim again. Self-sustainability is key. Expect companies to pursue M&A of businesses centered around semiconductor capabilities to retain a competitive advantage.

Risk-Based Diligence Approach

The pandemic forced practitioners and businesses to re-evaluate areas of focus in due diligence. Cybersecurity, supply chain, cultural compatibility, and environmental, social, and governance (ESG) issues gained more scrutiny. Given the fluctuating market of the last few years, sustainability is critical today and in the future. While the M&A market is expected to increase in the short term, we don't expect the market of 2021 to resurface anytime soon. Acquirers will use a risk-based due diligence approach, though possibly made easier with the advancement of AI. Accordingly, more than ever, they will want to ensure they are investing responsibly and in viable businesses, avoiding costly surprises.

Industry Converging Transactions

Sustainability, adaptability, and AI will remain critical components in M&A strategy. We expect companies to target businesses with advanced technologies and capabilities to capture synergies and create value. Cross-sector M&A activity, such as consumer health companies partnering with e-commerce businesses or fintech firms, will become meaningfully more common.

Adaptability Is Key

While it's hard to imagine an event as seismic as COVID-19, businesses have learned how to react to change. We've adjusted to remote work, a return to the office, a changing workforce, a transforming consumer industry, supply chain disruptions, geopolitical events, shifting global dynamics, and more.

The best performers five years from now will be more prepared than they were in 2020 to handle turmoil, adversity and uncertainty. They will separate themselves from the pack by relying on their resiliency to anticipate shifts and risks, develop contingency plans, diversify, develop flexibility and redefine a new normal to create advantages that lead to growth. Strategic, targeted M&A will be imperative in these growth strategies. Those who adapt best to their changing environment will have the best chance of not only surviving, but thriving.

With any questions, please contact Will Henry or Alyson Letsky.

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Using Reps & Warranties to Protect the Value of a Target Company's Proprietary Software

By Jennifer N. Elleman and Ariel Cutts

The software and technology sectors continue to be at the forefront of mergers and acquisitions (M&A) activity in 2025. When a company with substantial proprietary software is being acquired, it is crucial that the purchase agreement include software-specific representations and warranties to properly protect the target company's most valuable asset.

Before drafting software representations and warranties, the buyer needs to spend time during the diligence process to ensure the seller has taken proper steps to protect its ownership of the software, including reviewing the target company's agreements related to software development, licensing and distribution. The buyer should take steps to confirm that no third party has the right to make a claim of ownership over the software, which should include a review of software development agreements, employment agreements and contractor agreements for proper non-disclosure and assignment of inventions clauses, as well as the scope of any third-party licensing agreements. The buyer should also take measures to ensure that the target has granted only limited licenses to access and use the software (not ownership rights) to any customer or strategic partner, and that the target has adequate remedies in the event of any unauthorized access or use of the software. In addition, the buyer should take the time to understand what technological, physical, and administrative safeguards were put in place by the target company in the development of the software to protect the software from any potential vulnerabilities.

The buyer's due diligence findings will impact the drafting of the software representations and warranties in the acquisition agreement.

The most foundational software representations and warranties address the target company's exclusive ownership of the software and its proprietary nature. Such representations typically require the target company to represent that it has exclusive possession and control over the source code, including the right to assign all rights in the foregoing to a buyer free and clear of any encumbrance. Additionally, the target company will typically be required to make a representation that there have not been any unauthorized disclosures of the source code to a third party, and that it has taken adequate measures to protect the source code from any such disclosure. These representations are very important to ensure that the buyer receives exclusive ownership of the software in the transaction. If the target company has not registered a copyright for the software, the buyer may want to consider filing a registration with the U.S. Copyright Office, especially if institutional financing is involved or sought.

Another critical representation typically required by buyers is that the software does not infringe or misappropriate the intellectual property rights of any third party. This representation should include verification that the target company has all necessary rights and permissions to commercially distribute the software, including any third-party software components that are embedded into and distributed with the software. This should include any open-source software components. It is crucial that the buyer understand any required flow-through licensing terms in relation to its future commercial exploitation of the software. To the extent that any open-source software is incorporated or integrated into the software, the target would usually be asked to represent that its usage of the open-source software complies with the applicable open-source code licensing, and that the use and incorporation of the open-source software does not require, as a condition of use, the disclosure and distribution of the target company's owned software in source-code form at no charge.

