



Conundrum on Coaxing Cavinder Twins Highlights Emerging NIL Uncertainty

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The University of Miami's athletic program is learning that Name, Image, and Likeness (NIL) can become a storm, or a tempest in a teapot depending on how you view it, both on and off the court. The Miami Hurricanes were recently sanctioned by the NCAA for the recruitment of twin basketball players Hanna and Haley Cavinder, transfers from Fresno State. The sanctions are based on the twins having dinner at the home of one of Miami's most prominent boosters, John Ruiz. Ruiz, a massive supporter of all things 'Canes, has pledged to spend at least \$10 million on NIL deals. He has even gone so far as to advertise NIL deals before athletes have signed with Miami. Until very recently, the NCAA had taken a very "hands-off" approach to NIL matters, even those involving athletes obtaining deals for millions of dollars. This has left colleges and universities uncertain as to whether "anything goes" or "tread with care" should be their NIL bywords.

It is believed that the coupling of Ruiz's funding promises and brazen manner caused, in part, the NCAA to issue its first-ever NIL sanctions. Indeed, it was a tweet from Ruiz, showing the twins at his Miami home while they were still in the transfer portal, which made the NCAA aware of the meeting. The NCAA stated the dinner comprised "impermissible contact" as well as a recruiting "inducement." Katie Meier, the 'Canes women's basketball coach, served a three-game suspension at the beginning of the '22-'23 season for her part in facilitating the meeting. The NCAA maintains coaches should not be directly involved in the NIL process. Texts from Meier to Ruiz show the coach coordinated the meeting between the booster and the twins.

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The penalties levied by the NCAA against the ‘Canes included:

- One-year probation, which could result in more severe sanctions if the program violates rules during that time;
- \$5,000 fine plus 1% of the women’s basketball budget;
- 7% reduction in the number of official visits during the 2022–23 academic year;
- Reduction of nine recruiting days in 2022–23; and
- Three-week probation on recruiting communications by staff members starting with the opening of the transfer portal on March 13, 2023.

However, neither the twins, consistent with NCAA NIL policy, nor Ruiz, were penalized.

Ominously, the NCAA Committee on Infractions stated in its preamble to the case “the panel was troubled by the limited nature and severity of institutional penalties agreed upon by Miami and the enforcement staff – namely, the absence of a disassociation of the involved booster...” The NCAA was also quick to inform that the ‘Canes ruling should not be viewed as precedent moving forward. Timing likely helped secure less severe penalties for the ‘Canes as well, given the NCAA lowered its violation standard effective January 1, 2023. These changes include providing investigators more freedom in presuming NIL-related violations occurred.

While seeming a mere slap on the wrist, this is the NCAA’s first infraction ruling in an NIL matter. Throwing caution to the wind is not a sound plan for colleges and universities when recruiting athletes. The NCAA is signaling it will take a more aggressive approach to NIL dealings. The NIL has increased its enforcement staffing numbers, hired an associate director of enforcement to specifically oversee NIL inquiries, even going so far as to hire staffers with former FBI and CIA experience in cybersecurity and counterintelligence. Indeed, more infractions are expected to be handed down in early 2023. Colleges and universities would be well-advised to review their current NIL policies and provide refresher training to ensure they avoid being ensnared in the NCAA NIL sanctions net.