

addresses the unethical recruitment of athletes. To date, legal action under UAAA and SPARTA has been scarce.

Finally, athletes and others abused by agents can seek recourse under tort, criminal, agency, and consumer protection laws. More agents are resorting to the courts, filing 12 lawsuits for unfair competition, tortious interference with

contract, libel, and slander in the past couple of years (Mullen, 2004). The willingness to resort to the courts may be a result of the large amount of money involved and the fact that in a legal proceeding witnesses can be subpoenaed, and thus witness testimony may be more easily obtainable than in a complaint filed with a players association.

### Case Study 11-1 King Sport Management

King Sport Management (KSM) is a sports agency firm based in Chicago that has been in business for 5 years. KSM is owned and operated by law school graduate Jake King. KSM has suddenly arrived on the sports business radar screen as the company having one of the largest stables of clients in baseball behind the Scott Boras Corporation, WMG, and ACES, which have been in business for many more years. As the owner of Baseball Talent, Inc., an agency in business for just over a decade, Nate Baxter was bewildered about how an agency with so little experience in the industry grew so quickly. Soon that would change. Nate's Baseball Talent represented 30 players, 25 of whom were in the minors and 5 who were on major league rosters. Two of the players on the 40-man roster were still in the minor leagues at the AAA level.

One day Nate received a call from Mark Hartman, one of his top prospects in AA, telling him that he had just met with an agent from KSM. The agent told Hartman that he could get him a Topps trading card deal worth \$10,000 and that if his current agent couldn't deliver that kind of money, then he must not know what he was doing in the trading card business. Nate knows that Topps is the exclusive baseball card licensee of Minor League baseball ("MiLB") and that the MiLB license provides Topps the right to include every player who is playing in the minors. Minor league players are not compensated for inclusion in these products, so Nate told Mark that he doubted KSM could arrange such a deal. Nate told the client to ask KSM to show him a trading card contract with those figures on it. The client said, "I really don't care where the money comes from because at this point I could really use the \$10,000. If you can't find a similar deal, I may have to leave. Besides, KSM has been to visit my dad, and the KSM representative and my dad wait for me after every game with a KSM contract to sign. I think they have given my father some money to cover some of his bills and I can't let my own father down." Two weeks later, Nate received a standard form letter terminating their business relationship postmarked from Chicago, even though the prospect was playing for a team on the West Coast.

The next day Nate called one of his clients, Terrence Sharpe, to talk about the client's outing the day before. Sharpe was an all-star high school athlete in Florida and a top pitching prospect for the Tampa Bay Devil Rays. Sharpe struggled the first few years in baseball, but had suddenly begun winning and had just been moved from A-ball to AA. When Nate

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## Case Study 11-1 King Sport Management (Continued)

reached Sharpe, he was on the golf course with his roommate Mike Hanson and some agents. Sharpe told Nate about the brand-new golf clubs he had just purchased at the club's pro shop. Sharpe told Nate that he really didn't feel like talking about yesterday's outing and, because he had just purchased a laptop computer, Nate should e-mail him at IMSharpe@gmail.com so he could get back to his golf game. Nate hung up the phone and thought, "Where would Terrence get the money for golf clubs and a laptop?" Nate knew that Terrence barely had enough money to get by because he came from a poor background and had given his signing bonus to his grandmother, who had raised him. Nate had a terrible feeling that he was going to lose Terrence to KSM. Nate sent a few e-mails to Terrence, but received no response. A week later, Nate received the same form letter in the mail from Terrence that he had received from Mark. It, too, was postmarked from Chicago.

Two months later Nate was visiting Josh Bartley, a catcher and a 40-man roster player for the Atlanta Braves. Josh told Nate that he knew he was great defensively and if he could just hit more homeruns he was told he'd make the major league roster the next year. Josh felt that if he could use steroids and bulk up then he'd make that goal. Josh asked Nate to help him get steroids. Nate told Josh that there were many reasons he should not use steroids, top among them being his own health and the violation of baseball's rules. Nate assured Josh that the best way to better his hitting ability was to work with a hitting coach. Nate suggested that Josh work more closely with his club's hitting coach, and Nate told Josh that he'd happily invest in a hitting coach and nutritionist for Josh to work with in the off-season. Nate also suggested some books for Josh to read on hitting. Josh said that he was convinced steroids were the answer to his hitting problems. Nate ended the evening worried about Josh. Three days later Nate received a call from Josh's dad that began, "So I understand you won't help my son bulk up . . ."

Shocked, Nate took a moment to respond. "Excuse me, is this Ken Bartley, Josh's dad?"

"Yes, Nate, you know it's me. I thought you were on our side. Here to help Josh make it to the 'biggs,' and now you won't get him steroids or HGH (human growth hormone)."

Nate said, "Ken, you are aware of the health risks to your son and the fact that baseball conducts tests for steroid and HGH use . . ."

Ken said, "Sure, I know, I know. But Josh just needs it to get to the majors, then he'll stop. Short-term use should not be that big a deal. I don't understand your reasoning. I thought you were here to help us. Isn't that what you said when you recruited Josh as a client?"

