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JAY Z HAS 99 PROBLEMS, AND BEING A SPORTS AGENT MAY BE ONE

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I. INTRODUCTION

The sports industry is booming. In 2010 alone, the North American sports market boasted a valuation of over \$49 billion in revenue, with 31.4% of that revenue received solely from sporting event gate receipts.¹ PricewaterhouseCoopers (“PWC”) projects sports revenue to grow at a compound annual growth rate of 4.0% in North America and at a compound annual growth rate of 3.7% globally.² If the aforementioned numbers are correctly projected, global revenue originating from sport will rise to \$145.3 billion in 2015.³ It is thus not a surprise that hundreds of thousands, if not millions of people, would try to get their hands on a cut of this growing and lucrative business.

Businessmen are not the only people who see the potential in the expanding sports industry; athletes recognize the ever-present opportunities and demand a portion of this revenue from their respective leagues in the form of yearly salaries. In 2010–2011, the average player salary for a professional athlete in the four major U.S. sports leagues was as follows: \$5.15 million for a National Basketball Association (NBA) player, \$3.34 million for a Major League Baseball (MLB) player, \$2.4 million for a National Hockey League

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1. PRICEWATERHOUSECOOPERS, CHANGING THE GAME: OUTLOOK FOR THE GLOBAL SPORTS MARKET TO 2015 12 (2011) [hereinafter PWC REPORT], *available at* http://www.pwc.com/en_GX/gx/hospitality-leisure/pdf/changing-the-game-outlook-for-the-global-sports-market-to-2015.pdf.

2. *Id.* at 12–13.

3. *Id.* at 11.

(NHL) player, and \$1.9 million for a National Football League (NFL) player.⁴ With so much money on the line for professional athletes, and in turn, the men and women that reap the benefits of the athletes' skills, there is a need for quality representation on behalf of professional players at the negotiation table. Such a need supported a solution—the modern day sports agent.

The sports agency business holds somewhat of a negative connotation—one of sleazy businessmen looking for any way to make a dollar off a player, team, and/or company. The negative connotation applied to the entire industry is improper; however, the label as applied to specific agents is not completely unwarranted. Sports agents including, but not limited to the popular names of Tank Black and Percy Robert Miller (“Master P.”) provide the general public some facts to substantiate its perception of sports agents and the business they operate. The United States federal government ultimately decided that it needed to clean up the sports agency industry and passed the Sports Agent Responsibility and Trust Act (SPARTA).⁵ At its core, SPARTA requires sports agents to be truthful to their clients, disclose warnings to potential clients about their risk of losing their NCAA eligibility to compete in collegiate sports as student-athletes, and abstain from providing anything of value to student-athletes who have remaining NCAA eligibility.⁶ However, as of April 2012, “SPARTA ha[d] not once been used to punish a sports agent with a civil or criminal penalty for violating the Act.”⁷

Due to the limited impact federal government regulation has had on sports agency business practices, the respective professional sports league players' associations have become increasingly involved in the regulation of individuals who wish to represent athletes under employment by the professional team sports leagues (the union members). Prospective player agents must go through rigorous processes in order to receive certification by each players' association that bargains for the athletes whom the agent wishes to represent. Each of these processes that are relevant to the focus of this Article will be analyzed in detail herein. While most individuals apply and become player agents without heightened scrutiny or media attention, one specific individual has received extensive inquiry and been tracked each step

4. Steve Aschburner, *NBA's 'Average' Salary—\$5.15M—A Trendy, Touchy Subject*, NBA.COM (Aug. 19, 2011), http://www.nba.com/2011/news/features/steve_aschburner/08/19/average-salary/index.html.

5. 15 U.S.C. §§ 7801–7807 (2012).

6. See Darren A. Heitner, Comment, *Duties of Sports Agents to Athletes and Statutory Regulation Thereof*, 7 DARTMOUTH L.J. 246, 249–251 (2009) [hereinafter Heitner, *Duties of Sports Agents to Athletes*].

7. See Thomas A. Baker III et al., *Football v. Football: A Comparison of Agent Regulation in France's Ligue 1 and the National Football League*, 2 PACE I.P. SPORTS & ENT. L.F. 1, 6 (2012).

along the way as he attempts to further build his empire by entering the world of sports agency. This individual is no other than Shawn Carter—better known as Jay Z.

This Article will analyze agent regulation by each of the players associations that Jay Z has, or may wish to, become certified with in order to properly represent their players. A review of relevant literature will examine the strengths and weaknesses of Jay Z's endeavor and the issues associated with his new project. Many people in the media and veteran leaders in the sports industry have voiced concern about Jay Z's early practices and his bold foray into sports agency. This Article will analyze each of those problematic contingencies with the goal of revealing the impact that Jay Z's newest endeavor will have on the business of sports agency and the possible legal and ethical backlash associated therewith. This Article will begin with a brief discussion of the history and evolution of the sports agency industry and will continue with an analysis of the certification processes and regulations associated with player agents wishing to represent athletes who participate within the major U.S. sports leagues. This Article will also take a look at Jay Z's history of successful business ventures and will seek to analyze the impact that his newest venture, Roc Nation Sports, will have on the industry for years to come.

II. OVERVIEW OF THE SPORTS AGENCY LANDSCAPE

A. Background of the Industry

The high profile, one-stop-shop sports agent is relatively new to professional sports. Many credit Charles C. Pyle as the pioneer of the sports agency. Pyle is the man who negotiated Harold "Red" Grange's \$3000-per-game contract with the Chicago Bears in 1925.⁸ He expanded what was at the time a small profession with very limited responsibilities. Most notably, Pyle was one of the first agents to negotiate contracts for clients that would establish sources of revenue for players originating from beyond what was received from their respective teams. Pyle is credited with negotiating for Grange to receive over \$300,000 in movie rights and endorsement deals throughout his career.⁹ Thereafter, the roles and responsibilities of a sports agent continued to expand, as did their public persona.

