EXHIBIT K

NATIONAL FOOTBALL LEAGUE

July 3, 2012

ROGER GOODELL
Commissioner

Via Electronic Mail & Overnight Delivery

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Gentlemen:

Pursuant to Article 46 of the Collective Bargaining Agreement, this sets forth my decision on your appeals of the suspensions imposed for your respective roles in the pay-for-performance/bounty program operated at the New Orleans Saints during the 2009–2011 seasons. The reasons for imposing your respective suspensions are set forth in letters to each of you dated May 2, 2012 (as clarified, in the case of Mr. Hargrove, by letter dated June 8, 2012).[1]

Article 46, which governs this proceeding, reflects the agreement of the NFLPA and the NFL to maintain the Commissioner's longstanding authority to determine whether a player has engaged in conduct detrimental to the integrity of, or public confidence in, the game of professional football and to determine the appropriate discipline for such conduct. That authority is also reflected in your respective Player Contracts at paragraph 15.

Article 46 also reflects the agreement that appeals from discipline for conduct detrimental would be heard and resolved exclusively by the Commissioner, as well as agreement on the procedures that govern any such appeal. And, in both Article 46 and Article 3 § 2 of the CBA, the Players Association and League agreed that the Commissioner's determinations on appeal in

[1] The appeal hearing was held on June 18, 2012. Messrs. Fujita, Hargrove and Smith, represented by NFLPA outside counsel Jeffrey Kessler, attended the hearing. Mr. Vilma, represented by Peter Ginsberg, attended a portion of the hearing. The hearing record was left open through June 22, 2012, to afford you and your representatives an opportunity for further submissions.

such matters would be final. None of this is new: the process has been in place for more than thirty years.

In evaluating your appeals, my responsibilities include interpreting and implementing Article 46 and other relevant provisions of the CBA. Bearing in mind those responsibilities, I have taken into account a number of items including (1) the two confidential investigation reports provided to you; (2) the exhibit binder materials provided to you; (3) the corresponding presentation by Mary Jo White at the appeal hearing; and (4) any additional materials that you, your lawyers and/or the Players Association offered. In particular, I have evaluated, in the context of Article 46, the objections and arguments that your lawyers made at the hearing and by written submission.

For the reasons that follow, I find no basis for altering your suspensions.

Throughout this entire process, including your appeals, and despite repeated invitations and encouragement to do so, none of you has offered any evidence that would warrant reconsideration of your suspensions. Instead, you elected not to participate meaningfully in the appeal process. As Mr. Kessler stated at the hearing: "The NFL[PA] and the players [Messrs. Fujita, Hargrove and Smith] have reluctantly concluded that they will not participate in any proceedings regarding the merits at this hearing today. (Hrg. Tr. 16:12-19.)[2]

Although you claimed to have been "wrongfully accused with insufficient evidence," your lawyers elected not to ask a single question of the principal investigators, both of whom were present at the hearing (as your lawyers had requested); you elected not to testify or to make any substantive statement, written or oral, in support of your appeal; you elected not to call a single witness to support your appeal; and you elected not to introduce a single exhibit addressing the merits of your appeal. Instead, your lawyers raised a series of jurisdictional and procedural objections that generally ignore the CBA, in particular its provisions governing "conduct detrimental" determinations. I address these points in turn.

JURISDICTION

Your lawyers have argued that I lack jurisdiction to resolve your appeals. That argument is flatly inconsistent with the CBA. Article 46 § 1(a) provides:

> "*All* disputes involving ... action taken against a player by the Commissioner for conduct detrimental to the integrity of, or public confidence in, the game of professional football, will be processed *exclusively* as follows: the Commissioner will promptly send written notice of his action to the player, with a copy to the NFLPA. Within three (3) business days following such written notification, the player affected thereby, or the NFLPA with the player's approval, may appeal in writing *to the Commissioner*."

