

COACH JIM TURNER'S RESPONSE TO THE WELLS REPORT

By: PETER R. GINSBERG LAW, LLC

Peter R. Ginsberg

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Introduction

On February 14, 2014, following a highly publicized investigation into the circumstances surrounding Jonathan Martin's departure from the Miami Dolphins, attorney Ted Wells released his Report "Concerning Issues Of Workplace Conduct At The Miami Dolphins."¹ While acknowledging that the Wells investigation lacked context or comparison because the National Football League ("NFL" or "League") had never previously conducted a review of the workplace culture of an NFL Team, the Wells Report concluded that some of the treatment Martin and others had endured "was offensive and unacceptable in any environment, including the world professional football players inhabit." Wells Report at 4-5. Five days after the Report was released, the Dolphins fired offensive line coach Jim Turner. This unfortunate decision was made notwithstanding that, as the Wells Report acknowledges, Coach Turner was unaware of the vast majority of "insults" about which Martin now complains, Wells Report at 44, and Martin acknowledges he was not candid with Coach Turner about his internal angst, Wells Report at 113 - 114. The purpose of this Response is to provide a broader perspective of the events at issue and to ensure that relevant facts either not available to Mr. Wells or ignored or de-emphasized are considered.

While commending Coach Turner's job performance in connection with Martin in important respects, the Report made specific negative findings about Coach Turner's conduct that this Response addresses. Specifically, the Report faults Coach Turner for: (1) participating in a lifestyle-themed prank on a Dolphins player; (2) introducing the Dolphins offensive line to a "Judas concept" or code against "snitching" on other players which allegedly contributed to Martin's reluctance to report Incognito's conduct; (3) inappropriately sending text messages to

¹ *Report To The National Football League Concerning Issues Of Workplace Conduct At The Miami Dolphins*, dated Feb. 14, 2014 ("Wells Report" or "Report").

Martin following Martin's departure from the Dolphins in November 2013; and (4) not being sufficiently candid with the Wells investigative team during interviews. As discussed in this Response, these findings downplay or ignore important facts available to Mr. Wells' investigative team, including:

- "Player A,"² who was the subject of the prank, told us that he viewed it as a joke and did not find it offensive or malicious "in any way." Player A also told us that the Wells team viewed the whole episode out of context. Several other players echoed this sentiment.
- With respect to a "Judas code", the Wells Report is simply wrong. It provides no evidence to support a conclusion that Coach Turner *ever, in any way*, discouraged one of his players from approaching him or other coaching staff with a personal problem. Coach Turner – raised Irish-Catholic outside Boston – has used the term "Judas" in his coaching in reference to a player's attempt to shift responsibility for on-field errors to another player. He has never fostered an "anti-snitching" culture. His reputation among his players as a caring coach – and person – with an "open door" policy suggests the opposite. Indeed, the Wells investigation recognized this aspect of Coach Turner's character in his proactive response to Martin's May 2013 disappearance from off-season practices. Wells Report at 112-15.
- Coach Turner's November 2013 texts to Martin must be viewed as they were intended: as a well-intentioned effort by Coach Turner to protect everyone under his charge at a time when the story of Martin's departure had gone "viral" in the media. Coach Turner never believed that he would cause harm to Martin by asking him to de-escalate the media hype – a strategy with which the Wells Report agrees after the fact – and there is no reason to believe that Coach Turner's efforts to protect everyone involved from the media onslaught in fact harmed Martin.
- After initially cooperating fully with the Wells investigation, Coach Turner became defensive and cautious only after the questioning had turned aggressive and accusatory.

Coach Turner has devoted his life to football. Coach Turner's reputation should be the product of his twenty two years of successful coaching, and not tarnished by a Report prepared for the NFL in the midst of, and as a reaction to, a national media frenzy. Coach Turner's career

² Many, but not all, of the Players who provided information for this Response granted us permission to use their names. However, in the interest of putting this situation behind those involved, we are identifying all Players as "Player X." Players cited in this Response are not necessarily the same Players, and are not necessarily identified by the same alpha characters, as the Wells Report cites.