As the 1960's approached, the sports agent business began receiving

8. KENNETH L. SHROPSHIRE & TIMOTHY DAVIS, *THE BUSINESS OF SPORTS AGENTS* 11 (2d ed. 2008).

9. *Id.*

significant media coverage for the first time. J. William Hayes, who had previously made a living as a Hollywood movie producer, orchestrated one of the first major “hold-outs” on behalf of Los Angeles’ Dodgers’ pitchers Sandy Koufax and Don Drysdale.¹⁰ Similar sports agent-related stories were finally reaching the headlines of news stories. In the mid-1960’s, both *Time* and *Sports Illustrated* published pieces covering the growing profession.¹¹ However, sports agents were not quickly accepted and appreciated by the professional sports world. Rather, teams, leagues, and even the media explicitly expressed their disdain for the growing significance of a third party negotiator of professional athletes. Don Klosterman, former executive of the Houston Oilers (now the Tennessee Titans), shelved any effort to sugarcoat his hatred for sports agents, going so far as to say, “[w]e spend \$200,000 a year in evaluating talents and some uninformed agent is going to tell *us* what a player’s worth? They’re just parasites, in it for a fast buck.”¹²

Widespread disdain for the sports agent failed to curb the profession from its ultimate exponential growth. Today, it is extremely uncommon for a professional athlete to *not* be represented by an agent. Limited examples of professional athletes who have negotiated their own player contracts include Dirk Nowitzki of the Dallas Mavericks and Matt Elam of the Baltimore Ravens. There exists a multitude of factors that led to the growth of the sports agency business. Professors Schubert, Smith, and Trentadue explore such factors in their book, *Sports Law*. The professors label the growth as consequential, stating that the profession’s growth was a response to the changing dynamic of professional sports in the twentieth century.¹³ The professors cite to five major developments in professional sports to substantiate their theory: (1) the decreased use of reserve and options clauses, to the extent that such clauses are not used at all in modern player contracts; (2) the substantial increase in player salaries due to competition from newly created professional sports leagues outside of those already established leagues; (3) the strength of players’ associations and unions; (4) the need for athletes to seek financial guidance due to the substantially increased salaries; and (5) the expansion of sources of revenues for both players and leagues stemming from television rights and endorsement opportunities.¹⁴

Sports agency has since grown into a billion dollar industry, with seemingly every sports fan looking to become the next Jerry Maguire.

10. *Id.*

11. *Id.* at 12.

12. *Id.*

13. *Id.*

14. *Id.* at 12–14.

B. Scandals

The evolution of sports led to an increased potential for scandal. Agents were more involved in an athlete's life than simply the negotiation of team contracts, and this afforded agents additional opportunities to abuse their power and defy the trust of the athletes they represented.

Probably the most infamous of these scandals is that of Tank Black. In the late 1990's and early 2000's, Tank Black became one of the most powerful sports agents in the country, representing high-profile clients and receiving their trust. Black was ultimately slapped with a civil suit in February of 2000 and was accused of money laundering, conspiracy, and criminal forfeiture, in addition to defrauding clients and mismanaging over \$15 million of his clients' money.¹⁵ Many call Tank Black's deceit of his clients the biggest sports agent scandal in the history of the profession.

Tank Black's wrongdoings are just one instance in a bevy of many unscrupulous actions perpetrated by others. In 1995, upon Mike Tyson's release from prison, boxing promoter Don King began promoting Tyson back into the sport, and concurrently stole almost \$100 million dollars from Tyson.¹⁶ In 2011, Rodney Fernandez, who had worked for Hendricks Sports Management from 2008 to 2009, was charged with stealing over \$305,000.00 from Anaheim Angels first-baseman Kendrys Morales by conducting financial transactions using money from Morales' business account without Morales' knowledge or consent.¹⁷

Jay Z recently entered the world of sports agency, partnered with representation juggernaut Creative Artists Agency (CAA), and many in the industry are crying foul play. This Article will look further into the legal and ethical issues surrounding Jay Z's practices in the agency business and will answer the burning question of whether Jay Z may be the face of the next big sports agent scandal.

C. The Modern-Day Sports Agent

The evolution of the sports agency placed increased responsibilities and pressure upon agents. Much of this pressure stemmed from the burden

15. L. Jon Wertheim, *Web of Deceit*, SI VAULT (May 29, 2000), <http://sportsillustrated.cnn.com/vault/article/magazine/MAG1019341/1/index.htm>.

16. *Tyson Reaches a Settlement with King*, NYTIMES.COM (June 26, 2004), <http://www.nytimes.com/2004/06/26/sports/tyson-reaches-a-settlement-with-king.html>.

17. Associated Press, *Agent Charged with Stealing from Morales*, FOX SPORTS, <http://msn.foxsports.com/mlb/story/Sports-agent-charged-with-stealing-from-Anaheim-Angels-first-baseman-Kendry-Morales-030811> (last updated Mar. 9, 2011).

associated with securing and, even more importantly, retaining clients for long periods of time. Many sports agents began to realize that they could not offer what athletes were truly looking for while working on an individual basis. Thus, the underlying structure of the industry started to experience a dramatic shift, most notably with the inception of full-service, deep-pocketed client representation firms.

ProServ Inc. and International Management Group (later evolving into IMG Worldwide) are typically credited as the pioneers of the transformation of the sports agent industry into that of one dominated by full-service representation firms.¹⁸ In the early stages of the sports agent profession, most, if not all, of an agent's revenue was derived from the fees clients paid to him for negotiation services, but revenue streams dramatically changed along with the structure of the industry. Much of this alteration was due to the expansion of responsibilities of a sports agent and his representation firm. As noted *supra*, before the evolution of sports agency, a sports agent's primary responsibility was that of contract negotiation concerning athletes' team contracts, but as the industry experienced the aforementioned growth, an agent's responsibilities began to include negotiation of endorsement and marketing contracts, business management, day-to-day financial management, personal support services, retirement and estate planning, the establishment of foundations and trusts, and accounting and tax services.¹⁹

The consolidation of the sports agency industry enhanced the already existing fierce competition between agents and firms. The pressure to secure and retain clients was mounting, which caused multiple existing sports agent firms to merge. Today, much of the client-representation industry is dominated by CAA. Founded in 1975 by five talent agents formerly employed by William Morris Agency, CAA has grown into a full-service representation powerhouse with over eight hundred active athlete clients, providing each and every one with a myriad of services as needed by the individual.²⁰ However, CAA does not limit itself simply to the client representation aspect of the sports industry. In 2008, CAA partnered with the former team from Merrill Lynch's Media and Sports Structured Finance Group to create Evolution Media Capital (EMC).²¹ EMC allowed CAA to further dominate the sports industry by allowing it to be at the center of many significant business deals,

18. KENNETH L. SHROPSHIRE & TIMOTHY DAVIS, *THE BUSINESS OF SPORTS AGENTS* 35 (1st ed. 2003).

19. *Id.*

20. *See About CAA Sports*, CAA SPORTS, <http://sports.caa.com/> (last visited Dec. 28, 2013).

21. *World's Leading Entertainment and Sports Agency Creative Artists Agency Forms Strategic Partnership with TPG Capital*, BUS. WIRE (Oct. 1, 2010), <http://www.businesswire.com/news/home/20101001006277/en/World%E2%80%99s-Leading-Entertainment-Sports-Agency-Creative-Artists>.

which ranged from capital raising and structuring to broadcasts rights negotiations, stadium financing, and mergers and acquisitions.²² While EMC does not directly impact the client-representation division of CAA, such involvement in every aspect of the sports industry allows CAA to demonstrate to potential clients the extensive resources that CAA can offer. With pressure in the business as high as it is to retain the world's biggest athletes, any resource available is worth exploiting.