Additionally, even if the buyer determined during the diligence process that the target company had taken adequate security measures in the development of the software, the buyer should still consider whether the general representations regarding the lack of litigation or threatened claims should be expanded to specifically reference claims under the Digital Millenium Copyright Act (which prohibits third parties from circumventing technological safeguards to access copyrighted software without authorization).

Lastly, the buyer should consider requiring the target company to represent that there are no bugs, defects, viruses or errors in the software that would impact its value or functionality, or that could disable or erase the software without the consent of the user or permit unauthorized access to the software.

The foregoing is a list of some of the key software-specific representations a buyer should consider. A related point of consideration is whether any of the software representations should be excluded from the limitation of liability caps. The limitation of liability provision typically has carve-outs for certain fundamental representations and warranties. If the software is the target company's most valuable asset, a strong argument could be made that the representation of exclusive ownership should be considered a representation that is fundamental to the transaction and should be excluded from such caps.

Please contact Jennifer Elleman or Ariel Cutts with any questions.

CORPORATE

When Incorporating Your Business, Skip Delaware and Head to Ohio

By Edward G. "Ned" Babbitt

Delaware's status as the preeminent jurisdiction for incorporation is in question as prominent companies openly consider moves out of the state, and a recent Delaware Supreme Court decision paved the way for boards to approve corporate relocations without exposing themselves to personal liability.

Nevada and Texas have received most of the attention from companies searching for a Delaware alternative, but they are by no means the only, or even the best, option. Ohio—already the state of incorporation for more than 15 Fortune 500 companies—offers its own attractive mix of pro-business policy preferences. Companies exploring a move—or simply reviewing their options—should consider the Buckeye State as they decide how to respond to this evolving corporate landscape.

Read the rest of the article on our website. It was previously published in *Bloomberg Law*.

IMMIGRATION

Trump Administration Focuses Heavily on Immigration Workplace Enforcement

By Dwight D. Myfelt

It should come as no surprise to employers that the Trump administration has focused heavily on immigration workplace enforcement in the early months of this administration as President Trump campaigned extensively on the issue of immigration enforcement. Employers who had become accustomed to the more relaxed approach of the Biden administration with regard to immigration workplace compliance now need to bring all of their documentation into compliance and prepare their employees for visits by Department of Homeland Security officials.

The administration's efforts include three primary activities:

- Visits by U.S. Immigration and Customs Enforcement (ICE) officers, who arrive unannounced to investigate the employment of individuals who do not have the authorization to be or work in the United States. Unauthorized individuals will be detained and placed in proceedings to remove them from the United States.
- Reviews of I-9 forms, supporting documents, and creation/maintenance systems to confirm compliance with regulatory requirements. Advance notice of these reviews is provided.
- Worksite visits by USCIS agents seeking to confirm compliance with work visa regulations (proper payment of wages, correct work location, and performance of job duties consistent with those listed on the visa petition). No advance notice of these visits is provided.

We anticipate these efforts will increase as the Department of Homeland Security increases staff and resources. Employers must be prepared to handle each of these types of enforcement actions. Employers who have not already done so should immediately review their current policies and prepare for a worksite compliance action.

Key Points for Employers Regarding ICE Visits

- **Preparation:** Employers should have a clear plan in place for handling ICE visits. This includes designating a point of contact within the organization who is trained to interact with ICE agents and ensuring that all employees are aware of their rights and responsibilities during such visits.
- **Documentation:** Employers should maintain organized and up-to-date employment records, which includes ensuring that all I-9 forms are properly completed and stored. Regular internal audits can help identify and correct any discrepancies before an ICE visit occurs.
- **Legal Counsel:** Employers should have legal counsel on standby who specialize in immigration law to provide guidance during an ICE visit and help navigate any legal complexities that may arise.

