

CASH AND CARRY NO MORE

By Joe Horrigan

"I went to the theater one night and the usher told me C.C. wanted to see me. He offered me \$100,000 to turn pro and I took it."

Those were not the words of a young athlete testifying before a board of some sort, but of 84-year-old college and pro football standout, "Red" Grange.

In a 1965 Sporting News interview, the "Galloping Ghost," as Grange was known, described the events surrounding his 1925 contract signing with pro football's first player-agent, C.C. Pyle, better known as "Cash and Carry" Pyle.

"I played at Illinois on a Saturday and on the following Monday I was working out with the Chicago Bears," he recalled. "However, I wasn't under contract to the Bears then. I was under contract to Pyle."

Pyle, a Champaign, Ill., theater owner and a sometimes-promoter, signed Grange to a personal contract.

In addition to negotiating an unprecedented percentage-of-the-gate arrangement with the Bears for his client, Pyle arranged movie contracts, product endorsements, and radio and personal appearances which earned the two a sum rumored to be in excess of \$1 million.

For Red Grange and C.C. Pyle, the first player-agent relationship was a good and lucrative one. Unfortunately, many of the player-agent relationships since have not been as mutually rewarding.

Pro football has changed dramatically since the rag-tag days of Grange and Pyle. Today, eager agents and Grange-like contracts, written with more conditions and clauses than the proposals from the Strategic Arms Limitation Talks, are commonplace.

Signing bonuses, tax shelters, deferred compensation, free agent rules and waiver lists are all a part of the bewildering business world of pro football which a player and an agent must face.

Even sophisticated lawyers, according to Ed Garvey, former executive director of the National Football League Players Association, "have trouble understanding the interrelationships of a league's by-laws and a collective bargaining agreement."

This would seem to suggest that players do need competent contract advisors and that a sometimes-promoter and theater owner like C.C. Pyle couldn't possibly be an agent today. Or could they?

According to Garvey in his book *The Agent Selling Game – Selling the Player Short*, "frustrated dentists, college drop-outs, unsuccessful insurance agents and unattached lawyers flock to the agent business." Garvey points out that all one has to do to become an agent is "find a client."

"Therein," he states, "lies the problem." Needing only a client, prospective and/or experienced agents, pressured by the highly competitive nature of the business, attack college campuses like the first wave of Marines at Okinawa. "Free cars, drugs, parties, loans to college undergraduates, under-the-table payments are all part of the scene," writes Garvey.

However, it is obvious that not all agents are incompetent or unethical. Boston attorney Bob Woolfe, who doesn't care for the name "agent," when talking about pro football players who have hired representatives to negotiate their contracts, states, "I don't go out soliciting players to negotiate contracts, if the player wants my services he comes to me."

"It's not arrogance; it's just that I am totally appalled by the tactics of those so-called 'agents' who throw dollar figures around with reckless abandon, in order to get the client."

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In a first-step effort to eliminate incompetent or unethical agents and reduce the "growing agent abuses," the NFLPA in 1982, as a part of the collective bargaining agreement negotiated to settle the 57-day players' strike, assumed control of the agents who negotiated for its members.

As a National Labor Relations Board certified union, the NFLPA is granted the exclusive right to represent players on matters concerning wages, hours and working conditions.

Prior to 1982 it waived this right in order to allow players and their advisors to negotiate contracts on an individual basis. By not waiving this exclusive right, the NFLPA sent notice to agents that if they expected to negotiate an NFL player's contract, they would have to do it as an NFLPA-certified agent. As Garvey put it, "If anybody wants to represent our people they will have to play by our rules."

To become certified an agent must fill out a nine-page application with questions concerning his education, occupation, bond history and police record. Also each applicant must attend at least one of three seminars offered by the union each year.

Initial reaction to the certification process was mixed. "Players were negative at first, states Beasley Reece, a defensive back with the Tampa Bay Buccaneers in 1984 USA Today cover story. "They thought the union was trying to take over all phases of their life. But it's not like that," he continued. "There had never been regulations to govern agents. Every player has a horror story about an agent taking too much up front ... A major cry coming from the body of players was, 'I got robbed.'

In the same article, Houston attorney Philip Tannenbaum states, "The certification is what separates the good guys from the bad guys."

If conformity is a measure of success, then the NFLPA's certification program must be considered one. Since the program began in 1982, more than 11,000 agents have registered.

Because some applicants have no prior experience in negotiating NFL contracts, the union "monitors them for one year before issuing full certification," according to Dick Berthelson, the NFLPA's legal counsel.

In addition to certifying agents, the NFLPA can now restrict the amount and method by which an agent is paid. "This," according to NFLPA Director of Public Relations and Publications, Frank Woschitz, "is the major complaint among agents."

Under the union's guidelines, an agent cannot receive more than 10 percent of that part of the player's salary above the first year's minimum salary. The agent's take is limited to 5 percent during the second year of the contract and 2 percent during the third year.

For example, the minimum salary of a three-year veteran player is \$80,000. An agent who negotiates a \$180,000 contract for that veteran can be paid no more than \$10,000 – ten percent of the \$100,000 above the first year minimum salary.

Also, an agent can only collect his fee under the same schedule by which the player is paid.

No longer is there a built-in incentive for an agent to negotiate a long-term contract. Often this type of contract actually worked against the player.

Long-term contracts frequently included deferred compensation agreements in which a player would receive his money sometime in the future at a rate unadjusted for inflation. On the other hand, an agent would receive his percentage fee based on the contract's total value immediately, with no deferred payments.

The certification program does, however, have its limitations. Partly due to the fear of costly damage suits, the NFLPA is restricted as to whose applications it may reject.

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As a result, the union depends more on its monitoring system. When an agent is found to be operating in violation of the union's guidelines, he can be fined or have his license suspended or revoked.

Also, as Ed Garvey explained in a 1983 ABC-TV interview, one major loophole does exist in the certification process. "We do not have the right at this point to cover the athlete before he becomes a professional. So we can't reach his agent. We plan to correct that because otherwise what will happen is we will not be able to protect the athlete in his first year, and in many cases, that's the last contract he negotiates."

Since Garvey's remarks, the NFLPA has begun to send a regional list of certified agents to the top 300 pro prospects. Though no specific agent is recommended to the college athletes, the unsolicited guidance is showing results.

According to Woschitz, the vast majority of rookies are now being represented by certified or about-to-be certified agents.

Even with its limitations, the agent certification program of the NFLPA seems to be a positive step toward protecting the interests of both players and legitimate agents drawn together in this fast paced business.

As Gene Upshaw, executive director, and Tom Condon, president of the NFLPA, state in their joint introductory remarks in the union's contract advisors regulation booklet, "Our union has no desire to prevent anyone from serving as a Contract Advisor, so long as such person, 'plays by the rules' and thereby helps provide the best possible representation to the players in the NFL." It is doubtful that even C.C. Pyle could find fault in that.

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