The evolution of the sports agency industry into what it is today has expanded the responsibilities of the agent, but has also worked to limit these responsibilities as well. There exists no federal entity that works to regulate agents once the collegiate athlete has foregone his/her amateur status. While an athlete still holds his/her amateur status, agent conduct is regulated by SPARTA²³ and the states that have adopted some form of the Uniform Athlete Agents Act (UAAA) or their separate state athlete agent law.²⁴ SPARTA and the UAAA are similar in nature. In particular, SPARTA sets forth three primary responsibilities that an agent holds towards a client: (1) the duty to be truthful; (2) the duty of disclosure; and (3) the duty to refrain from "buying" a client. Once an athlete forgoes his/her amateur status, there are few governing bodies that regulate agent conduct, and clients are typically left to resolve issues through common agency law or by regulations mandated by players' associations.²⁵

On the most basic level, and as expounded upon in the 2009 Dartmouth Law Journal article, *Duties of Sports Agents to Athletes*, an agent possesses a fiduciary relationship to a represented athlete.²⁶ This fiduciary relationship is manifested by consent of the athlete to allow the agent to act on the athlete's behalf and subject to the athlete's control.²⁷ An agent is required to discover and disclose any material information that is reasonably obtainable, unless that information is so clearly obvious that an agent would not, at a matter of law, be negligent in failing to disclose the information.²⁸ From a more practical, rather than legal, standpoint, agents provide a multitude of services for each client. Robert H. Ruxins' *An Athletes Guide to Agents* provides a concise list of an agent's duties and states that the agent is able to:

22. *See id.*

23. *See* 15 U.S.C. §§ 7801–7807 (2012).

24. *See, e.g.,* WIS. STAT. §§ 440.99–440.999 (2011–2012).

25. Heitner, *Duties of Sports Agents to Athletes*, *supra* note 6, at 249.

26. *Id.* at 247.

27. *See* RESTATEMENT (THIRD) OF AGENCY § 1.01 (2006).

28. *Id.* § 8.11 reporter's note c (citing *Sachs v. TWA Getaway Vacations, Inc.*, 125 F. Supp. 2d 1368, 1374 (S.D. Fla. 2000)).

- Determine the value of the player's services
- Convince a club to pay the player that value
- Shape the package of compensation to suit the player's needs
- Protect the player's contractual rights and other rights under the sport's basic agreement and rules (working with the players' union)
- Counsel the player about post-career financial and occupational security
- Find a new club for a free agent or facilitate a trade for a player under contract
- Help the athlete earn extra income from endorsements, speeches, signings, and entertainment opportunities such as reality shows
- Advise an athlete on his or her personal conduct and relationship with the media and how to use internet social networking tools safely and as part of a larger marketing plan
- Protect an athlete's intellectual property rights, including the athlete's domain name
- Refer an athlete to medical specialists and drug or alcohol treatment facilities [and]
- Refer an athlete to legal experts in areas such as immigration, family law (premarital planning and divorce), and criminal law.²⁹

This list provides an agent with a broad array of possible responsibilities, causing conflicts to arise at times, which, as stated earlier, have worked to limit the roles of agents in the overall industry. Instead of the individual agent assuming all responsibilities, the full-service firm takes on said role and delegates specific tasks to agents as well as other specialized employees.

D. NFLPA, MLBPA, NBPA and WNBPA Contract Advisor/Player Agent Regulations

As noted *supra*, the federal and state regulations are rarely utilized to actually govern sports agents, and as such, professional sports leagues' players' associations have taken it upon themselves to institute regulations in an effort to keep sports agents in check. This section of the Article will focus

29. ROBERT H. RUXIN, AN ATHLETE'S GUIDE TO AGENTS 13 (5th ed. 2009).

on the various professional sports leagues' regulations as applied to contract advisors, specifically focusing on those leagues in which Jay Z retains clients. In a later section, the regulations set forth *infra* will be analyzed in accordance with the issues brought about by Jay Z's entrance into the sports agency field.

1. NFLPA Contract Advisor Regulations

First and foremost, an individual *must* be certified by the NFL Players Association (NFLPA) in order to perform the activities of a Contract Advisor for an NFL player, as described in Section 1 of the NFLPA Regulations Governing Contract Advisors.³⁰ Section 1 lists the activities as a Contract Advisor as follows:

[T]he providing of advice, counsel, information or assistance to players with respect to negotiating their individual contracts with Clubs and/or thereafter in enforcing those contracts; the conduct of individual compensation negotiations with the Clubs on behalf of players; and any other activity or conduct which directly bears upon the Contract Advisor's integrity, competence or ability to properly represent individual NFL players and the NFLPA in individual contract negotiations, including the handling of player funds, providing tax counseling and preparation services, and providing financial advice and investment services to individual players.³¹

In order for an individual to become certified by the NFLPA, the individual must go through a rigorous application process. To be eligible for certification, the individual is required to have "received an undergraduate degree from an accredited four year college/university and a post-graduate degree."³² However, the NFLPA may waive this requirement if it is determined that the applicant has at least seven years of sufficient negotiating experience.³³ The definition of "sufficient" in this context is only specified with regards to former NFL players but is not further expounded upon as it pertains to applicants who have not played professional football.³⁴

Once acting as a certified Contract Advisor, agents are required to sustain a specific standard of conduct.³⁵ Contract Advisors are also provided with a

30. NFLPA REGULATIONS GOVERNING CONTRACT ADVISORS § 2 (2012).

31. *Id.* § 1(B).

32. *Id.* § 2(A).

33. *Id.*

34. *See id.*

35. *Id.* § 3(A).

list that specifies prohibited conduct. Such conduct includes the following: (1) representing any player in contract negotiations with a club without NFLPA certification; (2) providing or offering money or incentives in order to entice a player to sign with the agent; (3) acting in a manner that presents an actual or potential conflict of interest; and (4) initiating any type of communication, directly or indirectly, with any player who already retains a certified agent if such communication is regarding (i) a player's current Contract Advisor; Standard Representation Agreement; or contract status with any NFL Club(s); or (ii) any potential services of a prospective Contract Advisor.³⁶ Any violator of the regulations establishing the prohibited conduct is subject to discipline according to Section 6 of the NFLPA Regulations Governing Contract Advisors.³⁷

2. MLBPA Player Agent Regulations

Player Agent regulations as dictated by the MLB Players Association (MLBPA) are very similar to those of the NFLPA. However, the MLBPA has established two levels of certification that may be granted to an individual—General Certification and Limited Certification.³⁸ General Certification affords a Player Agent the ability to represent, assist, or advise a player in negotiations of terms included in his Major League Uniform Player Contract, and to represent a player in any dealings with a MLB Club, the Commissioner's Office, MLB, or any person or entity affiliated with the Commissioner's Office or MLB.³⁹ General Certification also affords a Player Agent the authorization to recruit or provide Client Maintenance Services for a player—services that may also be provided by Player Agents with only Limited Certification.⁴⁰

As similarly required by the NFLPA, individuals seeking to become certified Player Agents by the MLBPA must go through an application process. Once certified, Player Agents are held to a standard code of conduct.⁴¹ Additionally, specific prohibited conduct is listed. Such prohibited conduct includes the following: (1) being an uncertified player agent; (2) employing unauthorized providers of Client Maintenance Services or recruiters; (3) failure to disclose communication with players that are not currently clients; and (4) engaging in activities that may present a conflict of

36. *Id.* § 3(B).