Responding to ICE Visits

In the event of an ICE visit, it is essential for employers to respond appropriately to minimize disruption and potential legal consequences.

- **Verification:** Request to see the ICE agents' credentials and any warrants or subpoenas they may have. Ensure that the scope of the visit is understood and that the agents do not exceed their authority. Employers should also make clear to ICE that while they will not interfere with the investigation, the employer does not consent to the investigation or to ICE taking any business records.
- **Documentation:** Keep detailed records of the visit, including the names of the agents, the documents they review, and any questions they ask. This

documentation can be valuable in case of future legal proceedings.

- **Employee Rights:** Inform employees of their rights during an ICE visit. Employees have the right to remain silent and to request legal representation. Ensure that employees are aware of these rights and that they are not coerced into providing information. These preparations should be made in advance of the visit. Employers should not interfere with the investigation while it is being conducted.

Audits and Compliance

The I-9 form is a document that verifies the identity and employment authorization of individuals hired for employment in the United States. Employers must ensure that their I-9 forms are compliant with federal regulations to avoid penalties and fines. It is important to note that employers cannot make any corrections to I-9 forms and documentation after a Notice of Inspection has been received; therefore, employers should conduct a self-audit and correct these errors prior to the receipt of a Notice of Inspection while they still have the opportunity to do so.

Key Points for Employers

- **Accuracy:** Ensure that all sections of the I-9 form are accurately completed within the required timeframes. Section 1 must be completed by the employee on or before the first day of employment, and Section 2 must be completed by the employer within three business days of the employee's start date.
- **Retention:** Employers are required to retain I-9 forms for all current employees and for a specified period after an employee's termination (either three years after the date of hire or one year after the date of termination, whichever is later). In the course of self-audits, employers should destroy I-9 records which are no longer required to be kept.
- **E-Verify:** Consider enrolling in E-Verify, a web-based system that allows employers to confirm the eligibility of their employees to work in the United States. While not mandatory for all employers, participation in E-Verify can provide an additional layer of compliance assurance.

Best Practices for Compliance

To navigate the complexities of immigration workplace enforcement, employers should adopt best practices that promote compliance and reduce the risk of violations.

Key Points for Employers:

- **Training:** Provide regular training for HR personnel and managers on I-9 compliance, anti-discrimination laws, and how to handle ICE visits. This ensures that everyone involved in the hiring process is knowledgeable about their responsibilities.
- **Internal Audits:** Conduct periodic internal audits of I-9 forms and employment records. This proactive approach can help identify and rectify any issues before they become problematic during an official audit.
- **Policy Development:** Develop and implement clear policies regarding the verification of employment eligibility, record-keeping, and response protocols for ICE visits. Ensure that these policies are communicated to all employees and consistently enforced.

Conclusion

The Trump administration's focus on immigration workplace enforcement presents significant challenges for employers. By staying informed, implementing best practices, and preparing for visits by immigration-related agencies, employers can ensure compliance and protect their organizations from legal and financial repercussions. Proactive measures, thorough training, and a clear response plan are essential components of a robust immigration compliance strategy.

Please contact Dwight Myfelt with any questions.

BUSINESS LITIGATION

Back from the Brink: Overcoming a Default Judgment

By Emily J. Mathieu

Companies often have procedures in place to handle incoming deliveries of court papers, including service of a summons and complaint where the company is named as a defendant in a lawsuit. But despite best efforts to manage litigation risks, occasionally a company finds itself on the receiving end of a default judgment.

This may occur when, despite receiving the summons and complaint, the company fails to mount any defense in court due to an internal error. For example, an employee might have received delivery of the court papers without ensuring that they were given to management or the legal department. (Note that a plaintiff might obtain default judgment by asserting that the delivery of court papers was proper service of process, regardless of whether it would withstand scrutiny if the defendant appeared in court to contest it.) In the worst-case scenario, the company's management and legal department have no awareness that the company is being sued until *after* a default judgment is entered against it and execution of the judgment, such as levying the company's assets, is imminent.

What can be done when a company learns that a default judgment has been entered against it?

