



Timothy J. Herman

Email: [REDACTED]

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July 24, 2012

Mr. William Bock, III
General Counsel
United States Anti-Doping Agency
5555 Tech Center Drive, Suite 200
Colorado Springs, C) 80919

Re: *Lance Armstrong v. United States Anti-Doping Agency (“USADA”), et al.*

Dear Bill:

I write in response to the first of your two letters dated July 23rd, which responds to my letter of the same date regarding jurisdictional discovery and a proposed further extension of the deadline for Mr. Armstrong to decide whether to go forward with the disciplinary proceeding proposed by USADA.

First, with respect to our request for limited jurisdictional discovery, we read your response to constitute an omnibus objection, under Federal Rules of Civil Procedure 26 and 34(b)(2), on relevance (but no other) grounds to our request. We disagree with your assertion that our request—which seeks only three narrow categories of non-privileged communications involving your client going back less than six months—is not “reasonably calculated to lead to the discovery of admissible evidence” on the question of jurisdiction, which is the standard under Federal Rule of Civil Procedure 26. As you know, Mr. Armstrong’s position is that the Court has subject-matter jurisdiction over this case, in which Mr. Armstrong contends that USADA is acting without authority and in violation of the governing Union Cycliste Internationale (“UCI”) Anti-Doping Rules. The USADA Protocol does not apply here because, among other things, UCI has exclusive authority over the matters in USADA’s charging letters under the governing UCI rules; those rules do not permit the charges USADA is pursuing; and Mr. Armstrong has not agreed to arbitrate these claims with USADA. If the Protocol does not apply, then of course USADA cannot compel arbitration (for that and any number of other reasons) based on it.

While we cannot be sure at this point what it will reflect, we believe that the requested correspondence between USADA, on the one hand, and the UCI, World Anti-Doping Agency (“WADA”), and the other Respondents, on the other hand, in the period leading up to, and since, the charges were initiated by USADA, will shed further light on, among other things,

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whether USADA is in violation of the applicable rules, whether the USADA Protocol applies, the contentions of UCI and other parties as to whether USADA is violating the governing rules, and USADA's contention that Mr. Armstrong has agreed to arbitrate his claims with USADA. In contending that the Protocol applies, USADA itself put the UCI ADR, the WADA Code, and the actions of the other respondents at issue. USADA communications with UCI, WADA and the other respondents are therefore relevant to the question of whether, in fact, the USADA Protocol can be invoked to divest the Court of subject-matter jurisdiction of Mr. Armstrong's claims.

As Mr. Armstrong's requests are reasonably calculated to lead to the discovery of admissible evidence on the issue of the Court's subject-matter jurisdiction, we repeat our request that you produce the requested documents to us by Friday, July 27th.

Second, with respect to the matter of extending the deadline for Mr. Armstrong to decide whether to challenge the charges levied against him by USADA, the ten-day extension you propose does not achieve what should be our shared goal of allowing the Court to decide the questions of its jurisdiction over these claims, and USADA's jurisdiction to bring these charges against Mr. Armstrong, on its own timetable, without the need for Mr. Armstrong to needlessly file for a temporary restraining order. If USADA's motion to dismiss is denied, our current intention is to move for a preliminary injunction to preserve the status quo—i.e. enjoin the deadline—though the end of the case. Under your proposal, however, Mr. Armstrong will almost surely need to file for a temporary restraining order if the Court denies USADA's motion to dismiss, because even if the Court denied USADA's motion to dismiss from the bench on August 10th, and Mr. Armstrong filed his motion for preliminary injunction early the following week, the parties will have not have fully briefed the preliminary injunction motion prior to August 23rd, when, under your proposal, the deadline would be set. We therefore ask that you reconsider the proposed extension we requested—which would extend the deadline until five days after the Court has either dismissed the case or denied a motion by Mr. Armstrong for a preliminary injunction, whichever comes later.

I look forward to discussing these issues with you further on our call this afternoon.

Very truly yours,

A handwritten signature in black ink, reading "Timothy J. Herman". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Timothy J. Herman