



## PROTECTING YOUR POSSIBILITIES PODCAST WITH LUKE FEDLAM

### Episode 16: Becoming an Athlete CEO: Effectively Managing the Advisors Around You

*The following is a transcription of the audio podcast recording. It is largely accurate but in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors.*

I'm sports attorney Luke Fedlam, and welcome to the Protecting Your Possibilities podcast. Each conversation we focus on sharing information and having conversations around how athletes can best educate and protect themselves or their life outside of their sports.

Welcome to the Protecting Your Possibilities podcast. I'm your host Luke Fedlam and I'm excited that you're joining us for this conversation today. Today I want to talk about advisor, management, advisor management. But before we get into the topic I just want to thank everyone who is listening, people who have subscribed, people who are sending in comments and have thoughts around topics that we should discuss this really means a lot. This has been a really interesting experience for me getting into the podcast world, but the feedback and the support that I've gotten from, from our listeners. It really means a lot so thank you so much for, for that and please do continue to share our podcast with your colleagues your friends share it on social media, provide comments, wherever you listen to podcasts, please do give us a rating as well because that just again reinforces that this is meaningful, and that it's helpful.

So what I like to do is obviously focus on the topics around protecting athletes, but at the same time, this is not a podcast that's solely for people who work with athletes or for athletes themselves. This really can be for anyone and so hopefully you always can take something from this podcast and apply it to your situation. And I think that that is a great segue for today's topic which is advisor management and this idea that definitely whether you're an athlete, whether you're an artist entertainer, or whether you're someone that just works in corporate America, and has advisors, around you.

This is hopefully going to be an impactful topic for you today so let's just dive right in to advisor management. What I mean by advisor management is oftentimes and, again, particularly with athletes, there are numerous advisors who want to be around the athlete who want to be able to advise in areas like money, taxes, business operations, etc. and so we typically see the common advisors around athletes are accountants and agents, attorneys, business managers financial advisors, folks who are focused on insurance. And all of these are important but I think when we oftentimes share with athletes that you are the CEO of your business or your entity. We have to help athletes understand what that even means to be a CEO. And I think that when we start to have conversation around managing the advisors who will show up and want to provide advice on particular topics. This is one of those steps of being that athlete CEO which is understanding, and more importantly managing those advisors around you. There are headlines from across sports of athletes who have been taken advantage of by managers, by financial advisors, by accountants, by business managers. And so this idea of being able to manage these advisors is critically important.

So, if you remember a few episodes back and if you didn't check it out, feel free to go back in, wherever you listen to podcasts and check out one of the conversations that I had with Courtney Altemus from Team Altemus and we spoke about the due diligence when it comes to selecting your team of advisors and being able to do those background checks and understanding those people that are coming to provide you services. So go check that podcast episode out, but let's talk more now about what it would look like as you select your team of advisors and ultimately how you manage that team and hold them accountable.

So, when you're thinking about selecting your team, first you have to decide what are the services that you're looking for; what are those services that you need. You heard all the different advisors that I mentioned when thinking about these athletes: the accountant, the agent, attorney, business manager, financial advisor and so on. What you have to first decide is who is it that you actually need, what services are you looking for, what issue or problem are you trying to solve.

And then you want to think about how are you going to identify and interview those potential new advisors. You want to understand and think about who is it that's going to help you in your selection process. And one of the things that I always share with folks, as they're thinking about advisors, is to think about what values are important to you. What values are important comes up I think a lot of times with agents, and when I'm talking to families before or during their agents selection process, what values are important, especially if we want to think about the player themselves, what values are important.

And then also with parents, what values are important. There may be some overlap and there may be some things that are different, and having those differences exposed through conversation. It allows the family, the player, the parents, guardians, and others come together when making a decision because all the cards are out on the table in terms of what people are looking for.

So values are critically important. And then, does the advisor, meet your needs? Will they be able to provide those services that you're looking for? And then they must think about how you're going to hold them accountable.

So when you're selecting your teams, you have a team of advisors, you have to be able to think about that process and in the idea of understanding what services you're looking for is really important. And this goes for anybody whether you're working with athletes or for or not understanding those services. It's really important, because people will sell you everything. If you have a new car, you know the car salesman is going to try to sell you the fully loaded car that has everything in it because everybody wants to sell you the best. But the question is: do you need that?

