



Rick Horrow, The Sports Professor

Marketing and Representing the Professional Athlete

Special to PBFN Connections

Maybe LeBron James has been following the HBO hit series "Entourage" a little too closely. In a startling moment on Monday, the NBA superstar fired his agent of two years Aaron Goodwin – who negotiated more than \$135 million in endorsement deals for the 20-year-old phenom, including a \$90 million deal with Nike. James is reportedly turning over representation duties to three longtime friends, who together call themselves the "Four Horsemen."

As in "Entourage," which follows the trajectory of a rising 20-something movie star and the three buddies from Queens who oversee his career, the odd man out is the agent. As life imitates art, so does sport imitate Hollywood.

Witness the recent NFL draft: Will quarterback Alex Smith remind San Francisco 49ers fans of Joe Montana and Steve Young? Will running back Ronnie Brown make Miami Dolphins fans *forget* Ricky Williams? Will Detroit Lions wide receiver Mike Williams shine despite his signing with an agent and sitting out last year? Will Green Bay Packers backup quarterback Aaron Rodgers be the endorsement darling for "dashed expectations" after sliding to 24th in this year's draft? Will controversial Ohio State runner Maurice Clarett become the next in the long line of Denver Broncos running back superstars; or will some other free agent become the endorsement story of this next NFL season?

The success of these players in their tough new world also depends on the business savvy and guidance provided by their respective agents, who serve as core advisors, tutors, yentas, stylists, dieticians, and confessors.

A traditional knock on sports agency used to be that any schlump off the street could be an agent. In fact, the only qualification for someone to be a sports agent was that he had some sort of athlete who referred to him as such!

Clearly, as contracts and endorsement deals get richer, sports agents continue to go to greater and greater lengths to win clients. Last year, the National Football League Players Association reported that there were more than 1,600 certified agents – and 300 more have applied for certification since.

The week before this year's draft, the NFL signed television deals guaranteeing that more than \$3.735 billion annually would be added to NFL coffers for the next 6-8 years. That big number represents more national TV money than is being spent on the NBA, Major League Baseball, NASCAR, PGA TOUR, NCAA basketball, and the Olympics combined. Star struck agents see at least two-thirds of that money going to players...and 2-5 percent of it to their representation.

While "Jerry Maguire" and "Arli\$\$" popularized the profession, the National Football League, the courts, the federal government and some states have attempted to regulate it. However, while the American Bar Association regulates lawyers and the American Medical Association sets standards for doctors, there is no direct control on entering the sports agency business. As a result, three major challenges remain clear.

CHALLENGE ONE:

Protecting the professional athlete's interest while negotiating top dollar over the long haul

Contracts have obviously become more lucrative, and they will only increase in the future. Total compensation for NFL players exceeded \$2.5 billion in 2004, up 20 percent since 2002. Two years ago, the Cincinnati Bengals paid top draft pick Carson Palmer a \$10 million signing bonus and a \$4 million option bonus. Agent David Dunn's take from the Palmer bonuses alone

exceeded \$420,000. Compare that to the 1983 signing of first draft pick John Elway – where agent Marv Demoff received \$40,000 for Elway's \$1 million bonus.

The *SportsBusiness Journal* characterizes agents as “naturally aggressive people” – and the higher stakes likely compound that personality trait exponentially.

Competition among agents for high NFL draft picks is fierce. Though agent-lawyers are regulated by the American Bar Association and state Canons of Ethics, solicitation is commonplace for non-lawyer agents. One agent noted that a second or third round draft pick might be provided a six-figure “marketing guarantee” to sign with a respective agent, even if many of the players would never earn enough endorsements to pay these agents off.

Many athletes seek the safety of the sports mega-firm. Conglomerates IMG and SFX led the First Round NFL Draft Derby, with four picks each out of the 32 players. Baseball super agent Scott Boras signed free agent baseball contracts totaling more than \$321 million for his players this winter – nearly 30 percent of the \$1.09 billion in total guaranteed money for this year's baseball free agents.

On the other hand, high competitive pressures and high economic stakes often cause high visibility problems. Two months ago, the NFL Players Association Disciplinary Committee voted to suspend agent Jerome Stanley for one year, after Stanley “failed to give notice” to the Cleveland Browns that wide receiver Dennis Northcutt wanted to void his contract in 2004 – costing him substantial free agent clout. In January, former Chicago Bulls star Scottie Pippen filed a multi-million dollar lawsuit against his financial advisor Robert Lunn. Pippen won an \$11.8 million judgment against Lunn (who lost at least \$7 million of Pippen's money in real estate ventures and \$1.7 million in a poorly structured deal to invest in a small jet, according to allegations contained in the lawsuit).

Other cases are marked by outright fraud. According to the NFL Players Association, at least 78 players over the last four years have been defrauded of over \$40 million, and Executive Director Gene Upshaw concluded that these figures are “just the tip of the iceberg.”