also should not be viewed in the spectrum of a Report which ignores in its analysis certain crucial realities of the situation during the 2012 – 13 Season with the Dolphins, including: Martin’s acknowledgment that Richard Incognito and he had “an increasingly close friendship”; in many of Martin’s and Incognito’s approximately 1300 text messages, “Martin increasingly sought out Incognito’s company”; Martin’s admission that he intentionally refrained from informing Coach Turner about his state of mind or events that were bothering him; Martin himself engaged in the type of activities about which he later claimed were so disturbing, including frequenting strip clubs, using vulgar language, making crude remarks about women and homosexuals, telling teammates that another player was a homosexual, invoking denigrating nicknames to identify teammates, and participating in team pranks including stealing a teammate’s vehicle. The Wells team also seemingly confirmed, but gave little attention to or analysis of, the information Incognito provided regarding Martin’s drug use (“Although we uncovered information relating to alleged drug use in this investigation, further inquiries into these matters are beyond the scope of our mandate, and the determination of any consequences for such activities is left to the league”). *See, e.g.*, Wells Report at 20, 21, 26 f.4, 35. Perhaps even more tellingly, the Wells Report noted but failed to analyze the impact on Martin that, by the time he left the Team, he had been demoted, from left tackle to right tackle, and his on-field performance and value were under scrutiny. *See, e.g.*, Wells Report at 26, 94, 123 – 124.

Coach Turner’s conduct while with the Dolphins is consistent with who he has always been – a hard-working and effective coach who cares deeply for his players. Unfortunately, Martin’s was consistent with how he acted in his formative years. As he texted to his parents: “I used to get verbally bullied every day in middle school and high school by kids half my size. I would never fight back, just get sad and feel like no one wanted to be my friend. When in fact I was

just socially awkward.” *See* Wells Report at 25. Martin found support and caring from the one person who has suffered – unfairly -- from these events as much as anyone involved in this affair, Coach Turner.

I. Coach Jim Turner

A. Background and Coaching Career

Coach Turner grew up in Braintree, Massachusetts, and graduated from Braintree High School in 1983. Coach Turner then attended Boston College, where he was a fullback for the Eagles and the Team captain during the 1987 season. He also played in the Liberty, Cotton and Hall of Fame Bowls. In 1988, Coach Turner received his Bachelor of Arts Degree in Sociology.

After college, Coach Turner briefly played semi-professional football before focusing on coaching. He began his coaching career as an Offensive Coach for his high school team in Braintree and Offensive Coordinator for the Kent Rams, an English semiprofessional team.

In 1990, Coach Turner joined the United States Marine Corps and received his Infantry Officer commission after completing Officer Candidate School in Quantico, Virginia. As a platoon commander and operations officer, Coach Turner served both at home and abroad in the Middle Eastern, Asian and European theaters.

Following an honorable discharge in 1994, Coach Turner returned to coaching and has coached football ever since. He has coached at Northeastern University (offensive line, tight ends, running backs, defensive line and special teams, 1994-98); Louisiana Tech University (offensive line and special teams, 1999); Harvard University (offensive line and run game coordinator, 2000-02); Temple University (offensive line coach, 2003-04); University of Delaware (offensive line coach, assistant head coach and recruiting coordinator, 2005-06); and, Texas A&M (offensive line coach, 2008-11). While with Texas A&M, the Team was ranked

number 1 in the nation for least sacks allowed and number 7 for total offense. In ESPN reporter Jeremy Crabtree's "Recruiter Power Rankings," in which Crabtree recently ranked the top 300 recruiters in college coaching from 2006 through 2013, Coach Turner ranked sixth on the list. The Miami Dolphins hired Coach Turner as the team's offensive line coach for the 2012 season. The Dolphins terminated Coach Turner in February 2014.

Coach Turner currently lives in Florida with his wife and son.

B. Reputation Among the Dolphins

Coach Turner's record as a successful coach speaks for itself. That success, however, is also grounded in Coach Turner's reputation among the people with whom he works. The current and former Miami Dolphins with whom we spoke were unanimous in their respect for Coach Turner. Several described him as the best coach under whom they had ever played. Player A described Coach Turner as a "great coach," a "great man" and a "great father." Player A expressed disappointment at the way Coach Turner has been portrayed in the wake of the Wells investigation and stated that the Wells Report and related media coverage portrayed the situation out of context. Former assistant offensive line coach Chris Mosley called Coach Turner a "great football coach," a "great person" and a "great leader." Coach Mosley's impression was that each player felt as if Coach Turner "loved" and cared about him as an individual and as a person. Coach Mosley commented on Coach Turner's ability to make practices "fun." Player F observed that Coach Turner's "open door" made him feel that he could call Coach Turner at any time.³

³ In November 2013, in response to a reporter's question about Coach Turner's job performance, Coach Joe Philbin replied that Coach Turner had done "a great job," and added, "I think his players believe in him. I think he works hard every single day and he's done a good job." Armando Salguero, *Philbin endorses OL coach Jim Turner*, Miami Herald Blog (November 2011) (available at http://miamiherald.typepad.com/dolphins_in_depth/2013/11/philbin-gives-jim-turner-an-endorsement.html).