Nate said, "I did say that. Yet, none of us know the real risks of steroid or HGH use. Besides, using steroids and HGH violates the rules of baseball. And steroids are illegal substances. As a lawyer, I'm not going to lose my license trying to acquire steroids for your son—end of story! I told Josh I'd happily invest in a hitting coach for him in the off-season. In my professional judgment, that is his best way to the majors. Besides, haven't you been following the recent suspension of Alex Rodriguez for HGH use? MLB is getting serious about cheating."

At that point, Ken ended the conversation by saying, “Nate, we like your service, but you’re making a big mistake. If you want to compete with the big dogs, sometimes you have to bend the rules. A-Rod may be out a year, but think of all the money he’s made in the process. Money for himself and his agent. Out of all those players who have been suspended, most have earned more money than they’d have made without using these substances. And besides, no penalties have come to their agents. So, I’d suggest you find an anti-aging clinic to help you get what these guys need to make it. You’ll make more money and these guys will live their dreams.”

Nate immediately called Josh. Josh told him that if Nate wouldn’t find him performance enhancers, he’d find an agent who would. A month later, Nate received a letter from Josh postmarked from Chicago terminating their contractual relationship.

As the baseball season was nearing an end, Nate couldn’t help but worry about his business. He had lost three of his top prospects to KSM, and two of his better clients were off to the Arizona Fall League, long known as a place where clients are ripe for the picking by unscrupulous agents. One of his clients, Chad Kramer, was like a son to Nate, and Nate had a heart-to-heart with him before he left about the types of inducements Chad should expect to receive while in Arizona. Chad left by saying, “Nate, you should know by now, you have nothing to worry about.”

A few weeks later Nate flew to Arizona to see Chad. With a smile on his face, Chad said, “Have I got a story for you!” Chad went on to explain that he had relented about going to dinner with a KSM runner only after the runner had asked him to dinner numerous times. Chad figured that after that much badgering he deserved a free steak! At dinner the runner offered him money to leave Nate for KSM. Chad said, “I have all the money I need.” Then the runner offered a car. Chad said, “I have a nice car and don’t need another.” Then the runner coyly offered a prostitute. Chad said, “I’m engaged and am not interested.” The runner said, “Then why are we having dinner?” Chad said, “You tell me—you’re the one who made the invitation.” So the runner went on to tell Chad that at the beginning of the year KSM hired 10 runners under a 1-year contract and gave them a list of prospects to recruit. The two runners who recruited the most clients from that prospect list would then be hired into full-time positions. Nate thought he had heard it all.

As he arrived home from the trip, he opened up his *SportsBusiness Journal* to see a special edition on sports agents. There staring up at him was a picture of Jake King with the headline, “KSM Principal Lobbies for New Ethical Standards to Govern Agents.” Nate angrily thought, “Sure, now that he’s broken the rules and built his business by stealing our clients, he wants to clean up the industry.”

## Questions for Discussion

1. Should Nate contact the MLBPA to pursue a claim against KSM? What about the state of Illinois (which has an agent regulation statute)? What about the Illinois bar association?
2. Should Nate engage in legal action against KSM for unfair competition or tortious interference with contractual or advantageous business relations? Should Nate consider legal action against the players who have left him for KSM?

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## Case Study 11-1 King Sport Management (Continued)

3. Should Nate contact the police, the Chicago U.S. attorney's office, or the state or federal legislators about the steroid allegation against KSM?
4. Do you think the actions taken by Jake King to build KSM are the norm in the industry? What would be your response if Jake King were to tell you that to compete in this industry you must give the athletes what they want or someone else will?
5. What do you think about the athletes and their decisions? What is their role and responsibility in the sports agency business?
6. If you were a partner to Nate, what would be your strategy going forward to retain current clients and to recruit new ones?

### Summary

The field of sports agency can be exciting. Landing a first-round draft pick and negotiating a playing contract or creating an image and negotiating major marketing deals for a Wimbledon champion can bring an incredible thrill for an agent. Servicing clients' needs exposes agents to the world of these elite athletes; as a result, it is a highly competitive business. Those seeking an entry-level position face an uphill battle, because there are tremendous barriers to entry, among which is fierce competition for a scarce number of potential clients. Recruiting a client is just part of the struggle, because keeping the client in this competitive market is an equally competitive battle. Furthermore, it is estimated that more than 80% of athletes are represented by approximately 20% of agents. Many agents work part-time supplementing their income through other professions, such as law, marketing, or financial planning. Nevertheless, there are a handful of large, dominant multiservice firms engaged in athlete representation and

event management that may provide a good launching point to break into the field. On the representation side, few entry-level positions at these firms are in client recruitment. In reality, employment exists if the entry-level agent can deliver a client. With the trend toward mergers and acquisitions, many entry-level positions seem to be limited to those who have a few clients already in hand. This competitive environment may lead new agents to act in an overly aggressive manner while recruiting clients.

### Resources

#### Professional Associations

American Bar Association Forum  
Committee on the Entertainment & Sport  
Industries

321 N. Clark Street

Chicago, IL 60654

312-988-5000

<http://www.abanet.org/forums/entsports/home.html>