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VIA ELECTRONIC MAIL TO [REDACTED]

July 30, 2012

Tim Herman
HOWRY BREEN & HERMAN, LLP
1900 Pearl Street
Austin, Texas 78705-5408

**Re: *Lance Armstrong v. United States Anti-Doping Agency (“USADA”), et al.,
Cause No. 1:12-cv-00606-SS
Plaintiff’s Discovery Request***

Dear Tim:

I write in response to your letter dated July 27, 2012, in which Plaintiff requests certain communication between USADA and the World Anti-Doping Agency (“WADA”).

On July 23, 2012, you wrote to USADA requesting:

All documents, including all correspondence (written or electronic), evidencing communications between USADA and the World Anti-Doping Agency, from February 1, 2012 to the present, relating to Mr. Armstrong, any of the other respondents identified in USADA’s June 12th and June 28th charging letters, or the charges or the investigation of the respondents referenced in the charging letters[.]

In response, on July 26, 2012, USADA wrote that only two documents have been exchanged with WADA since February 1, 2012, “which refer to the topic of the anti-doping rules which apply in this case or the topic of USADA’s jurisdiction over any respondent.” USADA has provided those two documents to you, which consist of:

July 10, 2012, letter from William Bock to Francesca Rossi, Union Cycliste Internationale (“UCI”), and Julien Sieveking, WADA; and

July 26, 2012, letter from William Bock to Pat McQuaid.

These documents were previously produced to you and copies of these documents are being produced again with this letter.

As noted in prior correspondence, at this point in the case with a motion to dismiss based on subject matter jurisdiction pending, the Plaintiff is not entitled to discovery on any issue other than the limited jurisdictional issue. *See Moran v. Kingdom of Saudi Arabia*, 27 F.3d 169, 172 (5th Cir. 1994). (“discovery . . . should be limited to only that which is necessary to determine the preliminary jurisdictional issue”).

United States Anti-Doping Agency

5555 Tech Center Drive, Suite 200, Colorado Springs, CO 80919 ■ Tel: 719.785.2000 ■ Fax: 719.785.2001
usada@usada.org ■ www.usada.org



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As I have pointed out in correspondence last week, due to the limited scope of discovery available at this stage, the Plaintiff is not entitled to discovery of any communications other than those which refer to the topic of the anti-doping rules which apply in this case or the topic of USADA's jurisdiction over any respondent. USADA has already produced all such responsive documents in its possession. Accordingly, there are no other documents responsive to Plaintiff's request as properly limited above.

You note a disagreement with whether USADA has an investigative privilege. Your disagreement is academic because Plaintiff is not entitled to documents other than those provided due to the limited scope of discovery applicable at this time. In any case, in the *Graham* case the U.S. District Court for the Northern District of California said:

The Court agrees that the investigatory privilege would likely apply to USADA because it performs a regulatory function over athletic competitions that is similar to the non-governmental regulatory functions of the entities at issue in the prior cases, and the caselaw does not suggest that an entity must operate under a statutory mandate in order to take advantage of the privilege's protections.

United States v. Graham, 555 F.Supp. 2d 1046, 1048-49 (N.D. Cal. 2008).

In fact, the *Graham* court found USADA's investigatory privilege outweighed in that case only because it found that the criminal defendant's need for the information to defend himself against criminal charges outweighed USADA's interest in non-disclosure. In this civil matter the investigatory privilege would apply and Plaintiff has identified no reason why it would not apply.

In conclusion, Plaintiff has received responsive documents limited to the narrow jurisdictional issue before the Court. Plaintiff has not articulated how any broader discovery could lead to the discovery of evidence admissible on the narrow jurisdictional issue before the Court.

Kind regards,

UNITED STATES ANTI-DOPING AGENCY

A handwritten signature in blue ink, which appears to read "William Bock, III".

William Bock, III
General Counsel

WB/ljm

Enclosures