37. *Id.*

38. MLBPA REGULATIONS GOVERNING PLAYER AGENTS § 2(C) (2010).

39. *Id.* § 2(C)(1)(a).

40. *Id.* §§ 2(C)(1)(b)–(2).

41. *Id.* § 5(A).

interest.⁴²

3. NBPA and WNBPA Regulations Governing Player Agents

The National Basketball Players Association (NBPA) Regulations Governing Player Agents and the Women's National Basketball Players Association (WNBPA) Regulations Governing Player Agents are essentially mirror images of one another. On the most basic level, no individual is "permitted to conduct individual contract negotiations on behalf of a player" unless the individual holds current certification as a Player Agent and signs, along with the player, the standard fee agreement form.⁴³

Much like the NFLPA and MLBPA, the NBPA and WNBPA require a prospective Player Agent to go through an application process. However, while an NBPA or WNBPA application is pending, the NBPA Committee on Agency Regulation may grant an agent interim certification if it deems that certification would be in the best interest of the player.⁴⁴

Additionally, the prohibited types of conduct specified by the NBPA and WNBPA are much like those prohibited by the NFLPA and MLBPA. Such conduct prohibited by the NBPA and WNBPA include the following: (1) acting without certification, inducing a client to retain the services of the agent by providing money and/or other things of value to the player; and (2) holding or seeking to hold any financial interest in a professional basketball team or any business venture that may present a conflict of interest.⁴⁵ Violation of the specified provision may lead to revocation of an individual's certification.

III. OVERVIEW OF JAY Z'S PROFESSIONAL LIFE

A. *Hip-Hop Career*

Jay Z may be currently referenced as a music and business mogul, but he was not always breathing thin air at the peak of the mountain. Jay Z was born a Shawn Corey Carter and raised in Brooklyn's Marcy Projects by his mother after his father walked out on the family when Carter was just a boy.⁴⁶ With little-to-no money and few, if any, role models to look to, Carter entered street

42. *Id.* §§ 5(B)(2)–(3), (8), (13).

43. NBPA REGULATIONS GOVERNING PLAYER AGENTS §§ 1(A), 4(A) (1991).

44. *Id.* § 2(B).

45. *Id.* §§ 3(B)(a), (b), (e).

46. *Jay-Z Biography*, ROLLING STONE, <http://www.rollingstone.com/music/artists/jay-z/biography> (last visited Nov. 30, 2013).

life finding that the only way to earn a living was by selling crack cocaine.⁴⁷ Around this time, Carter met Jonathan Burks (“Jaz-O”), and soon thereafter Shawn Carter took the first step in becoming Jay-Z⁴⁸ (he later dropped the hyphen and is now referred to as Jay Z). However, Carter still considered himself a “reluctant rapper” who wanted to focus on selling drugs, which at the time was bringing in more money for him than he ever thought rapping could generate.⁴⁹

Carter formally began his music career as “Jay-Z” in 1996 when he, along with neighborhood friends Damon Dash and Kareem Burke, created Roc-A-Fella Records.⁵⁰ Under Roc-A-Fella Records, Jay Z was able to release his first studio album, *Reasonable Doubt*, which ultimately reached number twenty-three on Billboard’s Album Charts.⁵¹ Roc-A-Fella did not do this alone, but rather, it had the help of Priority Records (later Def Jam Records).⁵² Although *Reasonable Doubt* did not reach the heights hoped for by the Roc-A-Fella Records team, the album obtained notice of established names in the music industry. Jay Z’s second album, *In My Lifetime Vol. 1*, peaked at number three on Billboard’s Album Charts, yet Jay Z’s first major radio singles did not come until “Hard Knock Life (Ghetto Anthem),” “Can I Get A...,” “Cash, Money, Hoes” and “N****a What, N****a Who,” which were released in 1998 on *Vol. 2: Hard Knock Life*.⁵³ *Vol. 2: Hard Knock Life* landed Carter his first Grammy win.⁵⁴ After *Vol. 2: Hard Knock Life*’s release in 1998, there was no stopping Jay Z. He had entered the world of music, and, over the next two decades, he conquered it. Throughout the next five years, Jay Z released five more new studio albums, each obtaining documented success, but, in shocking fashion, Jay Z announced his retirement from music in 2003 following the release of *The Black Album*.⁵⁵

Following his retirement in 2003, Jay Z embarked on a path no rapper had ever attempted with great success. Jay Z assumed the position of president at Def Jam Records in 2004.⁵⁶ It was then that Jay Z’s business acumen began to come to the forefront when he negotiated, as part of the deal, that Def Jam’s

47. *See id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. Jason Birchmeier, *Jay-Z: Artist Biography by Jason Birchmeier*, ALLMUSIC, <http://www.allmusic.com/artist/jay-z-mn0000224257/biography> (last visited Dec. 28, 2013).

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

parent company, Universal, would buy Roc-A-Fella records.⁵⁷ Jay Z excelled quickly in his new position, recognizing and securing new talent for the label by bringing in Young Jeezy, Teairra Mari, Rihanna, and Bobby V, all of whom have led successful careers.⁵⁸

Carter's retirement from music, however, was short lived. He returned to the stage in 2005 and released his first post-retirement album in 2006.⁵⁹ Since returning from retirement, Jay Z has released four full-length studio albums, in addition to many singles, and has firmly cemented himself into the elite of not only the hip-hop music world but in the entire music industry as a whole.⁶⁰

Jay Z no longer serves as president or CEO of Def Jam Records, but is still heavily involved with Def Jam, in addition to his involvement with Roc-A-Fella Records and Roc Nation.⁶¹ Over the course of Jay Z's music career, he has sold over fifty million albums worldwide,⁶² received seventeen Grammy awards,⁶³ had three of his albums named to Rolling Stone's 500 greatest albums of all time,⁶⁴ had thirteen number one albums on the Billboard 200 Chart (second only to the Beatles with Nineteen),⁶⁵ and had four number one records on the Billboard Hot 100 Chart.⁶⁶ These numbers are expected to increase with the release of Jay Z's newest album, *Magna Carta...Holy Grail*.

B. Business Ventures

It is undeniable that Jay Z's music career has been nothing short of legendary, but, even as he finds himself on the backend of his music career, Jay Z continues to make a very healthy living through his uncanny business

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. *See Jay Z Net Worth*, RICHEST, <http://www.therichest.com/celebnetworth/celeb/rappers/jay-z-net-worth/> (last visited Dec. 28, 2013).