Two recent decisions confirm that the CBA vests such authority exclusively in the Commissioner. First, by decision dated June 4, 2012 (and supplemented by decision dated June 12, 2012), System Arbitrator Stephen Burbank rejected the argument that the System Arbitrator,

[2] Mr. Vilma's counsel joined in that position. (Hrg. Tr. 27:10-11 ("Mr. Kessler speaks for me as well.")).

rather than the Commissioner, has jurisdiction over discipline for conduct of the kind at issue here. The Players Association has sought review of the System Arbitrator's decision, but that decision is binding unless stayed, reversed or modified by the Appeals Panel. *See* CBA Art. 15 § 2(d).

Second, the Players Association separately challenged my jurisdiction in a non-injury grievance, arguing (1) that the CBA prohibited suspensions for any conduct occurring prior to August 4, 2011; and (2) that Art Shell or Ted Cottrell, my designees who are responsible for reviewing fines or suspensions for "unnecessary roughness or unsportsmanlike conduct on the playing field," have exclusive jurisdiction over this matter. Arbitrator Das denied that grievance on June 8, 2012. That decision is final and binding. *See* CBA Art. 43 § 8.

I understand that you continue to maintain that this appeal must be heard by Mr. Shell or Mr. Cottrell. There are two reasons why that position is wrong. First, the Players Association abandoned this argument after raising it before Arbitrator Das. But more to the point, as I have made clear, you were not disciplined for unnecessary roughness or unsportsmanlike conduct on the playing field, the only subjects on which Messrs. Shell and Cottrell hear appeals. You were instead disciplined for conduct detrimental to the integrity of, or public confidence in, the game of professional football. The conduct for which you were disciplined took place in locker rooms and meeting rooms, not on the playing field. Thus, as provided by the CBA, this appeal is within my exclusive jurisdiction.

RECUSAL

Mr. Kessler also argued that "since the union has not agreed to the Commissioner hearing these matters and because the Commissioner has publicly appeared on television and in other fora defending the discipline prior to this arbitrable hearing, we don't believe under the governing law that he can serve as an arbitrator without the appearance of bias rendering the proceedings a nullity." (Hrg. Tr. at 18:22–19:6.)

To the contrary, that is *precisely* what the Union agreed to in Article 46 § 1 of the CBA. It did so following extensive discussion and negotiation. The Players Association and the League agreed not to interject a third-party into the review process, but instead to leave in place the long-standing practice of review *by the Commissioner* of "[a]ll disputes involving" Commissioner action regarding conduct detrimental.

The CBA also makes clear that any appeal to the Commissioner will come only after notice to the player and the Players Association setting forth the basis for his disciplinary action. Accordingly, prior announcement of the basis for discipline cannot render the Commissioner incapable of hearing an appeal due to the appearance of bias or for any other reason.

In short, I was no less capable of hearing these appeals in an unbiased manner than I have been of hearing, under this CBA and its predecessor, numerous other appeals involving conduct detrimental. Nor, given the review process to which the parties agreed in the CBA, was there any basis for asserting an appearance of bias.

The request for recusal is therefore denied.

ROGER GOODELL
Commissioner

PROCEDURAL OBJECTIONS

Mr. Kessler questioned whether "these proceedings have afforded the essence of the CBA requirements for industrial due process and a fair hearing." (Hrg. Tr. at 19:15-18.) In his view, while the CBA *explicitly* affords each player a right to (i) notice of the action that constitutes conduct detrimental and a hearing on his appeal; (ii) disclosure of exhibits to be relied on at the appeal hearing; (iii) representation by counsel; and (iv) a right to call witnesses and introduce evidence in support of the appeal, it *implicitly* also requires (a) that each player have an opportunity to confront and cross-examine witnesses; (b) that club employees and others with knowledge of the events be compelled by the Commissioner to attend the appeal hearing; and (c) that each player have access to the NFL's internal investigatory records (here, materials reviewed by NFL Security in preparing the report summarizing its findings).

None of these arguments is based on the text of Article 46 or any other provision of the CBA. Nor is there any basis for these arguments in the parties' prior course of dealing. While the parties to the CBA could have provided for rights and procedures of the kind that Mr. Kessler suggests, they instead opted for a different process of dispute resolution—one that ensures expeditious resolution of issues affecting the integrity of, and public confidence in, the sport, and that does so by vesting in the Commissioner the authority to take decisive action to preserve that integrity and public confidence.