Time is of the essence. In federal court, a defendant can make a motion to vacate a judgment, within one year of the judgment being entered, for a range of reasons including mistake, excusable neglect, newly discovered evidence, and fraud. However, after a year has passed, grounds for vacating the judgment are very limited. The defendant may prevail if it can show that the judgment is "void"—such as if the court lacked subject matter jurisdiction over the case or personal jurisdiction over the defendant—or if it can show that the judgment has been satisfied. But if the default arose from the defendant's neglect (actual or perceived), the judgment may be upheld even if the defendant would have had a defense on the merits. While Federal Rule of Civil Procedure 60(b)(6) states that a judgment can be vacated after a year for any "reason that justifies relief," most courts have interpreted this to require "extraordinary circumstances" outside of the defendant's control. For example, the COVID-19 pandemic arguably gave rise to "extraordinary circumstances," such as when businesses were ordered to close and employees had no access to business premises. At least one court has found that the plaintiff's failure to follow local court rules related to notifying defendant of the default judgment motion contributed to "extraordinary circumstances." A significant change in law or a conflicting court decision can also be "extraordinary circumstances." But these are narrow pathways, subject to the discretion of the court. In addition, before vacating a judgment under Rule 60(b)(6), the court will also look at the timeliness of the motion to vacate, so a defendant should act urgently as soon as it becomes aware of the default judgment against it, even if a year has passed. Ultimately, the court has significant flexibility in deciding these motions.

In New York, a similar one-year cutoff applies. *See* CPLR §§ 317, 5015. "Excusable default," or in some instances lack of notice of the summons, can be grounds to vacate a judgment if the motion to vacate is made within one year. Otherwise, the defendant must show newly discovered evidence, fraud, misrepresentation, misconduct, lack of jurisdiction, or reversal of an order underlying the judgment.

Depending on the grounds for vacating the judgment, the defendant may need to persuade the court that it has a meritorious defense—that is, that reopening the case will not be a waste of time. While it is not necessary for the defendant to *prove* its defense, it may need to present evidence of facts that, if proven, would constitute a complete defense.

Finally, if you are the plaintiff seeking default judgment, pay close attention to court requirements, including local rules. For example, the plaintiff may be required to mail copies of the default judgment motion to the defendant, despite the fact that the defendant has never appeared in the case. If you do not, you may be giving the defendant an easier path to getting a default judgment vacated.

Please contact Emily Mathieu with any questions.

SECURITIES QUARTERLY UPDATE

Check out the latest edition of *Securities Quarterly Update*, our newsletter that provides updates and guidance on securities regulatory and compliance issues. In this edition, we review recent SEC developments, guidance, and enforcement actions and proposed changes to Delaware corporate law, as well as some disclosure and corporate governance considerations.

INVESTMENT MANAGEMENT

Fast Break or Financial Trap? Navigating Investment Risks in Sports

By Marc B. Minor and Imani Tibbs Boone

With private equity in play across all major sports leagues and the rapid growth of the athlete economy, professional athletes seeking long-term investment [1,2] Unlike sophisticated, repeat investors who know their way around the risk disclosures section of a private placement memorandum, the first risk for many athlete-investors with substantial income is selecting ethical representation.

Take, for example, the recent conviction of an investment adviser that defrauded an NBA All-Star (All-Star) and a retired NBA player of a combined $8 million.[3] In late 2020, the All-Star expressed interest in purchasing the Atlanta Dream, a WNBA franchise, to his agent. In turn, the agent introduced the All-Star to an investment adviser to broker the deal, despite the adviser's 2005 and 2014 fraud convictions.[4,5,6] With the agent's help, the adviser convinced the All-Star to contribute $7 million to the fictitious investment opportunity, going so far as using different phone numbers, creating and controlling a shell company, and pitching a fabricated "vision plan" that falsely listed companies and celebrities that "supported" the All-Star's ownership efforts.[7] (Under similar pretenses, the agent and the investment adviser convinced a retired NBA player to invest $1 million in the development of an NBA rookie ahead of his 2020 draft.[8]) Unfortunately, it wasn't until ESPN reported the sale of the Atlanta Dream in 2021 that the All-Star learned of the fraud.[9] The agent pled guilty to conspiracy to commit wire fraud upon indictment and was sentenced to time served.[10,11] Conversely, since his conviction in October 2024, the investment adviser has been sentenced to 12 years in prison, including five years of supervised release, and ordered to pay $8 million in restitution.[12] opportunities should be aware of the unique risks and challenges.