Player B describes Coach Turner as a great coach and “one of the best coaches I’ve ever had.” Player B commented on Coach Turner’s military experience and said that Coach Turner made everyone “work hard like he does.” Player C stated that Coach Turner was a “great coach,” who always had the players’ backs and kept morale high on the Team. Player C said that he “loved working” with Coach Turner. Player D described Coach Turner as “straight-forward” and “one of the best coaches I ever had.” Player D said Coach Turner tried to do as much as he could for his players and to put them in the best possible situation to succeed. Player D also said he felt comfortable talking openly to Coach Turner. Player E described Coach Turner as a great coach and his personal favorite coach of his entire football career. Player E echoed other players’ description of Coach Turner as someone extremely knowledgeable about football with an ability to motivate and keep the game fun.

II. Jonathan Martin’s Departure From the Dolphins and the League Investigation

Beginning on October 30, 2013, national sports media reported that Martin had “gone AWOL” from the Miami Dolphins in response to a cafeteria “prank” by his teammates.⁴ Fox Sports’ NFL commentator Jay Glazer “tweeted” that the incident “was basically [the] final straw for [Martin]” and that Martin was “in [a] treatment facility trying to work thru [sic] it.” *Id.*

Over the following week, the story grew into a media sensation. In response, on November 6, 2013, NFL Commissioner Roger Goodell retained Mr. Wells and his law firm, Paul, Weiss, Rifkind, Wharton & Garrison LLP, to conduct “an independent investigation into issues of workplace conduct at the Miami Dolphins” and “prepare a Report for the

⁴ See Ross Jones, *Glazer: Jonathan Martin left Dolphins facility after cafeteria incident*, FOXSports.com (October 30, 2013) (<http://www.foxsports.com/nfl/laces-out/glazer-jonathan-martin-left-dolphins-facility-after-cafeteria-incident-103013>).

commissioner.”⁵ From the outset, the League announced that the Wells Report would be made public and that “the Dolphins have pledged the club’s full support for the investigation.”⁶

During the course of Mr. Wells’ investigation, he reportedly conducted interviews with current and former Dolphins players, the Dolphins’ coaching staff and front office personnel. Wells Report at 52. Mr. Wells also reviewed documentary evidence, including emails and text messages between Martin and his Miami teammates and coaches. In addition, Mr. Wells interviewed Martin’s former teammates and coaches at Stanford University, his parents and his agent. Wells Report at 52-53.

Mr. Wells interviewed Coach Turner twice in connection with his investigation. Prior to being interviewed, Coach Turner was advised by the Dolphins’ legal staff that the Team’s legal counsel would be present for the interviews and that it was unnecessary for him to obtain independent counsel.

The first interview occurred in person in November 2013 in Miami and was conducted by Mr. Wells and two other members of his investigative team. During this approximately two hour interview, Coach Turner fully cooperated with the investigators and answered their questions to the best of his ability. At a point during this interview, Coach Turner was asked to provide the Wells team with a copy of the personal notes he had brought to the interview. In addition to Coach Turner’s recollections of the facts relating to Martin’s time on the Dolphins, these notes contained Coach Turner’s personal thoughts and reflections on a variety of matters, some having

⁵ See NFL Press Release, November 6, 2013 (<http://nflcommunications.com/2013/11/06/attorney-ted-wells-named-special-counsel-for-dolphins-investigation/>).

⁶ *Id.*; see also Wells Report at 54 (“Because of the extraordinary public interest in this matter, the Commissioner made the decision that the full Report as presented to him, without any redactions or modifications, will be released to the public”).

little or no connection to Martin. Accordingly, he told the investigators that he preferred not to turn them over. Coach Turner also expressed that he would show the investigators his notes if the investigators would, in turn, show him their notes. Mr. Wells and his team declined this offer of mutual disclosure. On reflection, Coach Turner believes his offer may have tainted the atmosphere of the interview going forward.

Several weeks later, in mid-December, Coach Turner participated in a second interview with Mr. Wells and his team. This interview occurred via teleconference in which Mr. Wells and a member of his team spoke with Coach Turner and a member of the Dolphins' legal staff. During this interview, Coach Turner felt that the questions were more accusatory than was the case at the first interview. Based on the suggestive and aggressive tone of the questioning, Coach Turner began to feel uncomfortable and defensive.

Coach Turner was never provided with the notes of the investigative team's interviews with him nor was he given an opportunity to respond to the conclusions about his conduct that eventually made their way into the Wells Report, a failing which is not common with internal investigations such as Mr. Wells'.

