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August 7, 2012

Mr. Roger Goodell
Commissioner
National Football League
280 Park Avenue
New York, NY 10017

Mr. DeMaurice Smith
Executive Director
National Football League Players Association
1133 20th Street, NW
Washington, DC 20036

Dear Messrs. Goodell and Smith:

We write to request information about the status of the ongoing negotiations between the National Football League (NFL) and the National Football League Players Association (NFLPA) regarding the implementation of blood testing for the use of human growth hormone (HGH) by NFL players.

More than one year ago, the NFL and the NFLPA signed a collective bargaining agreement stating that “over the next several weeks,” the parties would develop specific arrangements to implement HGH testing “with the goal of beginning testing by the first week of the 2011 regular season.”¹ As we all know, that never happened.

Since then, we have met with representatives of both your organizations several times. On October 28, 2011, we wrote to both of you to express our concern that “[e]very week of football played without a test endangers clean players and sends a message to young athletes that HGH is tolerated at the game’s highest level.”² It was our understanding that the NFL and the NFLPA, in conjunction with the U.S. Anti-Doping Agency, had begun taking meaningful steps

¹ Collective Bargaining Agreement Between the National Football League and the National Football League Players Association (Aug. 4, 2011) (online at nflabor.files.wordpress.com/2010/01/collective-bargaining-agreement-2011-2020.pdf).

² Letter from Chairman Darrell E. Issa and Ranking Member Elijah E. Cummings to Roger Goodell, Commissioner, National Football League, and DeMaurice Smith, Executive Director, National Football League Players Association (Oct. 28, 2011).

toward compliance with the collective bargaining agreement, but more than a full year later, the parties have yet to announce an agreement regarding HGH testing.

The proposal for a new testing protocol most recently shared with the Committee was woefully inadequate. Last year, the NFLPA proposed a protocol that would have weakened the NFL's overall drug testing policy. If enacted, users of anabolic steroids and other performance enhancing and recreational drugs could more easily have avoided detection because they would have been tested less frequently and have more advance notice. These were some of the proposal's most significant weaknesses:

- **No in-season testing for HGH.** The NFLPA proposal would have allowed the NFL to test for HGH at two points on the league calendar: during the off-season and as part of each player's preseason physical examination.³ Notably, the blood sample taken during the preseason physical would not subject a player to possible discipline. It would instead have been used to refine the test's decision limit.⁴
- **Only ten percent of players would be tested for HGH.** During the off-season, only ten percent of the league's players could be tested for HGH use.⁵ If implemented, such a program would have tested fewer players for HGH in an entire year than are currently tested for other banned substances every week.
- **The proposal would have allowed players to game the system.** In the event that a player was one of the ten percent of players selected for HGH testing during the offseason, he could have simply chosen not to take the test. Only after three missed tests could the league have imposed a suspension, and even then only for one game (as opposed to four games for a positive test).⁶ Moreover, the NFLPA proposal included a number of situations in which missing a test would have been excused, including if a player is more than one hour away from a testing center.⁷
- **24 hours advance notice for offseason testing.** During the offseason (the only time when players could have been tested for HGH), the NFLPA proposal would have required the test administrator to telephone or e-mail a player between 9:00 a.m. and 7:00 p.m. to settle on a mutually agreeable location to take a sample.⁸ The player would then have 24 hours to appear at the mutually acceptable collection location.⁹ Considering that the window to detect the presence of synthetic HGH in the bloodstream is only 24 to 72 hours, this aspect of the NFLPA proposal was a significant weakness.

³ NFLPA's Proposed Policy on Anabolic Steroids and Related Substances, "HGH Testing," at 16.

⁴ *Id.*

⁵ *Id.*

⁶ NFLPA's Proposed Policy on Anabolic Steroids and Related Substances, "Testing Procedures," at 6.

⁷ *Id.* at 7.

⁸ *Id.*

⁹ *Id.*

Mr. Roger Goodell
Mr. DeMaurice Smith
August 7, 2012
Page 3

- **No-notice testing was eliminated for all substances during the season.** Under the NFL's current policy, a player finds out he has been selected to give a sample when he gets a tap on the shoulder or a knock on the door. A player may not leave the sight of the test administrator until a sample has been given. The NFLPA proposal would have allowed testing only on days when there is a regularly scheduled practice and required notification to occur during a one-hour window after the end of practice. The player would then have had four hours to provide a sample at a mutually acceptable location. During that four hour window, there would have been no restrictions on where a player could go and no monitoring of what he could ingest.

It is our hope that the sides have made significant progress toward implementation of a meaningful test for HGH since this proposal was shared with the Committee in November of last year.

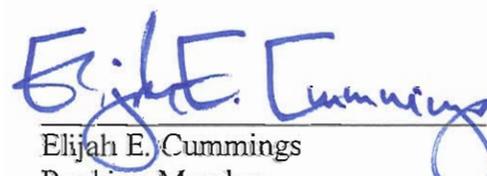
We believe that the parties to a labor agreement should abide by its terms. More importantly, we believe that NFL players are role models for millions of young people. As the beginning of the 2012 season approaches for youth leagues, middle schools, high schools, colleges, and the NFL itself, the absence of HGH testing in professional football remains a serious concern.

It is because of these significant public health risks that we request an update on the status of the negotiations between the NFL and the NFLPA regarding the implementation of HGH testing. We would appreciate a response from both of your organizations by August 10, 2012. Thank you for your cooperation with this request.

Sincerely,



Darrell Issa
Chairman



Elijah E. Cummings
Ranking Member