63. *Jay Z*, GRAMMY.COM, <http://www.grammy.com/artist/jay-z> (last visited Dec. 28, 2013).

64. 250: *Jay-Z, 'Reasonable Doubt'*, ROLLING STONE, <http://www.rollingstone.com/music/lists/500-greatest-albums-of-all-time-20120531/jay-z-reasonable-doubt-20120524> (last visited Dec. 28, 2013); 252: *Jay-Z, 'The Blueprint'*, ROLLING STONE, <http://www.rollingstone.com/music/lists/500-greatest-albums-of-all-time-20120531/jay-z-the-blueprint-20120524> (last visited Dec. 28, 2013); 349: *Jay-Z, 'The Black Album'*, ROLLING STONE, <http://www.rollingstone.com/music/lists/500-great-est-albums-of-all-time-20120531/jay-z-the-black-album-20120524> (last visited Dec. 28, 2013).

65. Keith Caulfield, *Jay Z Scores 13th No. 1 Album on Billboard 200, Ciara Bows at No. 2*, BILLBOARD (July 17, 2013), <http://www.billboard.com/articles/news/2005381/jay-z-scores-13th-no-1-album-on-billboard-200-ciara-bows-at-no-2>.

66. Silvio Pietrolungo, *Jay Z Jumps to No. 1 on the Hot 100*, BILLBOARD (Nov. 18, 2009), <http://www.billboard.com/articles/news/266673/jay-z-jumps-to-no-1-on-the-hot-100>.

acumen. According to Forbes, in April 2013, Jay Z's net worth was estimated to be \$475 million, which places him second in the Hip-Hop artist industry to only Sean "Diddy" Combs.⁶⁷

When reviewing a list of Jay Z's business ventures, it seems as if he has his hand in almost everything. Outside of his first major venture, Roc-A-Fella Records, Jay Z has been involved in a fashion label (Rocawear), a nightclub with several locations (40/40 Club), a cosmetics line (Carol's Daughter), an NBA team (the Brooklyn Nets), a full-service arena (Barclays Center), a real estate investment (J Hotels), and a management company (Roc Nation).⁶⁸ This is only part of the list of Jay Z's business ventures, as he has played roles for many other companies around the world.

The world first received a glimpse of Jay Z's business acumen in 2004 when he took over at Def Jam Records, but nobody really recognized the potential for profitability associated with Jay Z's name until 2007 when he sold the rights to his first business venture, Rocawear. Created in 1999 by Carter and Roc-A-Fella co-founder Damon Dash, Rocawear had experienced continuous growth since its inception, and, at the time of its sale in 2007, it was bringing in over \$700 million in sales annually.⁶⁹ Jay Z sold his stake in Rocawear to Iconix Brand Group for \$204 million in cash. Even though Jay Z sold his ownership in Rocawear, as part of the negotiated deal, Jay Z was able to retain his stake in the Rocawear operating company and continues to oversee product development, licensing, and marketing for Rocawear.

Jay Z entered the sports industry for the first time with the purchase of a minority stake in the New Jersey Nets (now the Brooklyn Nets). While Jay Z owned only a very small portion of the Nets organization, he served as the face of the franchise as the Nets went through a rebranding phase. He was influential in the design of the Brooklyn Nets logo, the construction of the 40/40 Club inside the Barclays Center, the selection of team colors, the design of the court,⁷⁰ and last, but definitely not least, the recruitment of players. Since the Nets' move from New Jersey to Brooklyn, the team has gone from irrelevant to a common topic of discussion, although most of the talk has

67. Zack O'Malley Greenburg, *The Forbes Five: Hip-Hop's Wealthiest Artists 2013*, FORBES, Apr. 15, 2013, at 19, available at <http://www.forbes.com/sites/zackomalleygreenburg/2013/03/27/the-forbes-five-hip-hops-wealthiest-artists-2013/>.

68. Lacey Seidman & Rahsheeda Ali, *He's a Business, Man: A Timeline of Jay-Z's Top Business Ventures*, VH1 MUSIC (July 3, 2013), <http://www.vh1.com/music/tuner/2013-07-03/jay-z-top-busin-ess-ventures/>.

69. See Dealbook, *Jay-Z Cashes in with Rocawear Deal*, NYTIMES.COM (Mar. 6, 2007), http://dealbook.nytimes.com/2007/03/06/jay-z-cashes-in-with-200-million-rocawear-deal/?_r=0.

70. Jeff Zillgitt, *Jay-Z Becomes Face of Brooklyn Nets*, USATODAY.COM (Sept. 29, 2012), <http://www.usatoday.com/story/sports/nba/2012/09/29/jay-z-basketball-back-to-brooklyn-nets/1602943/>.

centered on how it has failed to become a powerhouse in the NBA, despite boasting a starting lineup consisting of multiple all-star caliber players, and a Hall-of-Fame player-turned-coach in Jason Kidd.

Although the Brooklyn Nets may be Jay Z's most prominent business venture, his ownership in the organization did not last long. With the inception of Roc Nation Sports, which will be described in detail *infra*, Jay Z faced the harsh reality that he would need to sell his stake in the Brooklyn franchise. In 2004, when Jay Z first entered into an ownership agreement with the then New Jersey Nets, Jay Z invested \$1 million dollars, amounting to only one-fifteenth of one percent of the Nets, but as of Fall 2013, Jay Z also owned one-fifth of one percent of the Barclays Center.⁷¹ Forbes estimated that these two investments were worth \$350,000 and \$2 million respectively.⁷² In September 2013, Jay Z sold his stakes in the Nets and the Barclays Center.

IV. ROC NATION SPORTS

A. Overview

Roc Nation is nothing new to Jay Z, but its latest spin-off, Roc Nation Sports, is Jay Z's most recent business venture. In April 2013, Roc Nation announced that it had signed a partnership with CAA in an effort to move into the sports management industry, and in turn, Roc Nation Sports was born.⁷³ As its first order of business, Roc Nation Sports signed New York Yankees' second basemen Robinson Cano, who had severed ties with his former agent, Scott Boras.⁷⁴

As Roc Nation Sports began to make headlines, others in the business started pointing out the issues with Jay Z's newly created company. Two items were more glaring than the rest: (1) Jay Z still maintained his stake in the Brooklyn Nets at the time of Roc Nation Sports' inception; and (2) Jay Z was not certified by any of the major sports leagues' players' associations when Jay Z's company began signing clients. In an effort to silence some of these concerns, Roc Nation Sports hired Kimberly Ann Miale.⁷⁵ Miale was

71. Zack O'Malley Greenburg, *Jay-Z Sells Nets Stake, Earns Warren Buffett-Like Return*, FORBES (Apr. 19, 2013), <http://www.forbes.com/sites/zackomalleygreenburg/2013/04/19/jay-z-sells-nets-stake-earns-warren-buffett-like-return/>.

