VIA ELECTRONIC MAIL TO [redacted]

July 24, 2012

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

Re: ***Lance Armstrong v. USADA, et al., Cause No. 1:12–cv–00606–SS/***
Your July 24, 2012, Letter and Phone Call of Counsel

Dear Tim:

USADA is concerned that lacking subject matter jurisdiction to have even brought his claims in federal court, the Plaintiff is now attempting to use his improvidently filed case as a pretext to seek discovery to which he is not entitled and which does not relate in any way to the limited jurisdictional issue before the Court. *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").

As we discussed in our phone call this afternoon, your letter dated July 24, 2012, does not articulate how USADA's 2012 communications with the Union Cycliste Internationale (UCI), World Anti-Doping Agency or the other individuals charged with anti-doping rule violations relates to the jurisdictional issues raised by USADA in its motion to dismiss filed last week, which are:

1. The pre-emptive effect of the Ted Stevens Olympic and Amateur Sports Act; and

2. The requirement to arbitrate claims found in the USADA Protocol, United States Olympic Committee ("USOC") National Anti-Doping Policies and USA Cycling rules.

Moreover, we are mindful of the fact that Plaintiff's attorneys or public relations consultants or others connected to Plaintiff have apparently seen fit to disclose confidential documents related to other respondents in this case, such as the June 12, 2012, letter to the respondents (which ended up on the website of the *Wall Street Journal* within 24 hours of when it was sent), apparently without consulting with those individuals. This history leads to concern about Plaintiff's instant request for additional information concerning these individuals.

Your letter states that UCI has, under its rules, exclusive authority over the matters in USADA's charging letters – but simply saying something does not raise an inference that it is so. I specifically asked you in our conference call what UCI rule(s) you are claiming *pre-empt* the

USADA Protocol and the USOC National Anti-Doping Policies and you were unable to identify any such rule.

Your response to my question was merely to restate your theory that UCI has "exclusive jurisdiction" under UCI ADR 10-13. As I pointed out, however, the question of which entity or entities has the authority to proceed *under UCI's rules* is a different question entirely that the question of whether any UCI rule purports to *pre-empt* the anti-doping rules of other organizations to which Mr. Armstrong was subject. Moreover, you have not identified any legal basis upon which UCI would have the authority to control the rules of other independent organizations.

As we discussed my concerns about your inability to articulate a basis for any theory that the UCI's rules provide a counter to USADA's motion to dismiss based on the applicability of domestic anti-doping rules, Mr. Breen stated, that "Armstrong's contracts were only with UCI." In response, I asked if then Plaintiff was going to provide copies of the documents which Plaintiff alleges made up his written contracts with UCI. After all, in the Amended Complaint Plaintiff alleged he had a contract with UCI (with which he alleges USADA interfered) and these allegations alone should have led Plaintiff to attach the alleged contract documents to the Amended Complaint – USADA should not have to ask for these documents. However, Mr. Breen's response to my request for the "contract documents" was, "We'll consider it." When I asked when USADA could expect a definitive response to this request your colleague said, "We don't know."

As Mr. Breen has stated that the alleged contract documents address the question of whether Plaintiff can articulate a claim that the USADA Protocol and USOC National Anti-Doping Policies are allegedly pre-empted by the UCI rules, the contract documents must be provided to USADA so that USADA can evaluate Plaintiff's contention that his discovery requests tendered yesterday relate to the limited issues raised by USADA's jurisdictional motion. USADA, therefore, requests that Plaintiff provide these alleged "contract documents" at your earliest opportunity. Because review of any such documents is necessary to evaluate connectedness of Plaintiff's discovery to the limited jurisdictional issues, the alleged "contract documents" should be produced in advance of any production by USADA.

In summary, USADA needs information additional to the conclusory assertions provided to date to evaluate Plaintiff's contention that his discovery requests relate to the limited jurisdictional issues raised by USADA's motion. At a minimum, USADA needs:

1. All documents which Plaintiff claims evidence an exclusive written contract between himself and UCI;

2. Authority for Plaintiff's proposition that an international federation such as the UCI has the authority to *pre-empt* the anti-doping rules of other sports organizations such as those of a national Olympic committee and a national anti-doping organization; and

3. Identification of the UCI anti-doping rules which Plaintiff contends are intended to *pre-empt* the rules of USADA and the USOC.

We would like to promptly and fully evaluate the propriety of Plaintiff's discovery request, if possible in advance of the arbitrary response deadline of Friday, July 27, which you unilaterally chose. Accordingly, please provide the foregoing by close of business tomorrow if possible.

With respect to USADA's offer to extend the deadline for Mr. Armstrong to choose arbitration by an additional ten (10) days until August 23, 2012, the extension USADA has proposed would preserve the status quo (unless Plaintiff's complaint is dismissed or withdrawn or USADA's motion to dismiss is sooner granted) for nearly two (2) weeks after the upcoming hearing – this extension will therefore allow the parties to benefit from any guidance of the Court imparted at the August 10 hearing without the need for a motion for a temporary restraining order prior to that date.

In offering to the Plaintiff a further extension of ten (10) days we took into consideration that the Plaintiff deemed it sufficient to wait to file Plaintiff's lawsuit until only five (5) days remained prior to the expiration of Plaintiff's deadline to choose arbitration. Therefore, we regard the proposal as sufficient to preserve the status quo between now and August 10, 2012, on which date, if you accept USADA's proposal, there will still be nearly two weeks before your client must choose whether to proceed to an arbitration hearing. Of course, we will engage with you in further discussions on this matter following the hearing on August 10, 2012 should such discussions be appropriate at that time.

I trust this letter fully addresses the matters in your July 24, 2012, letter.

Kind regards,

UNITED STATES ANTI-DOPING AGENCY

William Bock, III
General Counsel

WB/ljm