As to witnesses, each of you was, in fact, free "to present, by testimony or otherwise, any evidence relevant to the hearing." CBA Art. 46 § 2(b). I would have welcomed and considered any such evidence. But you chose not to testify and not to call any witnesses, including the lead investigators who were present and available for questioning throughout the appeal hearing. If you believed that testimony from one or more of the Saints coaches or your teammates would have supported your appeal, you were free to ask them to attend and testify without concern for any adverse consequences for testifying truthfully.

The complaint that I did not *compel* current or former Saints coaches or other witnesses to testify is not well-taken. Nothing in the CBA requires such an order. Indeed, the parties have had multiple collectively bargained systems of dispute resolution in place for decades, but none of those systems, which have been restated and ratified on several occasions, has provided for compulsory process of that kind. Moreover, I am not aware of any club employee, player or other witness ever having been compelled to attend or testify at an appeal hearing under Article 46 or its collectively bargained predecessors.

Nor does the CBA provide for discovery of the NFL's investigatory records in proceedings involving "conduct detrimental." Rather, a party is only entitled to "exhibits upon which [the NFL or the NFLPA or player] *intend[s] to rely*" at the appeal hearing. Art. 46 § 2(f)(ii). In contrast, I invite your attention to the more extensive discovery procedures with respect to non-injury grievances; in those proceedings, for example, each party must submit to the other "copies of all documents, reports and records *relevant to the dispute*." Art. 43 § 5(b). *See also* Art. 21 § 8(b)(i) (requiring production of "all tape, film, other recorded evidence or other documentation any representative deems relevant to a possible violation"). The rights and obligations under Article 46 for appeals of Commissioner discipline are much narrower,

reflecting a dispute resolution process that is more focused and expedited than others under the CBA.[3]

Without regard to the terms of the CBA, I find no basis whatsoever for the assertion that "exculpatory evidence" was withheld by the NFL.[4] Aside from being unfounded, the suggestion that the NFL would withhold exculpatory documents–or that I would tolerate the withholding of such documents–is irrational. My responsibilities as Commissioner include ensuring the integrity of, and *public confidence* in, the game of professional football. From a public confidence perspective, I would very much have preferred for the investigation to find evidence demonstrating that there was no pay-for-performance/bounty program in which you had a role; there was no such evidence uncovered in the investigation. Moreover, none was offered by any of you at any point during the investigation or appeals process.

Finally, there should be no issue about the investigation's reliance on one or more confidential sources in addition to the multiple sources identified for you and your counsel. Affording confidentiality to players or others seeking to remain anonymous in these and similar circumstances—and securing their candid assessment of the issues, free from peer pressure and other impediments—serves the interest of maintaining the integrity of, and public confidence in, the game of professional football; failure to provide such confidentiality would discourage future potential whistleblowers from coming forward.[5] This concern is especially acute when the conduct at issue has the potential to increase the likelihood of player injuries or to undermine the integrity of competition on the field. It bears emphasis, however, that no element of my findings or discipline was based solely on information obtained from a source whose identity was not disclosed to you and your lawyers.

MOTION TO EXCLUDE EXHIBITS

Messrs. Kessler and Ginsberg sought to exclude sixteen exhibits discussed at the hearing on the ground that their production was untimely, *i.e.*, that the NFL had produced the exhibits some 68 or 69 hours—rather than 72 hours—prior to the hearing's start.

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[3] Your decision not to participate in the appeals process apparently was based on the belief that you have a continuing right to challenge your discipline until you receive all relevant materials generated by the investigation. The CBA makes clear that there is no such right; the Commissioner's ruling on any appeal of a conduct detrimental finding is final.

[4] To the contrary, prior to the appeal hearing and in response to the Players Association's request, the NFL provided your lawyers with materials obtained from Duke Naipohn, who was with the Saints for part of the 2011 season. I have taken into account the fact that Mr. Naipohn, whom you were free to call to testify at the hearing, informed NFL investigators that he does not believe that there was a pay-for-performance/bounty program in place at the Saints in 2011, the only year with which he would be familiar. Even with regard to the 2011 season, Mr. Naipohn's statement does not cause me to believe that my findings, which were based on multiple sources and corroborating documents, were unfounded or erroneous.