72. *Id.*

73. Dan Rys, *Roc Nation Launches Roc Nation Sports with CAA, Signs Yankees' Robinson Cano*, HOLLYWOOD REP. (Apr. 2, 2013), <http://www.hollywoodreporter.com/news/roc-nation-launches-roc-nation-432395>.

74. *Id.*

75. Darren Heitner, *Jay-Z Hires Football Agent to Represent Players at Roc Nation Sports*, FORBES (May 20, 2013), <http://www.forbes.com/sites/darrenheitner/2013/05/20/jay-z-hires-football->

and is certified by the NFL Players' Association as a Contract Advisor.⁷⁶

Miale's hiring, however, has the potential to stir a bit of controversy for Roc Nation Sports. As noted above, Roc Nation Sports was created as a partnership between Roc Nation and CAA, presumably with CAA assuming the responsibility of handling the players' team contract negotiations and Roc Nation Sports advising players with respect to their off-the-field/court business.⁷⁷ Due to the fact that Miale is a registered agent by the NFLPA, it would seem as if the partnership would lose some of its significance, at least concerning NFL-related business affairs. Since Roc Nation Sports' inception in April 2013, the partnership is perceived to be going strong and relations are still intact despite the fact that Miale is the Contract Advisor for New York Jets quarterback Geno Smith.

Roc Nation Sports continues to grow and now represents five high-profile clients as of the date of this Article's publication: Geno Smith (NFL), Kevin Durant (NBA), Robinson Cano (MLB), Skylar Diggins (WNBA), and Victor Cruz (NFL).⁷⁸

B. Legal and Ethical Implications

1. Violation of Federal and/or State Law

Jay Z's entrance into the sports agency field has undoubtedly served as a story of quick success in an incredibly competitive industry. This success has caused quite a stir among others in the business with his competition complaining both publicly and, more commonly, behind closed doors. While a majority of grievances that could be filed against Jay Z, if there are any at all, would most likely stem from violations of Players' Associations' regulations, there could also be additional legal ramifications for the rapper turned sports agent.

Jay Z is no stranger to a claim of tortious interference. In an early July 2013 interview with *The Breakfast Club* of New York's Power 105.1 radio station, Jay Z mentioned that he had once received a letter regarding a claim of tortious interference against him stemming from his attempted recruitment of Lil' Wayne to Jay Z's management label.⁷⁹ Jay Z may want to refresh his

agent-to-represent-players-at-roc-nation-sports/.

76. *Id.*

77. *Id.*

78. *Sports*, ROCNATION, <http://rocnation.com/sports/> (last visited Dec. 28, 2013).

79. Darren Heitner, *Jay-Z Bashes Agents Who Criticize His Ability to Represent Athletes*, FORBES (July 11, 2013), <http://www.forbes.com/sites/darrenheitner/2013/07/11/jay-z-bashes-agents-who-criticize-his-ability-to-represent-athletes/>.

memory about this legal claim if he continues to recruit players already represented by other agents. Tortious Interference is a common law claim and is a valid cause of action when someone “intentionally and improperly interferes with the performance of a contract. . .between another and a third person by inducing or otherwise causing the third person not to perform the contract.”⁸⁰ Of the five athletes currently signed to Roc Nation Sports, three were formerly represented by other agents: Robinson Cano (Scott Boras), Kevin Durant (Rob Pelinka), and Geno Smith (Select Sports Group).⁸¹ The question remains as to whether Jay Z poached these athletes and induced them into nullifying contractual agreements with their former agent in exchange for the opportunity to be represented by Jay Z and Roc Nation Sports. If it is found that Jay Z communicated with these athletes while they were signed to a competing agency and without disclosing such communication, in an effort to *willfully and intentionally* induce the athlete to terminate his relationship with his former agent, Jay Z may find himself liable for tortious interference with a contractual or business relationship.

Robinson Cano, Roc Nation Sports' first client, drew some attention as his departure from Scott Boras and subsequent signing with the newly created Roc Nation Sports came as a surprise and was timed with the public announcement that introduced Roc Nation Sports to the world. Sparse detail has been disclosed as to the reason Cano decided to leave Scott Boras. In fact, the only comment made by Cano that even resembles some reasoning states as follows:

I am confident that the pairing of Roc Nation Sports and C.A.A. Sports will be essential in helping me accomplish my short- and long-term goals. I am making this important decision now so I can keep my focus on helping the Yankees succeed in 2013, while minimizing any distractions for me and my teammates.⁸²

With such a vague statement and sudden departure from arguably the most powerful agent in all of sports, it is difficult to not question whether Cano was poached by Jay Z and Roc Nation Sports. Jay Z did not help to quash this speculation when he included the lyric, “Scott Boras, you over baby.

80. *Hanson Sales & Mktg., Ltd. v. VSA, Inc.*, No. 98-3191, 2000 WL 1341799, at *7 (Wis. Ct. App. Sept. 20, 2000) (quoting *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 279 N.W.2d 493 (Wis. Ct. App. 1979)).

81. Skylar Diggins signed with Roc Nation Sports following her career at Notre Dame University. Victor Cruz is represented by Roc Nation Sports in solely an off-the-field capacity (marketing, endorsements, etc.).

82. David Waldstein, *Cano Fires Agent and Signs with Jay-Z's Agency*, NYTIMES.COM (Apr. 2, 2013), http://www.nytimes.com/2013/04/03/sports/baseball/robinson-cano-leaves-scott-boras-for-jay-zs-agency.html?_r=0 (citation omitted).

Robinson Cano, you coming with me,” in a song released on Jay Z’s most recent album, *Magna Carta, Holy Grail*. If a claim of tortious interference is brought against Jay Z and Roc Nation Sports due to the facts pertaining to Robinson Cano’s departure from Boras and signing with Roc Nation Sports, Jay Z will likely face a long and arduous legal battle. However, such a claim is not likely to be introduced by Boras. In response to an inquiry for the purpose of writing this Article, Boras Corporation attorney Ryan Lubner said, “I don’t have anything for you.” The same analysis may be relevant concerning Kevin Durant’s leaving Rob Pelinka and Geno Smith’s departure from Select Sports Group, both of whom subsequently signed with Jay Z and Roc Nation Sports. While it is quite difficult for an agent to sue another agent for tortious interference with a contractual relationship, it is not impossible and there is relevant precedent. In September of 2010, basketball agent Keith Glass persuaded an arbitrator to order Andy Miller of ASM Sports to pay Glass \$40,000 in damages based on a tortious interference claim.⁸³ In addition, Aroldis Chapman’s former agent claimed Hendricks Sports Management tortuously interfered with his representation of Chapman, an accusation that later settled out of court. If Jay Z and Roc Nation Sports are formally accused of tortuously interfering with the contractual relations previously entered into by any of their clients, Jay Z could be found civilly liable, and on the hook for significant sums of money.