Outside of the NFL Players Association and its brethren in other sports, the only other organization dedicated to protecting athletes' interests is Professional Business & Financial Network (PBFN), an independent association founded by 11-year NFL veteran Ryan McNeil. PBFN picks up where agents usually leave off by providing professional athletes with the fundamental tools they need to succeed in business – both during and beyond their athletic careers. By creating peer relationships between pro athletes, the organization does a good job of providing strategic business advice and tools, supplying educational opportunities for professional growth, and offering athletes opportunities to build valuable long-term business relationships. On June 25th, PBFN will honor Muhammed Ali, Don Coleman, Chris Evert, George Foreman, Franco Harris, Gale Sayers, Jennifer Azzi, Robert Porcher, Billie Jean King and Junior Bridgeman for their achievements and contributions in business and philanthropy.

No doubt their agents will be front and center. Hopefully, they'll be taking notes.

CHALLENGE TWO: Marketing the team sport athlete

More money than ever before is available for athletic endorsements. Nike's long-term endorsement tab now exceeds \$1.6 billion, growing \$192 million from 2004. Adding to that windfall, advertisers are spending an estimated \$27.4 billion on sports media buys this year.

However, Corporate America is more careful in emphasizing quality over quantity – and endorsement contracts are now on average smaller, shorter, and easier to terminate.

Clearly, the name of the corporate game is risk avoidance. Sports marketers cannot guarantee against injuries – like those that caused a major loss of marketing brand identity during Emmitt Smith's twilight with the Arizona Cardinals. Atlanta Falcons quarterback Michael Vick received a 10-year, \$130 million deal to play football, but his Ron Mexico alias and the controversy generated may cause some second-guessing in corporate boardrooms. Red Sox center fielder Johnny Damon was rejected by Disney for a commercial (he said, because of his long hair). Reebok withdrew a commercial featuring rapper 50 Cent from British television after viewers complained that it glamorized guns.

On the other hand, Corporate America knows that the superstar moves product. Tiger Woods, Michael Jordan, and James have caused a major upward spike in their respective endorsement products. And such top NFL jersey sellers (according to NFLShop.com) as quarterbacks Brett Favre, Vick, and Tom Brady and linebackers LaVar Arrington, Brian Urlacher, and Ray Lewis seem to have two things in common – proven, on-field performance, coupled with a special charisma and visibility.

For most team sport athletes, endorsements require patience. While certain first-rounders in this year's draft may be prime candidates for the big endorsement pot of gold, most athletes will not receive substantial marketing money until they make All Pro...and stay out of trouble.

And most agents look for creative "image" marketing for the long term. As Dan Marino prepares for his August 7 entry into the National Football League Hall of Fame, he signed an endorsement deal with Sleep Innovations foam products. His marketing agent, Ralph Stringer, explains. "Every retired football player has problems sleeping," he says.

CHALLENGE THREE: Cleaning up the agency business

In the cleanup process, players unions are first attempting to clean their own houses. The NFL Players Association has taken action against at least 50 agents during the past five years. The most visible case involved agent Dunn – suspended by the NFLPA after he left former partner Leigh Steinberg and took 50 clients with him. Initiated in 2001, the case goes on today. Steinberg's firm spent over \$12 million litigating the case, and last month a federal appeals court overturned a \$44.6 million verdict against Dunn. The saga continues – Dunn's personal bankruptcy has postponed the two-year suspension by the NFLPA.

In basketball, NBA Players Association Executive Director Billy Hunter formed a "coaching committee" of agents to try to deal with this issue, and has actively proselytized in seminars and otherwise.

The courts have become more actively involved as well. Last month, NFL player agent Josh Luchs filed suit against former employer and veteran football agent Gary Wichard claiming that he was denied agreed-to commissions on playing and marketing contracts for NFL players. Seeking compensatory damages of more than \$100,000 and unspecified punitive damages, Luchs claims that he is entitled to receive payment from Pro-Tect (a firm that now represents three NFL first-rounders this year).

As a last resort, if necessary, states and the federal government stand ready to clean the business up. Over the past years, states including Florida and Pennsylvania have passed legislation that requires agent regulation. Earlier this year, Auburn University banned agent Carl Poston from dealing with its student-athletes based on the stringent Alabama sport agent registration law. While enforcement has increased, state regulation has been uneven and unpredictable – and 13 states have no regulation at all.

On the federal level, the Sports Agent Responsibility and Trust Act was signed into law by President Bush last Fall. Agents who now sign college eligible players are required to tell their players that they will lose their eligibility by signing with an agent. Agents are also required to inform the athletic director at the player's school within 72 hours of signing. Agents are also prohibited from soliciting a student-athlete and from signing them by giving them false or misleading information, or providing anything of value to their families or friends. Though enforcement may be difficult, all agree that this is a step in the right direction in cleaning up a business that is increasingly difficult to control.

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