[5] In fact, I note that the League's original investigation of this matter in early 2010 was stymied by the failure of witnesses, including Mr. Hargrove, to respond candidly. The investigation was reopened only after a confidential source came forward.

ROGER GOODELL
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Article 46 § 2(f)(ii) of the CBA provides that any exhibits on which a party intends to rely be produced no later than "three (3) calendar days prior to the hearing," not 72 hours before the hearing commences. (When the parties to the CBA intended for a 72-hour rule to apply, such as in Article 15 § 5, they did so expressly.) The parties' course of dealing under Article 46 and its predecessors has never reflected an understanding that 72-hours' advance production was required, and your lawyers have not cited any prior instance in which exhibits produced or identified on the calendar day three days prior to the hearing were deemed untimely.

Mr. Ginsberg argued that, under New York law, a three-day requirement must be read to require 72 hours' notice, but that does not appear to be the law. I am advised that the New York Court of Appeals, for example, has held that notices served on the afternoon of June 6 timely provided five days' notice for a hearing scheduled for 11:00 a.m. on June 11. *In re Niel*, 106 N.Y.S. 479, 479-80 (1907). And New York courts generally have rejected the notion that one day's notice must equate to 24 hours' notice. *See, e.g.*, *Lehman Bros. Holding, Inc. v. Melton*, 2010 WL 1293783, at *2-3 (N.Y. Dist. Ct. Apr. 10, 2010).

In any event, there could be no reasonable claim of prejudice due to the timing of the disclosure. When your counsel raised the objection, the hearing was adjourned for several hours; none of the exhibits was introduced or discussed until more than 72 hours after they had been provided.

INVOLVEMENT OF CLUB OFFICIALS

On the merits of the appeal, Mr. Kessler argued that the suspensions should be overturned because you "simply followed what [your] supervisors directed [you] to do." (Hrg. Tr. at 24:22-23.) No evidence was offered at the hearing to support that assertion, and it was contradicted by multiple individuals interviewed during the investigation. Even so, I took into account the actions of the coaches in reaching my findings and determining appropriate discipline.

Mr. Hargrove submitted a declaration stating that he was directed by coaches to deny the existence of the program when questioned by NFL Security. Coach Vitt denied that assertion despite its having been corroborated by other witnesses; indeed, one of those witnesses stated that, in agreeing to deny the existence of the program, Mr. Hargrove had said: "I can lie with the best of them." I need not resolve that conflict to decide Mr. Hargrove's appeal. Assuming for the moment that he was given such a direction, it does not excuse Mr. Hargrove from being truthful to NFL investigators when asked specifically about the existence of the program. Mr. Hargrove's conduct was all the more troubling because if he had been forthcoming when questioned in 2010, the program—and the enhanced risk of injury that it entailed—could have been stopped much sooner.

SUPPLEMENTAL SUBMISSION BY THE NFLPA

On June 22, 2012, Mr. Kessler submitted a supplemental letter asserting that following the June 18 appeal hearing, Coach Vitt and Mr. Ornstein made public statements contradicting aspects of the League's evidentiary presentation. I have read and considered the materials referenced in Mr. Kessler's letter.

ROGER GOODELL
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The statements attributed to Coach Vitt are consistent with the view that he expressed to NFL investigators and at his appeal hearing: that "cart-offs," "whacks" and "knockouts" referred only to "clean" hits. But whether a hit was ultimately subject to a penalty for unsportsmanlike conduct or unnecessary roughness is irrelevant for these purposes: incentivizing players for hits that injure or increase the risk of injury to opposing players undermines the integrity of, and public confidence in, the game of professional football.

I also took into account the statement attributed to Coach Vitt that he had "never heard a player talk about putting Favre out of the game or injuring another player." While Coach Vitt failed to offer any details to the League regarding the meeting at issue, three other witnesses each independently told NFL investigators that Mr. Vilma had, in fact, made such a pledge.