2. Violation of Players’ Association Regulations Governing Contract Advisors/Player Agents

When taking a deeper look at the regulations governing sports agents as promulgated by the various professional sports leagues, it is puzzling that Jay Z was able to conduct business in the way he did in the early stages of Roc Nation Sports. It was not until June of 2013 that Roc Nation Sports publically disclosed that Jay Z had been certified as a player agent by the MLBPA and the NBPA.⁸⁴ Although Kevin Durant was signed to Roc Nation following this announcement, Robinson Cano, Victor Cruz and Geno Smith were all signed to Roc Nation Sports prior to Jay Z receiving any type of players’ association certification. Additionally, Jay Z has still yet to receive certification from the NFLPA. This lack of certification likely presents the biggest issue. Not only do Jay Z and Roc Nation Sports represent two athletes that compete in the

83. Darren Heitner, *Robert Quinn’s Former Agent Seeks \$300,000 & Temporary Injunction*, SPORTS AGENT BLOG (July 27, 2011), <http://www.sportsagentblog.com/2011/07/27/robert-quinns-former-agent-seeks-300000-temporary-injunction/>.

84. Darren Rovell, *Jay-Z Licensed NBA, MLB Agent*, ESPN, http://espn.go.com/nba/story/_/id/9405504/roc-nation-sports-confirms-jay-z-licensed-nba-mlb-agent (last updated June 20, 2013).

NFL (Geno Smith and Victor Cruz), Roc Nation Sports has helped Geno Smith in the negotiation and execution of a contract. If Jay Z acted as a Contract Advisor to Geno Smith throughout his rookie contract negotiations, Jay Z could be found to have violated § 3(B)(1) of the NFLPA Regulations Governing Contract Advisors, which explicitly forbids individuals from acting as a Contract Advisor without prior certification. This is most likely where Kimberly Miale's role with Roc Nation is most significant. As a registered Contract Advisor, she is permitted to assist and advise athlete-clients during negotiations of a player contract. While Jay Z may not have had a distinct role in the negotiation of Smith's rookie contract, there is a belief that he was intricately involved in his recruitment to Roc Nation Sports. This raises a separate issue.

A major question is whether Jay Z violated the regulations set forth by the various players' associations, the NFLPA in particular, by acting as a "runner" rather than a Player Agent or Contract Advisor. As of June 1, 2012, the NFLPA announced that certified Contract Advisors would be subject to discipline by the NFLPA if they "(1) use, (2) associate with, (3) employ or (4) enter into a business relationship with any non-NFLPA certified individual in the recruitment of prospective player-clients."⁸⁵ In Roc Nation Sports' case, the face of the company, Jay Z, who is presumably playing a major role in the recruitment of potential player-clients, is a non-certified individual. This is a large reason why many agents were up in arms when they heard about Jay Z's involvement in the recruitment of Victor Cruz to Roc Nation Sports. Although the NFLPA's "runner rule" seems to have been violated, the NFLPA responded to such outcries by saying that Jay Z and Victor Cruz had a longstanding relationship, which somehow allowed Jay Z to escape sanctions and any form of discipline.⁸⁶ The same issue was raised by other agents after Geno Smith left Select Sports Group for Roc Nation Sports. Although Smith was technically signed by Kimberly Miale, the involvement of Jay Z in the recruitment of Smith is undeniable, as evidenced by a published Instagram picture, which shows Jay Z and Smith sitting together on a date prior to Smith officially hiring Roc Nation Sports and Kimberly Miale.⁸⁷ In addition to the

85. Darren Heitner, *NFL Agents Operating Under New Rules in the Recruitment of Prospective Clients*, FORBES (June 1, 2012), <http://www.forbes.com/sites/darrenheitner/2012/06/01/nfl-agents-operating-under-new-rules-in-the-recruitment-of-prospective-clients/>.

86. Darren Heitner, *Forget About Jay Z; Should NFLPA Scrap Ridiculous Runner Rule?*, SPORTS AGENT BLOG (May 30, 2013), <http://www.sportsagentblog.com/2013/05/30/forget-about-jay-z-should-nflpa-scrap-ridiculous-runner-rule/>.

87. See Doug Farrar, *Geno Smith's Signing with Jay-Z's Roc Nation Agency Raises Questions Regarding the 'Runner Rule'*, YAHOO SPORTS (May 26, 2013, 9:35 AM), <http://sports.yahoo.com/blogs/nfl-shutdown-corner/geno-smith-signing-jay-z-roc-nation-agency-133525207.html>.

picture, John Thornton, who had been acting as an advisor to Smith during his search for an agent, was quoted saying, “It really all came down to who [Smith] was most comfortable with. I was in those meetings and Jay-Z connected with him on many levels.”⁸⁸ The problem with that statement is Jay Z should not have been in the room at all, an issue that caused John Thornton to retract his statement and led to a Roc Nation Sports representative announcing that Jay Z was actually in London at the time of the meetings.⁸⁹ The glaring discrepancy makes one wonder why Jay Z has seemingly been allowed to circumvent the “runner rule.” It is true that Geno Smith was technically signed to a Standard Representation Agreement with Kimberly Miale, but at the time Miale was signing Smith, she was an almost unheard of as a Contract Advisor. It is very rare for an agent such as Miale to suddenly start signing high-profile clients, which led to speculation that Miale is simply a front for Jay Z to circumvent the NFLPA’s regulations in an effort to grow his practice. Jay Z and Roc Nation Sports have yet to be subject to any discipline. In fact, the NFLPA has announced that Jay Z will not be disciplined for his noted involvement in the recruitment of Geno Smith. It has declared that Jay Z did nothing wrong and “clarified” the “runner rule,” stating that a non-certified individual may meet once with a player if the meeting is held with a certified Contract Advisor present and at the Contract Advisor’s office. A better explanation for the NFLPA’s position may be, as one former football agent put it, “This new runner rule isn’t difficult to enforce, *it’s impossible*.”⁹⁰

What could be most puzzling about Jay Z’s entrance into sports agency with the inception of Roc Nation Sports is how he was able to do so and have clients signed to the agency while still holding ownership stake in the Brooklyn Nets. In early-to-mid April 2013, only a couple weeks after Jay Z went public with the formation of Roc Nation Sports, he announced that he would be selling his ownership stake in the Brooklyn Nets. This was after Robinson Cano and Victor Cruz had been signed to the agency. Each of the major sports leagues players’ associations have regulations, which stipulate that owning a business that already does or may present a conflict of interest is prohibited conduct. Owning a professional sports team likely presents a contemplated conflict of interest for an agent. Even if owning a professional basketball team is not enough of a “conflict of interest” as it pertains to athletes in baseball or football, it would seem to be a *major* conflict of interest if Roc Nation Sports were to sign a professional basketball player. That

88. *Id.*

89. *Id.*

90. *Id.*

occurred on June 24, 2013 when Kevin Durant officially signed with Roc Nation Sports after leaving his former agent, Rob Pelinka.⁹¹ This signing may have taken place roughly two months after Jay Z announced the sale of his ownership stake in the Brooklyn Nets; however, as of June 24, 2013, there were still conflicting reports as to whether Jay Z had actually sold, or completed the sale, of his share of the Brooklyn Nets.⁹² This fact alone seems to present the biggest issue, as the NBPA explicitly has a rule prohibiting a player agent from owning any percentage of a professional basketball team.⁹³ Jay Z was given the green light to sign Kevin Durant to Roc Nation Sports and has been granted certification by the NBPA, all without receiving any form of discipline handed down by the Association. Again, it seems as if somehow Jay Z has been able to skirt the regulations imposed upon Player Agents and Contract Advisors, much to the chagrin of others in the business.