One example of this, a lot of times professional athletes, as they transition from college into the pros, do not need an investment advisor. They maybe need someone who can help them with their financial plan, someone who can help them with their budgeting, someone who can help them with their bill paying, and making sure that all that happens. But oftentimes one of the most important things for a new athlete and any professional athlete is understanding what their spin rate is, how much money are they spending in their first year. Everything is brand new going from being a college student making nothing, or just you know minimal dollars from their monthly stipends, to all of a sudden making a significant amount. Even if they are, let's say, an undrafted rookie. They're still going to make a league minimum that's over \$500,000 a year. So, you want to think about who can help provide you with the services that you need. And that's

important because then that goes back to that whole fee aspect of things because you don't want to pay for services that you aren't really using or that you don't really need.

This getting you in the mindset of thinking about how you select that team around you and obviously before due diligence and actually understanding the people is critically important. And you can do that through background checks and others. But what's also important is understanding the services that you need, and the services that are being offered by that particular advisor and do those things align.

If they align, great, you're on a path toward moving forward to determine if this is the right person to provide you with those services. If they don't align, then you have a better understanding of how best to move forward, with or without that particular advisor.

So once you started to get into the nitty gritty of the particular advisor that you're thinking about, you want to start to think about three different things right. And I like to break it down for clients this way: you want to understand scope, fees and oversight.

What does that mean? Scope is: what is the scope of services that they're providing, what is it that you're actually asking them to do for you. For fees: what does it cost at the end of the day? That's what most people want to know what is it cost, how do you charge, how do you make money. And then finally the oversight aspect is how do you hold that advisor accountable. Because let's not forget that advisor is actually working for you, not the other way around.

So you as the Athlete CEO, you have to be able to hold that advisor accountable to do what they say they're going to do to, charge you in the way that you believe is supposed to be charged, to make sure that they're not taking advantage of you. And you have to be able to hold them accountable. You need to understand how you can best do that.

So we have scope, fees and oversight. Now let's break down just a few different advisors to try to make this clear as to how you would go through understanding these different buckets or these different areas.

Let's look first at the agent. When it comes to scope you want to understand what services are they providing clearly. As the agent, they're going to be providing player contract negotiation. But then what about marketing? Are they doing your marketing or offering to do a marketing as well? If you're someone who's transitioning from college into the pros, what are they doing as it relates to your training and helping you with your training? Providing a training facility for you to go train prior to the draft, prior to the combine, and pro days? Do they provide the lodging and are they providing a stipend and all these other things that come along with them? You really want to be able to understand the scope and then what is it that this particular agent is offering to provide you. Because when you know what you want, it makes it a lot easier for you to negotiate something in your favor.

So that's the scope first, then we look at the fees. When we talk about negotiating in your favor oftentimes that has to do with the fees. When it comes to agent fees, what I encourage people to understand is first, the percentage. What is it that they are charging you to do your contract? What does that look like in terms of that fees related to the services being provided. So oftentimes in let's just say, in football it will go anywhere from 3% on down to zero percent, and we'll talk about the zero percent here in a second. In basketball, maybe 4% on down. But again, these are the percentage fees for negotiating the player contract. And so that fee is based on

wherever that player gets drafted or whatever the deal is that the agent has negotiated for that player. Those percentage fees are based on that salary.

Now, they're also oftentimes in these agreements additional fees, and those additional fees could be related to a second contract. Oftentimes what we'll see is, we'll charge you, maybe zero percent on this first contract because you're high potential, high draft. And so we want to charge zero percent because they want second contract, which oftentimes is the bigger contract. If you don't use them for that second contract then those fees will be different. You'll have to pay us the full 3%, let's say, on your first contract. That's critical to understand that that's included in those in the agreement that they're presenting.

When it comes to marketing fees, how are they charging from that perspective? If they're going to do your marketing, they may charge you 20%, which oftentimes is kind of the industry norm. I won't say industry standard because I think standard is different than norm and the norm is what we normally see we normally see 20%. But the standard is that the talent, the athlete in this case, can negotiate whatever it is that they want when it comes to marketing fees. Oftentimes, because players don't realize that, they'll just pay the 20%.

Oftentimes their teammates or their friends or the people they talk to will tell them 20% is normal. But you can negotiate 15%, you can negotiate 10%, you can negotiate whatever you want to negotiate that an agent may be willing to accept in order to work with you. You have more leverage the more elite you are, or the more marketability you have. But you want to really understand those marketing fees.