III. The Wells Report

On February 14, 2014, Mr. Wells publicly released a Report of the investigation. The 140-page Report (excluding Appendices) highlighted several conclusions of Mr. Wells' investigation:

- The existence of "persistent harassment" of Martin by three other members of the Dolphins' offensive line – Richie Incognito, John Jerry and Mike Pouncey – had "contributed to Martin's decision to leave the team"
- "[T]he Dolphins' rules of workplace behavior were not fully appreciated and, with respect to at least some of their actions, Incognito and his teammates may not have been clearly notified that they were crossing lines that would be enforced by the team with serious sanctions"

- “[M]any of the issues raised by this investigation appear to be unprecedented” and Mr. Wells and his team were “unaware of any analogous situation in which anti-harassment policies have been applied to police how NFL teammates communicate and interact with each other”
- “[T]he treatment of Martin and others in the Miami Dolphins organization at times was offensive and unacceptable in any environment, including the world professional football players inhabit.”

Wells Report at 4-5.

The Wells Report “commend[ed]” Coach Turner’s handling of Martin’s worsening emotional strain during the months leading to the start of the 2013 Season. Wells Report at 115 (“we commend Coach Turner—he took Martin’s disappearance seriously, pushed Martin to discuss his depression and promptly reported the information to Coach Joe Philbin”). In that regard, the Report describes how, in May 2013, Coach Turner reached out to Martin after Martin missed two days of off-season workouts. Wells Report at 112-15. At a subsequent meeting between the two men, Martin was “tight-lipped and vague” until “Mr. Turner pressed him, believing that something was seriously wrong.” Wells Report at 113. When Mr. Turner asked Martin directly if he had experienced suicidal thoughts, Martin opened up about his contemplation of suicide the previous January and more recently and his history of feeling depressed since his teenage years, Wells Report at 96, 111, 113, 120.

Following this meeting, Coach Turner “promptly” discussed the matter with Coach Philbin, and the three men – Martin, Coach Turner and Coach Philbin – met to discuss the matter.⁷ The Wells team noted that, during his initial meeting with Coach Turner, Martin said

⁷ The Wells Report fails to mention Coach Turner’s presence during Martin’s meeting with Coach Philbin. Wells Report at 115. Moreover, the Report incorrectly states that Coach Philbin obtained Martin’s permission to contact his parents. *Id.* It was Coach Turner, not Coach Philbin, who told Martin that he wanted to get his parents involved. Ultimately the coaching staff agreed that Coach Philbin should be the one to call Gus Martin.

“he intentionally did not tell Turner that he was depressed because of the treatment by his teammates and his inability to confront them, which he viewed as a personal flaw.” Wells Report at 113. It would have been more accurate for the Wells team to have focused on the primary reason Martin gave for not disclosing his mental anguish – that he did not want to jeopardize the Team’s willingness to let him play football. Wells Report at 17; *see also* Wells Report at 25.

In addition to recognizing Coach Turner for his early efforts to help Martin, however, the Report also contained some unfavorable judgments regarding Coach Turner’s conduct. In particular, the Report identifies three situations involving Coach Turner:

- **Coach Turner’s Gift to Player A.**

Coach Turner was aware of the running “joke” that Player A was gay, and on at least one occasion, he participated in the taunting. Around Christmas 2012, Coach Turner gave the offensive linemen gift bags that included a variety of stocking stuffers. The gifts included inflatable female dolls for all of the offensive linemen except Player A, who received a male “blow-up” doll. Martin and another player reported that they were surprised Coach Turner did this; Martin further said that he was offended that Coach Turner had endorsed the humiliating treatment of Player A by participating in it. Incognito and others agreed that this incident with Coach Turner occurred. When interviewed, Coach Turner was asked if he gave Player A a male blow-up doll. He replied, According to the Wells Report Coach Turner then replied, “I can’t remember.” We do not believe that Coach Turner forgot this incident, which many others recalled.

Wells Report at 20.

- **The So-Called “Judas Code”**

Sometimes, a fine would be levied on a lineman who was branded a “Judas,” meaning a traitor or “snitch.” For example, if Coach Turner, while watching game film footage, criticized a lineman for missing an assignment, and that lineman pointed out that one of his teammates was actually at fault, that lineman might be labeled a “Judas,” which could result in a fellow player imposing a fine. Multiple Dolphins offensive linemen were familiar with the “Judas” concept and told us that Coach Turner had discussed it with them. Coach Turner, however, denied knowing what the term “Judas” meant in the context of the Dolphins offensive line. In fact, he denied ever hearing the term “Judas” or “Judas fine” used in the

offensive line room. He also denied lecturing players on its meaning. We do not credit Coach Turner's denials. The evidence shows that Coach Turner was aware of the "Judas" concept and that he had discussed its meaning with the linemen, explaining how Judas had betrayed Jesus Christ and defining Judas as a "snitch."