Mr. Kessler also argues that because Coach Vitt reportedly denied having "pledged money for any type of incentive program for the Saints NFC Championship game against the Vikings," the reliability of Hearing Exhibit 10 is in doubt. That exhibit reflects the handwritten notes of an eyewitness to the meeting at which Mr. Vilma made the pledge regarding Mr. Favre; it is fully consistent with what three witnesses told NFL Security about Mr. Vilma's statements at the meeting.

Moreover, the video from that game corroborates other evidence that there was such a pledge: a Saints player—whom NFL Security reasonably concluded was Mr. Hargrove but whom others believe may have been a different player—said "Give me my money" immediately after Coach Vitt reported (incorrectly) that Mr. Favre had been knocked out of the game with a broken leg. For purposes of addressing Mr. Hargrove's appeal, I need not resolve the issue of who made the statement. Instead, I am prepared to assume—as he apparently stated publicly—that he did not make it. But that statement is relevant because, regardless of which player said it, it corroborates other evidence that there was an incentive in place for knocking Mr. Favre out of the game and that the members of the Saints defense, including Mr. Hargrove, were well aware of that fact. The identity of the player who made the statement was immaterial to my decision on your appeals and did not affect the level of discipline imposed on Mr. Hargrove.

Mr. Ornstein's public comments provide no basis for reconsidering the suspensions. Indeed, the referenced report states that Mr. Ornstein "admits that the Saints had a pay-for-performance program in 2009." And while the report indicates that he now denies corroborating the evidence that Mr. Vilma had offered $10,000 for a hit that knocked Mr. Favre out of the game, at least two other credible witnesses confirmed that Mr. Vilma made such an offer. And Mr. Ginsberg's denial on behalf of Mr. Vilma does not constitute evidence that would offer a persuasive basis for overturning his suspension.

Finally, I am aware of public statements by both the Players Association and Mr. Vilma's attorney to the effect that they have performed their own comprehensive investigations into the pay-for-performance/bounty program. Despite numerous requests that they share the findings or other information from those investigations, nothing has ever been provided to me.

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ROGER GOODELL
Commissioner

In sum, I did not make my determinations here lightly. At every stage, I took seriously my responsibilities under the Collective Bargaining Agreement. I determined the discipline for each of you (1) only after a long, detailed and professional investigation by NFL Security's experienced investigators; (2) only after the results of that investigation were carefully reviewed by an independent expert, former United States Attorney Mary Jo White; (3) only after I heard the appeals of the Saints' coaches and staff regarding discipline for their roles in the program; (4) only after representatives of NFL Security, along with Mr. Pash and Mr. Birch, spoke with Players Association attorneys at length regarding the investigation; and (5) only after giving each of you multiple opportunities to meet with the NFL investigators and to share with them your version of the events surrounding the program. The suspensions imposed were reasonable action taken to preserve public confidence in, and the integrity of, the game of professional football.

Under the CBA, an Article 46 appeal is the exclusive means for any player against whom conduct detrimental action is taken by the Commissioner to present evidence or reasons as to why the discipline should not be imposed, or to present mitigating circumstances or hardship arguments for why the discipline should be set aside or reduced. You had every opportunity and incentive to put forth any and all reasons why you believe that you were "wrongfully accused." Nonetheless, you refused to cooperate at all with the investigation and, although you noticed appeals and attended the appeal hearing, you elected neither to address the record reviewed at the hearing nor to present any evidence to support altering the discipline imposed. As a result, there is nothing that would warrant a modification of your suspensions.

Accordingly, the appeals are denied and the suspensions are to be enforced as set forth in the notice letters of May 2, 2012. While this decision constitutes my final and binding determination under the CBA, I of course retain the inherent authority to reduce a suspension should facts be brought to my attention warranting the exercise of that discretion. The record confirms that each of you was given multiple chances to meet with me to present your side of the story. You are each still welcome to do so.

Sincerely,

ROGER GOODELL

cc: Jeffrey Kessler, Esq.
DeMaurice Smith, Esq.

ROGER GOODELL
Commissioner