

When Athletes Stumble: The Perilous Pitfalls of Financial Scams and the Simple Legal Mechanisms to Stop Them

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In a world where reputation is paramount, athletes often stand as symbols of hard work, determination, wealth, and success. Despite their celebrity, they are not immune to the snares of financial scams. Take, for example, the LA Dodger's own Shohei Ohtani's former interpreter, who pled guilty just last week to bank and tax fraud after admitting to stealing more than \$16M from the Dodger's phenom. It drew to mind the NBA's own Tim Duncan, who lost more than \$20M to an unscrupulous financial advisor, leading Duncan down a seven-year path of bad investment after bad investment. From musicians (here's looking at you, Billy Joel) to politicians and athletes to actors like Kevin Bacon, a victim of Bernie Madoff, the list of those who have fallen victim to fraudulent schemes is as diverse as it is alarming.

In this article, we delve into the web of financial scams and explore why even the most prominent athletes at the top of their game can become ensnared. We will also offer insight into simple ways that others in their position can avoid the quandary in which Shohei, Tim, Billy, and Kevin found themselves.

The Allure of the Scheme

Scams come in various guises, each designed to exploit vulnerabilities and capitalize on trust. Whether it's a Ponzi scheme promising unrealistic returns, a phishing scam targeting personal information, or old-fashioned fraud, perpetrators often employ sophisticated tactics to ensnare their victims.

The allure of these schemes can be particularly potent for athletes and public figures. With wealth and often hectic training and game schedules, many athletes entrust their financial affairs to advisors or hangers-on, unwittingly exposing themselves to exploitation. Moreover, the desire for greater returns or the fear of missing out on lucrative opportunities can cloud judgment, making them susceptible to manipulation.

Trust Betrayed

One of the most devastating aspects of financial scams is the betrayal of trust. In Shohei's case, his translator, the person he relied upon to bridge language barriers, engage with the press, and provide the in-game interpretation that Shohei needed to perform, was the culprit, gambling away what many believe is more than \$20M in total, \$16M of which came from Shohei. For Tim Duncan, his financial advisor, whom he had trusted for nearly a decade, unwittingly involved Duncan in speculative investments and risky loans and took Duncan down with him. Busy athletes rightly place their faith in advisors, managers, and associates to safeguard their assets and guide their financial decisions. When that trust is violated, the repercussions can be profound, both financially and emotionally.

The Power of Due Diligence

While no one is immune to the threat of financial scams, athletes can take steps to mitigate their risk. Chief among these steps is the power of due diligence and having proper legal mechanisms plan in place to reduce exposure.

By thoroughly vetting financial advisors and lawyers, conducting independent research, scrutinizing investment opportunities, and then creating the proper legal infrastructure of checks and balances, athletes can better protect themselves from potential scams.

Financial advisors, as licensed professionals, undergo scrutiny to ensure their integrity. Their licenses are subject to review for any prior acts of misconduct. At large institutions, advisors face additional scrutiny from their compliance departments. Ensuring that client assets are invested properly, aligning with the standards of a prudent investor based on the asset amount, age, and relationship to risk. Licensing and infrastructure can go a long way to ensure that one bad actor cannot misuse funds.

Like financial advisors, lawyers also hold licenses and have their own areas of concentration. If an athlete requires legal assistance for estate and financial documents, most likely, they should consult a lawyer other than the one that drew up his playing contract. Instead, the athlete should turn to a lawyer who has expertise in properly drafting estate planning and financial documents that will insulate and thwart predators from penetrating the athlete's financial assets.

Trust the Process

The level of protection that a properly drafted legal infrastructure to manage an athlete's assets cannot be understated. Most estate plans for athletes and other public figures include one or more Trust instruments to accomplish this protection. Trust instruments, whether revocable or irrevocable, can own all types of assets; from the earnings of a lucrative contract to real estate to business ventures to life insurance, a Trust is the vehicle that manages most assets for athletes.

First and foremost, when a Trust is created, it is private. There is no disclosure to the public or in the public record to disclose the identity of the Trust creator. A Last Will and Testament, for example, is a public record that can be viewed and reviewed by any member of the public. Trust assets are held and distributed without notice to anyone other than those authorized in the Trust instrument. Upon the athlete's death, their estate is likewise distributed without an action of the court or notice to the public. The bequests that the athlete makes in his Trust can also be made in further Trust to protect the athlete's family members from the same financial vulnerability they may have faced during their lives.

It Takes Two

When a Trust is created, the role of the Trustee is vitally important to protect the athlete from wrongdoing. As the name implies, the Trustee must be trusted. The Trustee's job is to manage Trust assets, make investments, and distribute income and principal among countless other financial transactions related to Trust assets.

Many of my public figure clients are inclined to appoint their closest friend or a family member in this role for their rightful fear of exploitation. While often these relationships are the most trusted, these individuals may lack the necessary skill set to effectively manage such significant assets and stave off financial scams and opportunistic predators. For those with significant assets like athletes and other public figures, having more than one Trustee appointed in this capacity may make sense, requiring that they act jointly. For practical purposes, appointing two Trustees requires *two* signatures, *two* sets of eyes, and *two* individuals reviewing transactions. Simply put, an act of fraud is much harder to commit when two Trustees are involved. When two individuals are appointed, the most trusted person together, with someone with the financial acuity, can work as a team to ensure that the athlete does not fall victim like so many who came before them.

Leave it to the Professional

Choosing the right Trustee to execute the athlete's wishes and oversee their Trust assets typically requires a professional with the expertise to navigate the complexity of significant net worth. Given the complexities involved, including tax considerations,

intricate investment vehicles, and corporate structures, an independent corporate Trustee is often necessary. A corporate Trustee is not an individual but rather a financial institution, such as a bank or investment firm, that assumes the fiduciary responsibility of managing a Trust. Athletes often hire corporate Trustees for their professional experience, financial acumen, and legal knowledge in trust matters, qualities that a trusted family member or friend may not possess. Hiring a corporate Trustee to collaborate with the athlete's trusted family member or friend provides an additional layer of protection against financial misconduct. This partnership ensures that the athlete's assets are safeguarded and minimizes the risk of unchecked financial mismanagement that could occur with the sole reliance on one individual.

The Road to Recovery

For those who have fallen victim to financial scams, the road to recovery can be long and arduous. Beyond the immediate financial losses, there may be legal battles, reputational damage, and emotional trauma to contend with.

The prevalence of financial scams is a stark reminder that no one is immune to deception, regardless of their stats on the court or stature in pop culture. Shining a spotlight on financial scams and sharing personal experiences like those of Tim and Shohei can help raise awareness, potentially preventing others from suffering a similar fate. Thoroughly vetting professionals and ensuring that athletes or public figures have the proper legal documents in place can help to avoid a similar fate.