Wells Report at 37-38.

- **November 2013 Text Messages to Martin**

On November 2, shortly after Martin left the Dolphins, Coach Turner began sending him text messages urging him to defend Incognito in a public statement. Martin responded to one, but then stopped communicating with Coach Turner, who continued to pressure him to "DO THE RIGHT THING" for several days afterward

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When he sent these messages, Coach Turner knew that Martin had left the team unexpectedly, had hospitalized himself in connection with a mental health condition and that Martin had previously struggled with serious psychological problems and had contemplated suicide. We accept that Coach Turner may have believed in good faith that Incognito was being unfairly attacked by the media, but he should have realized that it was inappropriate to send such text messages to an emotionally troubled player. We find that these text messages to Martin demonstrated poor judgment on Coach Turner's part.

Wells Report at 46-47.

Five days after the Wells Report was released, the Dolphins fired Coach Turner.

IV. Coach Turner's Response

A. The Environment in the Dolphin's Locker Room

The Wells Report accurately noted that its investigation was largely "unprecedented" and that, prior to this investigation, it is unlikely that the anti-harassment policies governing most American workplaces "have ever been applied to police how NFL teammates communicate and interact with each other." Wells Report at 5. Literally all of the current or former Dolphin players and staff with whom we spoke reported that the atmosphere inside the Dolphin's locker room was no different than others they had experienced. Coach Mosley reported that the

players' behavior in Miami was the "exact same" as any other locker room in which he has been. Similarly, Player F saw the locker room atmosphere as no different than other locker rooms where he has played. He believed everyone was "on the same page," and he reported "shock" among many of the players when it was discovered that Martin had been admitted to a hospital.⁸ Player B also did not see anything wrong with the behavior in the locker room; it was "joking" no different than any other locker room in which he has been. Player B said that Martin participated in the banter as much as anyone else. Player C also confirmed that the Dolphins' locker room was "no different" than other locker rooms in which he has been and that Martin was an equal participant in the teasing among the members of the offensive line. Similarly, Player D said the conduct he saw was "the same" as any other locker room and that everyone participated equally. Player D saw nothing that he considered "out of line."

Player E believes the Dolphins players' behavior was "entirely normal" for a locker room. Player E expressed that Incognito could be "over the top" and, at times, "too rough" with rookie athletes. However, Player E did not believe that Incognito meant to cause Martin any harm. He did not believe that anyone on the Team had a sense that the behavior was harming Martin.

As the Wells Report correctly recognized, Coach Turner was not present for "the bulk of the insulting comments" described in the Report. Wells Report at 44. Nevertheless, as to the behavior he did observe, Coach Turner agrees with these players' assessments that the behavior was consistent with what he has observed in every other locker room in which he has coached.

⁸ Other members of the Dolphins echoed this sentiment in their interviews with Mr. Wells' team. *See, e.g.*, Wells Report at 82 (Player and other players and he "were in shock" at Martin's departure).

In retrospect, apparently certain episodes of conduct, and the cumulative effect of the locker room atmosphere, contributed to Martin's emotional struggles. However, these observations by several players who were in the Dolphin's locker room day in and day out suggest that, whatever the conduct was, it was largely in line with prevailing norms in college and professional football. The Wells Report accurately concluded that Martin participated in the conduct, although Martin may have conducted himself "in an attempt to fit in, with the hope of reducing the treatment he found offensive." Wells Report at 2, 13. The players' observations, however, make clear that they were unaware of Martin's motives for participating in this behavior.⁹

The NFL and, by extension, the Wells team, focused on the Martin situation as a result of the media attention and clearly not as a result of a genuine concern about the workplace environment. An analysis of the Report's conclusions and the NFL's action upon completion of the Report must be made in the context of the NFL's goal to placate that public outcry and not to address a locker room atmosphere that the NFL would have continued to ignore absent media attention.

