



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

January 17, 2018

North Carolina State University

Re: Grand Jury Subpoena

Please be advised that the accompanying grand jury subpoena has been issued in connection with an official criminal investigation of a suspected felony being conducted by a federal grand jury. The Government hereby requests that you voluntarily refrain from disclosing the existence of the subpoena to any third party. While you are under no obligation to comply with our request, we are requesting you not to make any disclosure in order to preserve the confidentiality of the investigation and because disclosure of the existence of this investigation might interfere with and impede the investigation.

If you intend to disclose the existence of this Grand Jury Subpoena request to a third party, please let me know before making any such disclosure.

Thank you for your cooperation in this matter.

Very truly yours,

GEOFFREY S. BERMAN
United States Attorney

By: 
Edward B. Diskant/ Eli J. Mark
Assistant United States Attorneys
Tel: (212) 637-2294/-2431
Email: Edward.Diskant@usdoj.gov

United States District Court
SOUTHERN DISTRICT OF NEW YORK

TO: North Carolina State University

GREETINGS:

WE COMMAND YOU that all and singular business and excuses being laid aside, you appear and attend before the GRAND JURY of the people of the United States for the Southern District of New York, at the United States Courthouse, 40 Foley Square, Room 220, in the Borough of Manhattan, City of New York, New York, in the Southern District of New York, at the following date, time and place:

Appearance Date: January 31, 2018

Appearance Time: 10:00 a.m.

to testify and give evidence in regard to an alleged violation of :
18 U.S.C. §§ 666, 1341, 1343, 1346, 1349, 1952, 1956

and not to depart the Grand Jury without leave thereof, or of the United States Attorney, and that you bring with you and produce at the above time and place the following:

See attached rider. Personal appearance is not required if the requested records are (1) produced by on or before the return date to Assistant U.S. Attorney Eli J. Mark via the address below; and (2) accompanied by an executed copy of the attached Declaration of Custodian of Records. **Due to the ongoing nature of the investigation, it is requested that you do not disclose any information relating to this Grand Jury subpoena request to any third party.**

Failure to attend and produce any items hereby demanded will constitute contempt of court and will subject you to civil sanctions and criminal penalties, in addition to other penalties of the Law.

DATED: New York, New York
January 17, 2018


GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York


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RIDER

(Grand Jury Subpoena to North Carolina State University dated January 17, 2018)

Definitions and Instructions:

1. This Subpoena calls for the production of specific documents—including e-mails and text messages—in the possession, custody or control of North Carolina State University (“NC State”) or any employee, officer, principal, or board member of NC State for the time period **January 1, 2014 to the present**.
2. This Subpoena applies to any responsive documents wherever they may be found, including any of personal electronic devices including any cellular phone or other telephone, pager, tablet, laptop computer, desktop computer, personal email, cloud storage, messaging or social media accounts used by employees, officers, principals, or board members of NC State to conduct NC State business, and including any and all handwritten notes in possession of any employees, officers, principals, or board members of NC State.
3. With the exception of documents containing handwritten notes, please produce requested records in electronic form (native format where necessary to view the material in its full scope) in a manner that is OCR-searchable, and with all available electronic metadata. Please provide the originals of all papers, notepads, notebooks, diaries, or calendars upon which responsive handwritten notes may be found.
4. The term “documents” includes writings, emails, text messages, drawings, graphs, charts, calendar entries, photographs, audio or visual recordings, images, and other data or data compilations, and includes materials in both paper and electronic form.
5. This Subpoena does not call for the production of any documents protected by a valid claim of privilege, although any responsive document over which privilege is being asserted must be preserved. Any documents withheld on grounds of privilege must be identified on a privilege log with descriptions sufficient to identify their dates, authors, recipients, and general subject matter.

Materials to be Produced:

1. All documents regarding the recruitment and enrollment of Dennis Smith Jr. (“Smith”), including but not limited to:
 - (a) any communications between any member of the NC State Athletics Department, including the coaching staff of the NC State men’s basketball team, and Smith, Dennis Smith Sr., Shawn Farmer, or any other family member or representative of Smith.
 - (b) any communications regarding Smith, Dennis Smith Sr., Shawn Farmer, or any other family member or representative of Smith.
 - (c) all application and/or enrollment forms, financial aid forms, eligibility forms including any NCAA student athlete statements, and/or any national letter of intent submitted by or on behalf of Smith, whether completed or in draft form.

- (d) All communications with or regarding the documents responsive to Request No. 1(c).
2. All communications between any member of the NC State Athletics Department, including the coaching staff of the NC State men's basketball team, and: (i) James Gatto, a/k/a "Jim"; (ii) Christopher Rivers; (iii) Thomas ("TJ") Gassnola; (iv) Anthony Coleman, (v) Merl Code; and (vi) any other representative of Adidas.
 3. Personnel files for Mark Gottfried and Orlando Early ("Early"), including but not limited to employment contracts and/or documents reflecting any terms of compensation.
 4. Any forms signed by Early regarding student-athlete eligibility, and any representations made by Early regarding student-athlete eligibility.
 5. Any contract and/or agreement between NC State and Adidas effective during the period covered by this subpoena, as well as any documents sufficient to reflect any (unsigned) oral agreements, if any.

IMPORTANT: REQUEST FOR NON-DISCLOSURE

Due to the ongoing nature of the investigation, it is requested that you do not disclose any information relating to this Grand Jury subpoena request to any third party.

Declaration of Custodian of Records

Pursuant to 28 U.S.C. § 1746, I, the undersigned, hereby declare:

My name is _____.
(name of declarant)

I am a United States citizen and I am over eighteen years of age. I am the custodian of records of the business named below, or I am otherwise qualified as a result of my position with the business named below to make this declaration.

I am in receipt of a Grand Jury Subpoena, dated January 17, 2018, and signed by Assistant United States Attorneys Edward B. Diskant and Eli J. Mark, requesting specified records of the business named below. Pursuant to Rules 902(11) and 803(6) of the Federal Rules of Evidence, I hereby certify that the records provided herewith and in response to the Subpoena:

- (1) were made at or near the time of the occurrence of the matters set forth in the records, by, or from information transmitted by, a person with knowledge of those matters;
- (2) were kept in the course of regularly conducted business activity; and
- (3) were made by the regularly conducted business activity as a regular practice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____.
(date)

(signature of declarant)

(name and title of declarant)

(name of business)

(business address)

Definitions of terms used above:

As defined in Fed. R. Evid. 803(6), “record” includes a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses. The term, “business” as used in Fed. R. Evid. 803(6) and the above declaration includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.