Investment Management Considerations

This recent conviction highlights several legal considerations for athlete-investors, including regulatory oversight, league-specific governance, and proactive measures to mitigate risk.

Regulatory Oversight. Under the Investment Advisers Act of 1940, as amended (the "Advisers Act"), investment advisers must register with the Securities and Exchange Commission (SEC) and comply with specific conduct standards as a means to protect investors, unless otherwise exempted.[13,14] Such standards include providing full disclosure of fees, commissions, and investment risks; avoiding conflicts of interest; maintaining accurate books and records; and undergoing examinations by the SEC.[15,16,17,18] Although some private offerings are exempt from registering with the SEC under Rules 506(b) and (c) of Regulation D, such offerings are disqualified from exemption if the issuer has a relevant criminal conviction, regulatory or court order, or other disqualifying event.[19]

League-Specific Governance. Several professional sports leagues have created initiatives to protect players from financial fraud. Most notably, the NFL Players Association's (NFLPA) Financial Advisor Registration Program connects players to qualified financial professionals who meet specific regulatory and ethical criteria.[20] Other leagues, such as the NBA, WBNA, MLS, and NWSL, offer holistic financial literacy training through annual programming and partnerships.[21,22,23,24]

Proactively Mitigating Risk as an Athlete-Investor. Athlete-investors should only work with an SEC-registered investment adviser and verify that adviser's credentials and disciplinary history through FINRA's Investment Adviser Registration Depository. Additionally, athlete-investors should complete thorough due diligence on every investment opportunity before contributing capital. This includes consulting with attorneys and tax professionals, and leveraging the initiatives provided by their respective leagues. Lastly, to catch irregularities early, athlete-investors should regularly monitor their investment portfolios and conduct periodic audits of their financial statements.

Taken together, the proactive employment of these tactics may have prevented the NBA All-Star from falling for the convicted adviser's fraudulent scheme. Under the facts of that case, we know that the adviser was not an investment advisory representative with a registered investment advisory firm or any other professional league, nor was he issuing a Rule 506 private offering – rather, the adviser was a defunct businessman with a history of federal fraud convictions and a penchant for luxury.[25,26] Still, the adviser and the agent are just the tip of the iceberg for government prosecution. This year, another investment adviser will stand federal trial for allegedly defrauding three current and former NBA players of a combined $13 million.

While all investments carry some risk, and although the athlete economy is replete with unique challenges, sports as an asset class has steadily become a $3 trillion market. Athlete-investors should feel empowered to join the fray. With the proper legal and financial protections, athlete-investors will make informed decisions and contribute to their long-term prosperity.

With any questions, please contact Marc Minor or Imani Tibbs Boone.