B. Specific Incidents Relating To Coach Turner

In general, the current or former members of the Dolphins with whom we spoke were critical of the Wells Report's conclusions. Player F stated that the Report was "not an accurate

⁹ The Wells Report relied on psychologist William H. Berman, Ph.D., an "expert in matters relating to workplace dynamics, interaction and culture and interpersonal dysfunction within workplace relationships." Wells Report at 18. Dr. Berman opined that Martin's motives for participating in the locker room conduct were "consistent with the behavior of a victim of abusive treatment." Wells Report at 2. While we do not dispute this conclusion, it seems that such behavior also is consistent with a person who simply engages in such activity because the person enjoys the comradery. Dr. Berman is not an expert in the workplace dynamics of professional sports teams. *See* Wells Report at 53-54. Indeed, the Wells team rationalizes that it believes there are no experts in this area. Wells Report at 5.

reflection of what [the Dolphins locker room] was like.” Other players expressed the view that the Report adopted Martin’s perspective and ignored conflicting perspectives. Player D stated that, based on his review of the Report, “all of the other interviews [besides Martin’s] were a waste of time.” Player D was frustrated that none of the information he had given to the Wells team made it into the Report. Specifically, Player D told the Wells team that everyone participated in the conduct and that everyone got his “fair share” being the object of jokes or taunts. Player D stated that, if Martin had gone to Coach Turner to complain about Incognito’s behavior, “Turner would have talked to Richie.” Player C similarly concluded that the Report was “not objective” and that the investigative team “came in with their minds made up . . . that Martin was a victim and Richie was a bad guy.” Player B believes that the Report was inaccurate and biased in favor of Martin.

In addition to these general perspectives, which the Wells Report largely ignored, the Wells Report also ignored critical facts which contradicted the Wells Report’s criticism of Coach Turner’s conduct in specific incidents.

i. The Player A Incident

As the Wells Report described, during the holiday season in 2012, Coach Turner gathered the offensive linemen to give them gifts. *See* Wells Report at 20. Coach Turner gave the gifts in the spirit of the holidays; his wife and he put together stockings for each player containing a variety of items including a music CD by one of Coach Turner’s favorite artists and a copy of Dr. John Gray’s famous book, “Men are from Mars, Women are from Venus.” The purpose of the latter gift was to express to the athletes that they needed to work on their relationships with their significant others. Continuing in this vein, Coach Turner warned the players that if they did not learn how to improve their relationships with women, their relationships were unlikely to last

in the long run. To emphasize the point, Coach Turner presented each player with a female “blow up doll.” The dolls were a humorous way to convey a serious message: this is what awaits you if you do not learn to relate better to your spouses or significant others.

When it came time to give a doll to Player A, Coach Turner pointed out that on several occasions he had heard Player A tell stories about turning women down for dates or failing to obtain potential dates’ telephone numbers. Therefore, he gave Player A a male doll. The gesture was intended as a joke and was in the same spirit as the rest of the gift exchange. Even if slightly juvenile, it in no way expressed cruelty or homophobia on Coach Turner’s part.

Player A told us that he viewed the gift as a joke. He did not find the prank malicious “in any way.” The Wells Report states that Martin was “offended that Coach Turner had endorsed the humiliating treatment of Player A by participating in it.” Wells Report at 20. Crucially, the Report fails to include that Player A himself was neither offended nor humiliated by the gift. In Player A’s view, Mr. Wells viewed the event out of context. Player A’s agent also defended Coach Turner publicly and disputed the Wells Report’s suggestion that the incident was offensive or uncomfortable.

Coach Mosley echoed Player A’s view of the situation, stating that all of the players present were given blow up dolls and that everyone laughed at the joke. Coach Mosley did not feel there was any intent to degrade anyone. Player B agreed that “it was just a joke that did not offend anyone.” In light of the nearly universal view that Coach Turner’s gift was an inoffensive joke enjoyed by those present, and particularly in light of the fact that Player A himself was not offended by the episode, an impartial analysis could only conclude that Coach Turner did not behave inappropriately with respect to this incident.

The Wells Report also concluded that Coach Turner was not being forthright when he stated during his interview that he could not recall whether he gave Player A a male doll. *See* Wells Report at 20. Importantly, the investigators did not question Coach Turner about the incident during their initial, in-person interview with Coach Turner. It was raised for the first time during the telephonic interview. Coach Turner responded to questions about the incident by inquiring what the incident had to do with Martin's decision to leave the Team and asked that the questioning be directed to the purpose of the interview. The Wells team refused to respond and became dictatorial and aggressive in response to Coach Turner's effort to engage in a discussion. Coach Turner admittedly was not fully candid with the investigators on this point once the Wells team reacted in this manner. As noted above, Coach Turner perceived the questioning during the second interview as accusatory, and he became guarded in response. The question about the dolls, combined with the sharper tone of the questioning and the Wells team's refusal to engage in any dialogue about the relevancy of the questioning during the second interview, caused Coach Turner to begin to feel uncomfortable about the direction he perceived the investigation to be taking. It was in this context that Coach Turner told the investigators that he did not remember whether he had given a male doll to Player A.

