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Trainer's Steroid Testimony Followed Deal With Prosecutors

By DUFF WILSON
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Brian McNamee, the former Yankees strength coach who says he injected pitcher Roger Clemens with steroids and human growth hormone, signed a proffer agreement with federal prosecutors last summer, McNamee's lawyer said Monday.

The one-page agreement, which had not been previously disclosed, referred to illegal activity McNamee said he knew of, and in return for his disclosure of that information, the Department of Justice agreed not to use that testimony against McNamee in a possible drug distribution case as long as he cooperated, said Earl Ward, McNamee's lawyer.

It was a turning point in the exposure of the use of performance-enhancing drugs in

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George J. Mitchell's investigation did not uncover much independent information about the use of steroids in baseball. Page D5.

baseball. McNamee went on to tell his story to the former Senator George J. Mitchell and his staff. Ward said the government, in effect, told McNamee, "We are not going to charge you if you cooperate."

The proffer agreement, to some, appears to add credibility to McNamee's testimony against Clemens because of the punishment he would face if he lied, several former prosecutors said Monday. Clemens's lawyer declined comment Monday, but last week said his client

was outraged at the accusations against him in the Mitchell report and that McNamee's deal with the government gave him incentive to lie.

Prosecutors made similar agreements with two lesser-known former players named in the report — Larry Bigbie and Chad Allen — whose testimony to Mitchell's investigators was also monitored by federal agents for truthfulness but who did not have as much information to disclose as McNamee. Bigbie and Allen received special attention because of information the government had that could have been used to charge them with drug distribution, according to people who have been briefed on the case and were given anonymity because they were not authorized to talk about it.

A proffer is a written agreement between a

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Early Vote on Clemens

High school coaches in Texas will decide Tuesday whether to let Roger Clemens speak at their convention after he was named in the Mitchell report. Page D5.

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person and a prosecutor allowing a person to say what they know about possible illegal activity with the assurance it will not be used against them at trial. The government is free to follow investigative leads. The proffer agreement, colloquially known as a "queen for a day" letter, may lead to a written immunity, cooperation or plea bargain agreement, or it may stop there if the government does not plan to take the case further.

Daniel C. Richman, a professor at Columbia University Law School and a former federal prosecutor, said it was extraordinary to see prosecutors compel an individual to cooperate with a private third party like Mitchell. Bradley D. Simon, a former assistant United States attorney in New York, agreed, adding that he thought, "It sounds to me like they're not planning to go further or they wouldn't have offered them up to the Mitchell commis-

sion." Simon said the government must have concluded the Mitchell commission was a good partner in attacking steroids.

Kirk Radomski, a former Mets clubhouse attendant who supplied steroids and human growth hormone to McNamee and dozens of players from 1995 through 2005, became Mitchell's best source of information. He has signed plea bargain and cooperation agreements. Radomski, who faced up to 25 years in prison, may receive a considerably shorter sentence for drug distribution because of his cooperation. He has already pleaded guilty, and will appear in court Feb. 8.

Radomski's lawyer said Monday that he would have no comment until after sentencing. Bigbie and Allen did not return phone calls for comment.

Ward said the proffer agreement required McNamee to cooperate with the government but not Mitchell; that request came later. "Nothing was written, but it

was understood he would continue to speak with him, and if he did so, he wouldn't be charged," Ward said.

McNamee told Mitchell he injected Clemens more than a dozen times with steroids or human growth hormone. Clemens's lawyer has denied those accusations. McNamee told Mitchell he also injected Yankees pitcher Andy Pettitte with human growth hormone two to four times. Pettitte has admitted to using H.G.H. for "two days" while he was recovering from an elbow injury in 2002.

Jeff Novitzky, a special agent with the Internal Revenue Service criminal division, and Matthew A. Parrella, an assistant United States attorney working on the five-year-old Bay Area Laboratory Co-Operative case, worked with Radomski and McNamee and attended some of their interviews with Mitchell, a person briefed on the case said.

The report did not specify which agents or prosecutors attended Bigbie's and Allen's in-

terviews. It said they have "been cooperating with federal authorities in connection with their investigation of illegal distribution of performance-enhancing substances."

Bigbie, 30, was an outfielder for Baltimore from 2001 to July 2005, before going to Colorado and St. Louis. Bigbie got caught up in the federal steroids investigation when authorities monitored a call between him and Radomski, according to the Mitchell report.

Bigbie told Mitchell investigators that he and Brian Roberts were introduced to Radomski by David Segui; that Roberts, Rafael Palmiero and David Cust told him they had used steroids; and that he saw Miguel Tejada inject himself with vitamin B12, the report says. Bigbie offered no documentary evidence.

Allen, 32, was an outfielder for Minnesota, Cleveland, Florida and Texas from 1999 through 2005, before playing in Japan.

According to the Mitchell report, Allen admitted to using ster-

oids that he bought from Radomski. He also said that he believed Bart Miadich had used steroids based on his physical appearance and demeanor, and that Gary Matthews Jr. might have left unused syringes at his condominium.

It remains unclear whether federal investigators learned anything new from the Mitchell report and whether they may still be investigating.

John Dowd, a lawyer whose report on behalf of Major League Baseball in 1989 concluded Pete Rose bet on baseball, said his own investigation provided federal authorities with information that led to Rose's being indicted on federal tax charges.

"Our situation was different than Mitchell's," Dowd said in a telephone interview Monday. "We were the ones providing the government with information. The U.S. attorney's office was helpful and would make witnesses available, but we had much of the information."

refused to address the accusations. "I'm not talking to y'all about it," Clemens said, according to The New York Post and The New York Daily News' Web sites. "We'll handle this our way."



BARTON SILVERMAN/THE NEW YORK TIMES

A Texas coaches association plans to discuss whether to remove Roger Clemens as a speaker at its convention.

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