And then finally, understanding how expenses are handled is important as it relates to the agent. If the agent is going to pay you a stipend, or pay for your travel or your housing as you're transitioning from college and prepare for the combine and prepare for pro day, and then on to the draft. you really have to understand how they're handled and different agents do that differently. Sometimes they get paid back. Sometimes, depending on how high the player goes in the draft, they may be taken care of by the agent but again. However it's handled, what you need to understand is what it says in that agreement and how that particular agent is handling it. So again this is just an example as it relates to agents and understanding the various aspects of fees.

The final bucket is oversight -- how do you hold them accountable. You want to always make sure that whatever your agent is asking you to sign outside of your player contract, which is set by the collective bargaining agreements, anything else that they want you to sign, to make sure that you have a good understanding and have had that agreement analyzed. So whether that's a marketing deal that they're bringing to you. Yes, they're going to negotiate what you get paid. But for example in my role as a non-agent attorney, my focus is oftentimes making sure that those reviewing those endorsement deals to make sure that the players interests are as protected as best as possible. So you want oversight, you can hold them accountable by making sure that you potentially have a third party independent review of anything that you're going to sign. You want to make sure that you fully understand their agent contract or the agreement that the agent is having you sign to work with them. And you want to make sure that you have a good understanding of how you can have oversight of all their activities.

So what does that mean. One of the things that I always talk to players about is that you want to make sure that you have a good understanding of how you're paying for or handling your agents, and whether it's a marketing agent a player agent, their travel on your behalf. So sometimes you may see the marketing agreement that the player will pay for the travel of the

agent, on behalf of the athlete. But what I always want to do is make sure that there's oversight for that so that any expense over a certain dollar amount has to be approved in writing by the player. And what that does is it helps protect a player from unforeseen expenses as it relates to their potential agent's traveling. So a good example is the player is doing some form of nonprofit event and marketing agent or the player agent is going to travel to go to that event and be there for the player. So the player is paying for it, but there needs to be a discussion in advance, because the agent may be coming to use that as an opportunity to develop business with other players who might be at that event. Maybe the players shouldn't pay for that those expenses. I think everybody could pretty much agree to that. But if the agent is coming to work the event and help that player to make sure everything goes off without a hitch, and all of the people are where they're supposed to be and that the event runs smoothly, that's a little bit different, that put the agent is actually being there to work and, and their reimbursement of their expenses could seem much more normal, but that's just one way of having oversight and holding you know that particular advisor accountable.

So again, that's just an example from the agent side, but you could very easily take this scope, fees and oversight, and take that to the financial advisor side. So, if you're thinking about scope with a financial advisor, you're thinking about budgeting, are they going to help you with budgeting, are they going to help you with cash flow, are they going to help you with your investments, what additional services like potentially bill pay, either identifying and/or vetting business investments from a financial perspective for you, whatever that may be.

This goes back to you setting up your understanding of what services you need, and then really understanding the scope of services that the particular advisor is providing for you. Then, you look at fees and financial advisors, wealth managers they, their fees, whether it's a percent. So, percentage basis based on the assets that you have with them, maybe there's a monthly retainer. You also have internal fees as it relates to the expense ratios or the built in fees of the different funds or investments that you're actually invested in. And so you just want to understand all of the fees, and how you are charged. When working with that potential advisor.

And then the oversight from the statements that you receive from them and making sure that you understand those statements. Maybe it's having an investment policy statement in advance that's talking about how they're going to handle and manage their investments. Maybe there's a fee analysis that you do and maybe you have another advisor, that does that fee analysis for you just to make sure that you're not overpaying for that particular advisor.

One of the challenges in the financial world is that if you if you do have another financial advisor do a fee analysis on a particular advisor that you're currently working with, you could expect that if that advisor wants to try to win your business, they're going to try point all the holes out. And so one way to get around that is if you're going to do that, to say, "Hey, listen I'm not going to use you at all. And by you agreeing to do this fee analysis, you're agreeing that that I'm not going to be using you and that you're not going to work with me as a financial advisor, that you're just going to be providing the service and maybe pay for that service." That way, you know that you can try to get at least independent and objective advice on that aspect of understanding the fees that that they are targeting you.