In retrospect, Coach Turner believes it would have been more appropriate to engage in a dialogue with the Wells team about any connection between his gifts to his players and the allegations of bullying in the Dolphins' locker room. The Dolphins' advice to Coach Turner that there was no need for him to be accompanied by an advisor or counselor also seems particularly unfortunate in this circumstance. Coach Turner's reaction to what he perceived as unjustifiably accusatory questioning was to shut down.

ii. The Existence of a “Judas Code”

The Wells Report concluded that there was an informal penalty system among the Dolphins offensive linemen under which fines would be imposed for certain infractions. Wells Report at 121-23.¹⁰ Fines were imposed for a variety of reasons, including an exorbitant \$10,000 fine levied against Martin for failing to attend an offensive line trip to Las Vegas trip.¹¹ Wells Report at 121. There also were “a variety of trivial offenses, such as farting, arriving late for meetings, failing to provide candy, having ‘stinky dreads’ and wearing ‘ugly ass shoes.’” *Id.* According to the Report, a fine might also be imposed on a lineman for being a “‘Judas,’ meaning a traitor or ‘snitch.’” As an example, the Report refers to a lineman responding to criticism from Coach Turner for on-field play by blaming another teammate.¹² Wells Report at 37-38.

The Wells Report wrongly draws a connection between Coach Turner’s use of the term “Judas” and the fine system in place among the Dolphin’s offensive line. Wells Report at 37-38. In essence, the Report creates a fictitious correlation between Coach Turner’s use of the word “Judas,” along with the prevailing norm in football against “snitching” on your teammate, and Martin’s reluctance to inform anyone of his struggles to cope with the behavior in the Dolphin’s

¹⁰ Player E also said that Incognito’s institution of a “fine system” was common in professional football.

¹¹ According to the Report, Incognito and other linemen said that the \$10,000 fine was a joke and they planned to spend it on the next off-season trip, which they expected Martin would attend. *See* Wells Report at 122-23.

¹² Player A confirmed that “players used the word ‘Judas’ sometimes as a joke when someone blamed something on someone else.” Coach Mosley said the word “Judas” had first been used when a former offensive lineman pointed at a defensive player who had gone offside during practice.

locker room. *See id.* Coach Turner had nothing to do with the players' fine system.¹³ The Report's facts also do not support the conclusion that a connection existed between Coach Turner's use of the term "Judas" and Martin's reluctance to report abuse by his teammates.

Coach Turner – raised as an Irish Catholic in the Boston area – has used the term "Judas" throughout his life. In his coaching career, he has used the term to refer to situations where one of his players transferred responsibility for an on-field error on another player. Coach Turner's intent in using the term has always been to educate his players that one should take responsibility for one's own actions first before laying blame elsewhere. This crucial lesson is one that Coach Turner has tried to instill in all his players.

There is no evidence that Coach Turner, by word or deed, ever discouraged any player from approaching him with a personal problem. Indeed, the evidence gathered by the Wells team strongly suggests the opposite. Coach Turner's reputation among the players as someone to whom they could go and who cared deeply about them instead demonstrates Coach Turner's availability to his players whenever they needed assistance. Coach Turner proactively reached out to Martin following Martin's failure to attend Team workouts in May 2013, and "pressed" Martin to tell him what was wrong at their subsequent meeting. Wells Report at 113. Even the Report commends Coach Turner for his response to Martin's disappearance and his role in bringing Martin's struggles to the attention of the Dolphin's management. Wells Report at 115. As Player D said, Martin could have spoken to Coach Turner about Incognito's behavior and "Turner would have talked to Richie."

The Report notes several rationalizations Martin provided for not being candid with Coach Turner that his depression supposedly stemmed in part from "the treatment by his

¹³ Coach Mosley confirmed that neither Coach Turner nor he had anything to do with the fine system.

teammates and his inability to confront”: (1) he viewed his difficulty to cope with the treatment as “a personal flaw,” *id.*; (2) his reluctance to violate “a ‘code’ in professional football that a player should not ‘snitch’ on his teammates,” *id.*; Wells Report at 37 (Martin refers to “a general code in football against ‘snitching’ on fellow players”); and, (3) “he did not want to jeopardize his ability to continue to play football by revealing the current severity of his depression.” Wells Report at 114. Martin never stated that Coach Turner’s use of the term “Judas” to describe players who shifted responsibility for on-field errors to other players contributed to his reluctance to reveal that his teammates’ behavior was a cause of his emotional struggles. The Report’s attempt to connect Coach Turner’s use of the term “Judas” to Martin’s failure to raise his issues with teammate behavior is unsupported and unjustified.

iii. November 2013 text messages to Martin

Beginning on November 2, 2013, Coach Turner and Martin engaged in a text message discussion of the media coverage of Martin’s departure. The conversation, in its entirety, proceeded as follows:

November 2, 2013

Coach Turner: Richie incognito is getting hammered on national TV. This is not right. You could put an end to all the rumors with a simple statement. DO THE RIGHT THING. NOW.