3. Violation of Ethical Standards

The sports agent business is often viewed as an industry comprised of ethically inept individuals, and this perception may be warranted. Perception in today's society is almost entirely dictated by media coverage, and the media loves a scandal. With that in mind, it is worth mentioning that sports agents are supposed to be held to a certain ethical standard. Whether that standard is always respected and enforced by individuals who certify agents is a separate issue.

Jay Z has found himself in a situation where those outside of Roc Nation Sports are questioning whether Jay Z is maneuvering around the industry unethically. Jay Z is by no means the only agent to raise such questions, but due to his worldwide fame, the suspicion surrounding him quickly becomes headline news. Whether Jay Z's actions are actually a violation of any code of ethics is not necessarily clear, but some of his actions definitely have agents, media, and others complaining of unfair play.

In May of 2013, as Skylar Diggins, now a WNBA star, was graduating from Notre Dame, she was surprised with a brand new Mercedes-Benz from Jay Z and the Roc Nation Sports team.⁹⁴ While this is probably not a violation

91. Bryan Rose, *Jay-Z Officially Signs OKC's Kevin Durant to Roc Nation Sports*, FANSIDED (June 24, 2013), <http://fansided.com/2013/06/24/jay-z-officially-signs-okcs-kevin-durant-to-roc-nation-sports/>.

92. *Id.*

93. See NBPA REGULATIONS GOVERNING PLAYER AGENTS, *supra* note 43, § 3(B)(e).

94. Chuck Schilken, *Skylar Diggins Gets a Mercedes as a Graduation Gift from Jay-Z*, L.A. TIMES (May 20, 2013), <http://articles.latimes.com/2013/may/20/sports/la-sp-sn-skylar-diggins-jay-z-20130520>.

of the WNBPA Regulations Governing Player Agents, some still were unhappy with the gesture. The WNBPA Regulations Governing Player Agents explicitly states that a player agent cannot induce a client into retaining the agent's services by providing the athlete with "money or anything else of value."⁹⁵ Diggins had signed with Roc Nation Sports prior to her graduation on May 19, 2013; it is hard not to question whether a brand new Mercedes-Benz is considered "inducement" and whether Diggins had been showered in gifts such as this even before she signed with Roc Nation Sports.

More recently, Jay Z and Roc Nation Sports found themselves in the middle of a recruiting scandal centered around one of college football's brightest stars, Jadeveon Clowney. Football industry watchdog website *InsideTheLeague.com* first reported that Clowney was "smitten with Jay Z, and that the two are in regular contact under the guise of the rapper recruiting him based on his marketing potential."⁹⁶ If this communication was viewed as a violation, it would have been Jay Z's first major mistake as an agent having violated both the National Collegiate Athletic Association regulations and basic sports agent ethics. After rumors began to swirl, the University of South Carolina (where Clowney is a student-athlete) conducted an investigation and ultimately decided that no violation had occurred. One sports agent believes that the rumors centered around Jay Z and Clowney were actually crafted by a competing sports agent,⁹⁷ which, if true, is a completely different and serious ethical violation on its own.

V. ROC NATION SPORTS' IMPACT ON THE SPORTS AGENT INDUSTRY

Jay Z's career as a sports agent is still in its infancy stages, but, even in the small amount of time that Roc Nation Sports has been around, it has already had an impact on the industry that is likely to last. With such quick and extreme success, it is likely that businessmen and businesswomen who have achieved fame in other industries may attempt to attach their name to a different agency with the hopes of competing with Roc Nation Sports, as evidenced by Snoop Dogg's recent comments regarding his thoughts of entering the industry as well.⁹⁸ On October 25, 2013, Cash Money Records,

95. WNBPA REGULATIONS GOVERNING PLAYER AGENTS § 3(B)(2) (2000).

96. Darren Heitner, *Wrapping up the Jay Z, Jadeveon Clowney Communication*, SPORTS AGENT BLOG (July 29, 2013), <http://sportsagentblog.com/2013/07/29/wrapping-up-the-jay-z-jadeveon-clowney-communication/>.

97. *Id.*

98. Latifah Muhammad, *Snoop Dogg Ponders Starting a Sports Management Agency*, BET (Apr. 24, 2013), <http://www.bet.com/news/music/2013/04/24/snoop-dogg-ponders-starting-a-sports-management-agency.html>.

Inc. filed a trademark application to protect the mark "Visionaire Sports Group" in connection with "sports agency services."⁹⁹ These developments may serve as the most substantial impacts that Jay Z has had on the industry.

What Jay Z's actions have shown the sports agent industry in 2013 is that even though the regulations governing Contract Advisors and Player Agents are continually becoming more stringent, there are still glaring loopholes found within. These loopholes include such actions as hiring a certified Contract Advisor or Player Agent as a front to cover up the lack of certification by the actual actor in the athlete-agent relationship. Jay Z's foray into sports agency has also demonstrated that the rules created by the professional sports leagues players' associations against the use of "runners" are essentially non-enforceable (or at a minimum, selectively enforced). Jay Z clearly recruited athletes to Roc Nation Sports *before* becoming certified by the players' associations and yet has not been disciplined by any of the associations.

The sports agent profession already has a negative reputation; a reputation that governing bodies have continually tried to clean up, but to very little avail. This is not to say that Jay Z has acted in direct violation to any of the regulations or that he has acted unethically, but rather Jay Z and the Roc Nation Sports team is merely going about their business in pretty much the same way that any other agent or agency firm does. However, because of Jay Z's worldwide fame, every move he makes is viewed under the media microscope, and what the media has exposed, due to this extensive coverage, is that even though the various governing bodies are attempting to make the sports agency industry a more level playing field, there is still more work to be done.

99. Darren Heitner, *Jay Z May Soon Compete with Drake, Lil Wayne and Birdman over Blue-Chip Athletes*, FORBES (Dec. 23, 2013), <http://www.forbes.com/sites/darrenheitner/2013/12/23/jay-z-may-soon-compete-with-drake-lil-wayne-and-birdman-over-blue-chip-athletes/>.