So we're going down in this deeper, into the weeds, on these different advisors, you do the same thing with a business manager, which business managers are across the board when it comes to the scope of services that they're providing. This is why it's so critical that you understand what your needs actually are, so that then you can look and see what they're providing and the scope of services that they're providing whether that meets the needs that you

have. Business managers, as we all know, are across the board from budget, bill pay, travel coordination, concierge services, running errands. There's so many more additional services that they may provide and so it's important to really understand that particular business manager that you're evaluating, what's the scope of services that they're providing, the fees for business managers range from percentage to monthly or annual retainer, biannual retainer. Obviously there are expenses where they get compensated or reimbursed for the expenses, they may have on your behalf. And then they may do just some other specific projects where there might be some project based fees.

So, overall the best oversight with the business manager and this is one that's oftentimes overlooked as there has got to be a contract put in place. With that business manager, and that contract has to be reviewed because oftentimes business managers are usually someone that has already been close to that player that has a relationship with that player and so contracts are sometimes pulled off the internet or not even used at all. Now there's some very big very successful business management firms that are out there that obviously are highly lawyered in terms of their agreements, but for the most part, we see a lot of players who are working with business managers that are just people who've been close to them. And so that contract is so critical, the termination provisions within that agreement are critical. And then also understanding how are they working with the other advisors around the player, and so is there that system of checks and balances and additional oversight, with the other advisors as well.

Again, this is a broad perspective. I have to take at least a quick minute to share on the attorney side since now I'm in that boat and I would hate for a listener to say, "We're going to talk about all these other advisors during the talk about the attorneys." So let me talk about us for a second on the attorney side on our scope of services. So you have to understand what is it that you want that attorney to provide. Are you asking them just to analyze specific agreements? Are you asking them to be an ongoing, independent counsel to you for everything that arises? Does that law firm have the capabilities to be able to provide all of those other services that you might need like estate planning, tax issues when they arise, litigation if somebody's coming after you or you have to go out to somebody else? Real Estate counsel, private investments, due diligence, trademark and brand protection. So what scope of services does that attorney and/or that law firm provide, and how does that relate to what you might need? And then fees are just like with others – hourly is the typical way in which attorneys charge their service. Oftentimes it could be a retainer, sometimes it's a renewal retainer, sometimes it's a one-time retainer. And then there might be times where there could be a flat fee charged as well.

Oversight with attorneys is actually really interesting. One of the things that I always recommend for my clients is look at every single bill that I send because there will be a line item for everything that I've charged. So you want to be able to go through and see if somebody just says okay, "Hey, you always put x thousands of dollars for this month, and it just says for legal services provided/" That is not helpful to you, so you want to be able to go through and make sure that you have a good understanding of where where your fees are going. And you also want to make sure you understand the engagement letter, and what type of engagement are you having with that attorney or with that law firm. And then the other aspect of oversight is, as with other advisors, which is other advisors being able to provide checks and balances.

For example I work closely with many financial advisors and so while they're doing financial due diligence, we're doing the legal work. But they oftentimes have seen, or have worked with attorneys enough to understand whether an attorney knows what they're doing or not and if

they're providing the right services. So I had to just get that in there on the attorney side because a lot of people will would call me out if I didn't do that.

So, again, the last thing to think about when you're going through this advisor management process is to slow everything down. That's the main takeaway, slow everything down because there is no rush. Any advisor that says no, you got to sign with me right away, that is a big red flag. You want to be able to ask questions. And you want to make sure that they can answer the questions that you have, in a way that you understand. I tell people if I can't answer your questions in a way that you understand, I'm probably not the best advisor for you because you are paying someone to work for you. And in doing that, you want to make sure to understand the answers that are provided.

And then finally, you always got to watch out for that “yes man”. All right, the person that just wants to be around you and have you as a client, they're going to say yes to everything and anything, and that's not going to help you. And that's not what you're paying for. You're paying for someone to give you qualified, independent, objective, counsel, whether it's your agent your accountant your attorney your financial advisor business manager, it's critically important.

So again I know went a little bit long today, but I wanted to share this information because it is critical information whether you're an athlete or not. When you think about managing the advisors around don't forget you always want to look at the scope of services provided, the fees that they're charging, and how can you hold them accountable, what type of oversight do you have.

So again, this is the Protecting Your Possibilities podcast. Thanks for being with me. If you're finding value in these conversations, please do share them with your colleagues, with your friends your family, with anybody and encourage them to subscribe. As we try to provide good information that is helpful to you, our listeners, ultimately as we look at how best we can protect athletes in those who work with them.

Again, I'm Luke Fedlam. This is the Protecting Your Possibilities podcast. Thanks for listening, and we'll talk again real soon.

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