Martin: Coach. I want to put out a statement. Believe me I do. This thing has become such a huge story somehow. But I’ve been advised not to... And I’m not supposed to text anyone either cuz last time I responded to a teammate (Richie) I was intentionally manipulated and the conversation was immediately forwarded to a Reporter.

Coach Turner: He is protecting himself. He has been beat up for 4 days. Put an end to this. You are a grown man. Do the right thing

Coach Turner: John I want the best for you and your health but make a statement and take the heat off Richie and the locker room. This isn’t right.

November 3, 2013

Coach Turner: I know you are a man of character. Where is it?

November 6, 2013

Coach Turner: It is never too late to do the right thing!

The Wells Report concluded that these text messages demonstrate “poor judgment on Coach Turner’s part” because Coach Turner sent them soon after Martin “had hospitalized himself in connection with a mental health condition” and Coach Turner knew that Martin “had previously struggled with serious psychological problems and had contemplated suicide.” Wells Report at 47. While accepting that Coach Turner acted in “good faith that Incognito was being unfairly attacked by the media,” the Report concluded that Coach Turner “should have realized that it was inappropriate to send such text messages to an emotionally troubled player.” *Id.*

Coach Turner believed at the time, and still believes, that the intense media scrutiny surrounding Martin’s departure from the Dolphins unnecessarily complicated the situation for everyone involved. All parties agree on this point. *See* Wells Report at 38 (“it would have been preferable for Martin’s grievances to be handled inside the Dolphins organization rather than played out in the national news media”). Coach Turner’s messages to Martin reflect more than just a concern that Incognito was being unfairly attacked in the press; they also reflect concern for Martin and his health and the entire “locker room” (*i.e.*, Martin’s Dolphins teammates). His texts to Martin were Coach Turner’s way of attempting to protect all his players and the Team in general.

Moreover, Coach Turner was encouraged by Martin’s implicit agreement that the situation should be de-escalated in the media. Martin responded that he wanted to put out a statement but had “been advised not to.” Coach Turner based his decision to send follow-up

messages on this initial positive reaction from Martin. The Wells Report tellingly made no findings concerning who convinced Martin not to attempt to calm the situation in the media or the motivations underlying that decision. In any event, Coach Turner did not believe that his texts could harm Martin in any way.

Ultimately, Coach Turner's conduct in this matter should be judged in the context of the support he gave to all those who played for him, including Martin. At the first sign of trouble, in May 2013, after Martin missed a couple of workouts, Coach Turner reached out to him and convinced him to come in for a meeting to discuss what was going on. At the meeting, Coach Turner convinced Martin to overcome his initial reticence and to discuss the suicidal thoughts he had been having.¹⁴ Coach Turner promptly reported Martin's condition to Coach Philbin, who then was able to take further action.¹⁵

Conclusion

Coach Turner is a good man and a great coach with an excellent reputation among his players. It would be wrong for that reputation to be unfairly tarnished by the events leading up to and following Martin's departure from the Dolphins. During those difficult times Coach Turner was, as he has been throughout his career, a caring and supportive colleague to the people with whom he worked. Coach Turner, perhaps more than any other person, gave support and advice to Martin at a time when Martin seems to have been plagued by an internal turmoil which

¹⁴ According to the Mayo Foundation for Medical Education and Research, "offering an opportunity to talk about feelings may reduce the risk of acting on suicidal feelings." Mayo Clinic Staff, "Suicide: What to do when someone is suicidal" (available at www.mayoclinic.org/diseases-conditions/suicide/in-depth/suicide/art-20044707).

¹⁵ In a follow up conversation with Martin and Coach Philbin, Coach Turner asked Martin for permission to call Martin's father. Coach Turner made the request because, as a father himself, he would want to know if his son were having similar issues. As noted in the Wells Report, Martin subsequently relayed this conversation to his father. Wells Report at 114-15.

in large part remains a mystery. The Wells Report is off-target in the aim it takes at Coach Turner, and a good and decent person should not be tarnished as a result.