[1] The National Football League was the last major American sports league to approve private equity investments in team ownership. Brendan Coffey et al., "NFL Owners Approve Private Equity Deals, Unlock Billions," Sportico, August 27, 2024.
[2] In 2022, the global sports industry contributed over $403 billion to the economy, with a compounded annual growth rate of 9.13%. By 2028, the economic impact of the global sports economy is expected to yield over $680 billion. Statista, "Sports Industry Revenue Worldwide in 2022, with a Forecast for 2028," statista.com (May 22, 2024).
[3] *United States v. Darden*, 23-CR-134 (VSB) (S.D.N.Y. Oct. 17, 2024)
[4] Briscoe also introduced Howard to Calvin Darden Sr., a retired top executive at United Parcel Service whom Darden Jr. repeatedly impersonated to add credibility to his fraudulent schemes. The elder Darden has not been financially implicated in his son's criminal activity. *Darden*, 23-CR-134; Nate Raymond, "N.Y. Man Gets Year in Prison for Maxim Magazine Deal Fraud," Reuters.com, July 18, 2016.
[5] In 2005, Darden Jr. pled guilty to four counts of grand larceny and one count of scheming to defraud over $7.16 million from eight investors and three employers, by deceptively claiming to manage the assets of several celebrities and professional athletes. Further, Darden Jr. falsely represented to a Taiwanese company that he would arrange an NBA exhibition game in Asia in exchange for a $500,000 investment. Darden Jr. served about 4.5 years in prison. ALM, "N.Y. Stockbroker Pleads Guilty in Multimillion-Dollar Scam," Law.com, August 5, 2005; Raymond, *supra* note 4.
[6] In 2014, following his first release from prison, Darden Jr. pled guilty to wire fraud charges for organizing a fraudulent investment scheme for the purported purchase of Maxim magazine in which he impersonated Darden Sr. U.S. District Judge Jed Rakoff sentenced Darden Jr. to one year in prison. *United States v. Darden Jr.*, No. 14 MAG 283, (S.D.N.Y, Nov. 4, 2014).
[7] At trial, Howard testified that the fraudulent "vision plan" increased his confidence in the purported deal. Michael McCann, "Dwight Howard's WNBA Swindler Faces Lengthy Prison Sentence," Sportico.com, January 24, 2025.
[8] McCann *supra* note 7.
[9] McCann*, supra note 7*; "WNBA Approves Sale of Atlanta Dream to Larry Gottesdiener," Dream.WNBA.com, February 26, 2021.
[10] Pete Brush, "Ex-NBA Agent Avoids Prison For Forging Player's Signature," Law360.com, February 16, 2024.
[11] As of his indictment on March 23, 2023, Briscoe is no longer a National Basketball Players Association certified player's agent. Mike Vorkunov, "Ex-NBA agent among 4 charged with schemes to defraud pro basketball players," NYTimes.com, March 23, 2023.
[12] The *Darden* Court remanded Darden Jr. to jail on December 23, 2024, after several violations of his bail conditions, including engaging in transactions greater than $1000 by trying to obtain a $3.1 million mortgage. McCann *supra* note 7.
[13] 15 U.S.C. § 80b-1 (2010).
[14] Under the Advisers Act, certain advisers need not register with the SEC, including, but not limited to some private fund advisers, venture capital fund advisers, some foreign advisers, banks, lawyers, accountants, engineers, and/or teachers, registered broker-dealers, publishers of bona fide newspapers, family offices. 15 U.S.C. § 80b-3(b) (2010).
[15] 15 U.S.C. § 80b-4(b) (2010).
[16] 15 U.S.C. § 80b-4(c) (2010).
[17] 15 U.S.C. § 80b-6 (2010).
[18] 15 U.S.C. § 78a et seq. (2010).
[19] 17 CFR § 230.506(b)-(d) (2012).
[20] National Football League Player Association, "Regulations and Code of Conduct Governing Registered Player Financial Advisors," NFLPA.com, May 2023.

[21] Shaun Powell, "NBA Hosts Annual Rookie Transition Program for League's Newcomers," NBA.com (July 11, 2023).
[22] WBNA, "U.S. Bank and WNBA Partner with Project Destined for First All-Female Mentor Program She's Invested: Supporting Emerging Female Leaders," WNBA.com (May 31, 2022).
[23] MLS, Player Engagement, "Resources," MLSSoccer.com (March 16, 2025).
[24] NWSL, "A New Era Of Professional Development for Athletes: NWSL and UKG Launch 'Beyond the Field," NWSLSoccer.com (June 18, 2024).
[25] Darden Jr. was a registered investment broker from March 2000 to October 2003. FINRA, "BrokerCheck Report – Calvin Ramarro Darden Jr.," (March 16, 2025).
[26] Over the course of his criminal activity, Darden Jr. used stolen funds to purchase a $2.8 million mansion with a 20-foot-long aquarium for sharks and an in-house theater, a Rolls-Royce, Mercedes G63, Porsche 911 Turbo S, Lamborghini Aventador, jewelry, and other luxury items. ALM *supra* note 5; Raymond *supra note 4;* McCann *supra* note 7.